

**Supplementary Information Sheet to the Guidelines on
Election-related Activities in respect of the Legislative Council Election
Issued by the Electoral Affairs Commission in June 2012**

The 2016 Legislative Council New Territories East Geographical Constituency By-election will be held on 28 February 2016. Candidates/Lists of candidates should comply with the Guidelines on Election-related Activities in respect of the Legislative Council Election issued by the Electoral Affairs Commission in June 2012, and note the following legislative changes, latest advice and arrangements which are applicable to the above By-election:

Legislative changes, latest advice and arrangements
<i>Chapter 4 Nomination of candidates</i>
<ul style="list-style-type: none"> • At a Legislative Council by-election, a person is disqualified from being nominated as a candidate, and from being elected as a Member, if he/she has resigned or was taken to have resigned from office as a Member within the 6 months ending on the date of the by-election and no general election was held after the relevant notice of resignation or notice of non-acceptance took effect. (Section 39(2A) of the Legislative Council Ordinance (Cap 542))
<i>Chapter 5 Polling and counting arrangements</i>
<ul style="list-style-type: none"> • The list of polling stations and counting stations will be gazetted at least 10 days before the polling day and the Returning Officer will give notice to candidates about the place(s) and time of the counting of votes at least 10 days before the polling day. (Sections 28(1) and 65(5) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D) (“EAC (EP) (LC) Reg”))
<i>Chapter 7 Appointment and roles of election agent, election expense agents, polling agents and counting agents</i>
<ul style="list-style-type: none"> • The use of electronic mail is allowed as a means of delivery of certain electoral documents, such as notices of appointment and revocation of appointment of election agents, election expense agents, polling agents and counting agents. (Sections 23(16) and (18), 25(10) and (15A), 42(8AA), (14) and (14A), 66(5A) and (10A) of the EAC (EP) (LC) Reg)

Chapter 8 Election advertisements

- A message published through internet platforms (e.g. websites, social media, communication networks, etc.), is also an election advertisement (“EA”), if such message is published for promoting the election of a candidate/list of candidates or prejudicing the election of other candidates/lists of candidates. If web surfers merely share or forward different candidates’ election campaigns through internet platforms for expression of views and do not intend to promote or prejudice the elections of any candidates, such sharing or forwarding will not normally be construed as publishing EAs. However, if the web surfers are instructed by the candidate or candidates on the list or his/her/their election helpers to share or forward the election campaigns through internet platforms with the intention to promote or prejudice the election of a candidate or candidates at the election, such act will be regarded as publication of the candidate’s or candidates’ EAs and any costs incurred will have to be included in the election expenses of the candidate/list of candidates. The candidate(s) should also observe fully the requirements relating to publication of EAs; and
- Regarding messages published by any persons or organisations, including political organisations, professional or trade organisations, or other district organisations, during or before the election period and irrespective of the form of publication, which directly or indirectly appeal to electors to vote or not to vote for some candidates or candidates of some organisations, if the messages do not contain any names of candidates, but reference could still be made from the messages concerned to identify the candidates being promoted or prejudiced by an elector in the constituency concerned, then depending on the entire relevant circumstances of the time, such messages may likely be regarded as EAs. The expenses incurred for the publication of such messages will also be regarded as election expenses incurred by or on the behalf of the candidate(s). If expenses are involved in the publication of the EA and the publisher is neither a candidate nor a candidate's election expense agent, the publisher may commit illegal conduct under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”). If the candidate instructs that person or organisation to publish the EA, the candidate would also violate the same law if such expenses are not accounted for as election expenses.

Chapter 9 Electioneering at the living or working places of electors, premises of organisations to which electors belong and buildings which electors frequent

- The Office of the Privacy Commissioner for Personal Data issued the 5th Revision edition of the Guidance Note on Electioneering Activities in August 2015. A copy of the Guidance Note and a list of complaint cases are at **Appendix A** for easy reference; and
- Candidates/Lists of Candidates should respect elector’s privacy when using their contact information for canvassing. In particular, they are reminded to use the “**bcc**” function of email for mass distribution of EAs over email so that the email addresses of individual electors would not be inadvertently disclosed to other recipients.

Chapter 15 Exit Poll

- The administrative procedures in approving applications for the conduct of exit polls have been updated and some enhanced measures would be adopted to ensure the fairness of election. Please refer to the dedicated website for the By-election at www.elections.gov.hk for details of the application guidelines.

Chapter 16 Election expenses and election donations

- If an expense is incurred for more than one purpose, there is a need for **apportionment of expenses** between election-related purposes and any other purposes. The candidate/list of candidates concerned should include relevant particulars in his/her/their return and declaration of election expenses and election donations. As a general principle, time and usage are relevant factors for consideration. The candidate/list of candidates may seek professional advice on apportionment of expenses as necessary. Any fees incurred for such professional advice will not be regarded as his/her/their election expenses; and
- Any person or organisation (including a political party) acting as an agent to solicit, receive or collect election donations for a candidate or some candidates should also comply with all the requirements under the ECICO as if the election donations are received by the candidate(s) direct. To avoid possible confusion to donors/members of the public, the agent is advised to note the points and adopt the good practice as suggested in **Appendix B**.