

2023 District Council Ordinary Election Points to Note for Candidates

This notice serves to remind candidates of some common issues encountered in the past elections. Candidates must still read and comply with the applicable electoral laws, Guidelines on Election-related Activities in respect of the District Council Election, and relevant requirements specified in the electoral documents. For any enquiries, please contact the enquiry hotline of the Registration and Electoral Office at 2891 1001.

Submission of Nomination Form

1. Candidates should:
 - (a) submit his/her nomination form **in person** at the Returning Officer's office;
 - (b) submit his/her nomination form **as early as practicable** so that any mistakes found in his/her nomination form can be rectified before the end of the nomination period (i.e. on or before 30 October 2023); and
 - (c) pay the election deposit (**HK\$3,000**) by cash as far as possible so to avoid the risk of invalidation of the nomination due to dishonoured cheque.

Election Expenses and Donations

2. Election expenses refer to any expenses incurred to promote or prejudice the election of one or more candidates. It is illegal for any person other than a candidate or his/her election expense agent to incur election expenses.
3. Candidates must be mindful of the limit of election expenses in their respective constituencies (please refer to paragraph 15.17 of the "Guidelines on Election-related Activities in respect of the District Council Election"). **Regardless of the amount exceeded, it is illegal and a candidate would be held responsible** if the candidate, his/her election expense agent, and any person acting on behalf of the candidate **incur election expenses in excess of the limit of election expenses**. However, if the candidate can prove that he/she did not consent to the election expenses incurred by others and was not negligent (e.g. he/she took all practicable measures to prevent such situations), the candidate may use it as a defence.

4. Election donations received by candidates can only be used for this election. If there are unspent or unused election donations after the election, such a donation must be given to a charitable institution or trust of a public character.

Election Meetings

5. Any meeting held to promote or prejudice the election of a particular candidate or particular candidates is an election meeting. The expenses so incurred are regarded as election expenses. If a candidate attends an election meeting that is not organised by him/her, the related expenses should be apportioned proportionately and counted as the candidate's election expenses.
6. A candidate does not incur election expenses by attending non election-related meetings. However, if someone acts out of his/her own volition to promote the election of the candidate or prejudice the election of other candidate(s) during the meeting, the candidate should immediately make it clear that he/she has nothing to do with the acts of the person and request the organiser to stop. If the organiser fails to do so, the candidate should immediately leave the meeting. Otherwise, the related expenses should also be counted towards the candidate's election expenses.

Election Advertisements (“EA”)

7. A person (including the candidate himself/herself) must not publish any materially false or misleading statement of fact about a candidate for the purpose of promoting or prejudicing the election of candidate(s).
8. If the name, logo or pictorial representation of a person or an organization is included in the EA of a candidate, and in such a way as to imply that the candidate has obtained the support from that person or organization:
 - (a) he/she has to obtain **written consent of inclusion of the name, logo or pictorial representation** of that person or organization **in the EA before the publication of the EA, otherwise he/she commits an offence**;

- (b) the consent has to be a single document expressing consent to include one's name, logo or pictorial representation in the EA;
- (c) oral consent does not comply with the statutory requirements; and
- (d) retrospective written consent obtained after the publication of the EA also does not comply with the statutory requirements.

Attention!! Apart from the inclusion of clear indication of support of a person or an organization in the EA of a candidate, other circumstances (for example, the inclusion of a person or an organization's pictorial representation in a material coverage) may also constitute support of that candidate from that person or organization, and the requirement in paragraph 8(a) above also applies.

9. A candidate must make available a written or electronic copy of each of his/her EAs and the relevant information in relation to the EAs for public inspection **within 3 working days** after the publication of the EAs (please refer to paragraph 10 below for the ways to make available a copy of the EAs), **otherwise he/she commits an offence**. The relevant information are:
- (a) if an EA is a printed EA, to provide the printing details stating the name and address of the printer, the date of printing and the number of copies printed which are borne on the printed EA;
 - (b) if an EA is displayed on private land/property, the permission or authorisation of the private owner or occupier; and
 - (c) all relevant written consent of that EA.
10. The ways to make available the EAs and the relevant information are confined to:
- (a) uploading onto the Central Platform under the Registration and Electoral Office;
 - (b) uploading onto an open platform maintained by the candidate; and
 - (c) submitting to the Returning Officer.

11. Candidates may request from the REO the personal information of electors (including names, addresses and email addresses) of their constituencies in order to send election mail to the electors by post or email. However, candidates must take note of the following:
- (a) the aforementioned electors' information must be used solely for the purpose related to the electioneering activities for this election. **Any use of electors' information for other purposes is an offence;**
 - (b) if candidates send email to more than one elector, they should use the "bcc" function so as to prevent disclosing electors' email addresses to other recipients;
 - (c) candidates must ensure that the electors' information obtained from the REO is **kept in safe custody** and avoid disclosure of information, including preventing the electronic devices with electors' information from being hacked or used improperly; and
 - (d) candidates are required to **destroy** the relevant information on or before **24 December 2023**.
12. Candidates should remove all their EAs displayed on government land/property **on or before 20 December 2023**. After that date, such EAs will be removed by the relevant departments and the removal costs incurred will be recovered from the candidate concerned. In addition, these expenses should be counted as election expenses and should be included in the election returns. The candidate should bear the responsibility if the maximum amount of election expenses is exceeded as a result of the inclusion of these costs.

Election Return

13. Candidates must submit his/her election return on or before **14 February 2024**¹, otherwise he/she commits an offence. The election return must set out the following:
- (a) all election expenses of the candidate;

¹ Based on the current plan, the REO will publish the election results in the gazette on 15 December 2023. Candidate must submit his/her election return within 60 days (i.e., 14 February 2024) of this date. The REO will issue letters to all candidates in late December 2023 reminding candidates of the deadline for lodging election returns.

- (b) all election donations received by the candidate or person(s) on his/her behalf. If it is non-cash donation, its value should be calculated based on the market value of the donated goods or services. Election donations that have been received but not spent or used in this election must also be declared;
 - (c) for each election expense of HK\$500 or more, the election return must be accompanied by invoices and receipts issued by the goods or service provider. The invoices and receipts should contain the date, information and amount of the goods or services, information of the goods or service providers and information which proves that the goods or service provider has received the relevant payment in full, such as name and signature or stamp of the payee;
 - (d) for election donations of more than HK\$1,000 (including multiple election donations from the same donor with a total value of more than HK\$1,000), the election returns must be accompanied by a copy of the receipt issued by the candidate to the donor, specifying the name and address of the donor concerned, as well as particulars of the donations; and
 - (e) for each election donation that is not entirely used for this election and must be given to charitable institutions or trusts of a public character, the election return must be accompanied by a receipt issued by that charitable organization.
14. If an expense is partly related to the election and partly for other purposes, it should be apportioned proportionately. As a general principle, time and/or usage² are relevant factors for consideration in apportioning expenses.
15. If an election expense (such as an election advertisement) involves more than one candidate, it should be apportioned according to the principle mentioned above and included in the election returns of all relevant candidates. Even if one of the candidates considers that the relevant advertisement or expense belongs only to other candidate(s), if the relevant advertisement or expense could objectively promote the election of that candidate, he/she must still apportion the expenses proportionately.

² For example, if Candidate A and Candidate B jointly rent an office with an area of 600 square feet, with Candidate A occupying 200 square feet and Candidate B occupying 400 square feet, and the office is used for election-related purpose for 3 months. Assuming the monthly rent is HK\$12,000, the calculation for apportioning the office rental expenses is as follows: Candidate A's share is $\text{HK\$}12,000 \times 3 \text{ months} \times 200/600 \text{ square feet} = \text{HK\$}12,000$, and Candidate B's share is $\text{HK\$}12,000 \times 3 \text{ months} \times 400/600 \text{ square feet} = \text{HK\$}24,000$.

16. Even if a candidate did not incur any election expenses or receive any election donations, he/she is still required to submit the election return within the deadline stating this point, **otherwise he/she commits an offence.**

**Registration and Electoral Office
September 2023**

Attachment: Summary of Important Deadlines

Item	Date
Submit nomination form	17 to 30 October 2023
Obtain written consent of support	before publication of the relevant Election Advertisements (“EA”)
Make available a copy of the EAs and relevant information	within 3 working days after publication of the EAs
Remove all EAs displayed on government land/property	on or before 20 December 2023
Destroy the electors’ information obtained from the Registration and Electoral Office	on or before 24 December 2023
Submit election return (even if no election expenses incurred or no election donations received)	on or before 14 February 2024 (see footnote 1)