

LCQ19: Village Representative Election

Following is a question by the Hon Audrey Eu and a written reply by the Secretary for Home Affairs, Mr Tsang Tak-sing, in the Legislative Council today (March 30):

Question:

There are two types of village representatives under the Village Representative Election Ordinance (Cap. 576) (the Ordinance), namely Indigenous Inhabitant Representatives and Resident Representatives. Some electors for the Resident Representative Election (RRE) have relayed to me that in their villages, certain candidates for RRE have been living outside Hong Kong for a long time, but they still succeeded in registering as electors and standing for election. In this connection, will the Government inform this Council:

(a) of the number of complaints or reports received by the authorities in the past five years in relation to electors or candidates for RRE not meeting the eligibility requirements for electors, and the follow-up actions taken by the authorities;

(b) whether the authorities had in the past five years proactively verified or randomly checked whether registered electors for RRE still meet the eligibility requirements for electors set out in the Ordinance; if they had, of the number of people found to be ineligible; if not, the reasons for that;

(c) given that the Ordinance provides that electors for RRE shall be residents of the village concerned, and that "resident" means "a person whose principal residential address is in the Village" while "principal residential address" means "the address of the dwelling place at which the person resides and which constitutes the person's sole or main home", whether the authorities had verified, in the past five years, if the addresses furnished by registered electors and persons applying to be registered as electors were the addresses of their dwelling places which constituted their sole or main home; if they had, of the number of cases verified;

(d) whether the Government has specified, for the purpose of recognising a registered elector or a person applying to be registered as an elector to be a "resident" as defined in the Ordinance, a minimum number of days in the year preceding the compilation of the provisional register of electors each year for which the resident is required to have resided in the dwelling place at the "principal residential address" which he/she has

furnished; whether a registered elector or a person applying to be registered as an elector will still be regarded as a "resident" as defined in the Ordinance if, in the year preceding the compilation of the provisional register of electors each year, the duration of his/her being outside Hong Kong is longer than that of residing in the dwelling place at the "principal residential address" he/she furnished; and

(e) of the number of people whose names and particulars were struck out in the past five years from the final register of electors by the Electoral Registration Officer pursuant to the Ordinance on the ground that these people had not resided in the village concerned?

Reply:

President,

(a) We do not have the statistics for the past five years. Yet, for the period for lodging complaints in relation to the 2011 Village Representative Election as specified by the Electoral Affairs Commission (i.e., from November 13, 2010 to March 9, 2011), the Home Affairs Department (HAD) received a total of 26 complaints against eligibility of voters or candidates. Some of the cases are still under investigation. Depending on the circumstances of individual cases, the investigation work generally includes approaching the voter or candidate concerned to obtain further information, paying home visits, and gathering information from relevant departments (e.g., the Immigration Department and the Housing Department) for verification. Any case involving the furnishing of false information will be referred to law enforcement departments for actions.

(b) HAD conducts annual exercises for voter registration. Every year, the department also takes the initiative to issue letters to all newly registered electors for verification of their personal particulars. Annual check is also proactively conducted on their particulars with relevant government departments. And once every four years, before an ordinary election is held, HAD issues letters to all registered electors to verify their particulars in order to compile a provisional register and an omission list.

The provisional register contains particulars of previously registered electors that are still valid and information of newly registered electors. The omission list sets out names of persons who are no longer eligible for registration or who have passed away.

Both documents are available for public inspection for a period of two weeks. Anyone who questions the eligibility of persons whose names appear in the two documents may lodge a notice of objection or claim within a specified period. Upon receipt of such a notice, the Revising Officer will fix a hearing and make a ruling. HAD will publish the final register on conclusion of all cases. Persons listed in the register have the right to vote.

In 2009 and 2010, a total of more than 4,200 persons were found not eligible for registration as electors in the Resident Representative Elections (RRE) on verification. Their names were put on the omission list.

(c) An applicant for registration as electors of a RRE is required to make the following declaration in his application form:

- i. The particulars entered in the application form are true and accurate;
- ii. The principal residential address entered is that of the dwelling place at which he resides and which constitutes the person's sole or main home;
- iii. He has been a resident of the Existing Village under application for three years immediately before application; and
- iv. He is not subject to any disqualifications from registration as an elector of the Existing Village.

It is stated manifestly clear in the application form that any person who makes any false or incorrect statement or gives information which is false or misleading commits an offence under the law.

In preparation for the 2011 Village Representative Election, HAD verified information of all registered electors for RRE in 2009 and found that the principal residential addresses of over 2,400 persons in the registers of electors were no longer the dwelling places which constituted their sole or main homes. They are therefore no longer eligible for registration as electors.

(d) The Village Representative Election Ordinance (Cap. 576) does not specify the number of days that an elector is required to have resided at the reported sole or main residential address. Nor does the Ordinance provide for the duration of stay in or absence from Hong Kong. Where the case is related to absence from Hong Kong, the number of days of absence, the number of absence and the reasons of absence are all factors for consideration. Each case is to be considered on its own merits. There are

no one-size-fits-all rules.

It should be noted that after the 2007 Village Representative Election, there were electors prosecuted for committing an offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) in regard to voting in an election. In his judgment on a related case, a Magistrate stated that the principal residential address should have a permanent nature. He gave an example to make this point - it is the parents' home, not the dormitory, that should be considered as the principal residential address of a student who lives in the dormitory on weekdays and returns to parents' home on weekends. This shows that the number of days of residence in a place is not the sole factor for deciding whether that place should be considered as the principal address of an elector.

(e) We do not have the statistics for the past five years. In 2009 and 2010, however, a total of more than 2,600 electors for RRE were disqualified. They were found no longer eligible for registration as electors because their principal residential addresses in the registers of electors had no longer been the addresses of their sole or main homes.

Ends/Wednesday, March 30, 2011

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