

# CLEAN DISTRICT COUNCIL ELECTION



## Checklist for Candidates

- The District Council Election is regulated by the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (“ECICO”) enforced by the Independent Commission Against Corruption (“ICAC”). The ECICO aims to ensure public elections in Hong Kong are conducted fairly, openly and honestly, and are free from corrupt and illegal conduct.
- The ECICO is applicable to conducts engaged in Hong Kong and places outside Hong Kong before, during and after the election period. This checklist sets out the major contents of the ECICO and serves as a reference to remind candidates and their election helpers on what they should take note of in the process of running in an election.
- Candidates and their election helpers should refer to the text of the ECICO and seek independent legal advice for individual situations in case of doubt. Candidates and their election helpers are also required to observe other relevant legislation and the “Guidelines on Election-related Activities in respect of the District Council Election” issued by the Electoral Affairs Commission (“EAC”).

## (1) STANDING AS CANDIDATES

### Bribery

- Do not engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  1. offering an advantage as an inducement to or a reward for any person’s standing or not standing as a candidate at the election;
  2. offering an advantage as an inducement to or a reward for any person having been nominated as a candidate at the election to withdraw his nomination or not to use his best endeavours to promote his election.
- Do not solicit or accept an advantage as an inducement to or a reward for any person’s standing or not standing as a candidate at the election.
- Do not solicit or accept an advantage as an inducement to or a reward for any person having been nominated as a candidate at the election to withdraw his nomination or not to use his best endeavours to promote his election.
- Do not offer an advantage to procure an elector to subscribe or not to subscribe a nomination.

### Using or Threatening to Use Force or Duress

- Do not use or threaten to use force or duress to induce any person to stand or not to stand as a candidate at the election, or to induce any person having been nominated as a candidate at the election to withdraw his nomination.
- Do not authorize another person, either expressly or by implication, to engage in the above conduct.
- Do not use or threaten to use force or duress to procure an elector to subscribe or not to subscribe a nomination.

*The ICAC will not be liable or responsible for any loss caused to any person acting or refraining from acting in any way as a result of any material contained in this checklist. Throughout this checklist, the “male” pronoun is used to cover references to both the male and female. No gender preference is intended.*

## Engaging in Deceptive Behaviour

- ✘ Do not, by a deception, induce any person to stand or not to stand as a candidate at the election, or induce any person having been nominated as a candidate at the election to withdraw his nomination.
- ✘ Do not authorize another person, either expressly or by implication, to engage in the above conduct.
- ✘ Do not, by a deception, procure an elector to subscribe or not to subscribe a nomination.

## Nomination Paper

- ✘ Do not deface or destroy a completed or partly completed nomination paper to prevent or obstruct another person from standing for an election.

# (2) ELECTIONEERING

## Statements about a Candidate

- ✘ Do not publish a statement, knowing it to be false, that a person is or is no longer a candidate at the election.
- ✘ Do not publish any materially false or misleading statement of fact, including (but not limited to) a statement concerning the character, qualifications or previous conduct of a candidate or candidates for the purpose of promoting or prejudicing the election of the candidate(s).

## Election Advertisements

- ✘ Do not publish an election advertisement that includes the name or logo of a person or an organization; or the pictorial representation of any person in such a way as to imply, or to be likely to cause electors to believe, that the candidate concerned has the support of the person or organization, unless:
  1. prior written consent from the supporting person or organization has been obtained; or
  2. the candidate or the person who publishes the election advertisement has neither requested or directed nor authorized any other person to request or direct the inclusion of such name, logo or pictorial representation in the advertisement (e.g. the contents of the election advertisement have been provided by the supporters themselves out of their own volition)

*Remark: A person must obtain approval from the governing body of the organization or by a resolution of the members of the organization passed at a general meeting before giving a consent in writing to the inclusion in an election advertisement of the name or logo of or associated with the organization.*

- ✘ Do not modify, or authorize another person to modify, the name, logo or pictorial representation or any other content of an election advertisement provided by a supporting person or organization unless prior written consent has been obtained from the supporting person or organization.
- ✔ Do comply with the requirements applicable to election advertisements under the relevant EAC Regulation and the “Guidelines on Election-related Activities in respect of the District Council Election” issued by the EAC.

*Remark: A document published by a candidate during an election period (i.e. the period which begins on the first day of the nomination period and ends on the polling day for the election) that gives details of the work done by the candidate in the capacity of the Chief Executive, a member of the Election Committee, a member of the Legislative Council, a member of a District Council, a member of the Heung Yee Kuk, the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee, or a Rural Representative, is also an election advertisement.*

# (3) VOTING

## Bribery

- ✘ Do not without reasonable excuse engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  1. offering an advantage as an inducement to or a reward for any person's voting or not voting for a particular candidate or particular candidates at an election;
  2. offering an advantage as an inducement to or a reward for any person's not voting at an election.

## Providing Refreshments or Entertainment

- ✘ Do not engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  1. providing or meeting all or part of the cost of providing any food, drink or entertainment as an inducement to or a reward for any person's voting or not voting for a particular candidate or particular candidates at an election;
  2. providing or meeting all or part of the cost of providing any food, drink or entertainment as an inducement to or a reward for any person's not voting at an election.

## Using or Threatening to Use Force or Duress

- ✘ Do not engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  1. using or threatening to use force or duress against any person to induce the person to vote at an election, or to vote for a particular candidate or particular candidates at an election;
  2. using or threatening to use force or duress against any person to induce the person not to vote at an election, or not to vote for a particular candidate or particular candidates at an election;
  3. using or threatening to use force or duress against any person because the person voted at an election, or voted for a particular candidate or particular candidates at an election;
  4. using or threatening to use force or duress against any person because the person refrained from voting at an election, or refrained from voting for a particular candidate or particular candidates at an election;
  5. preventing an elector from voting at an election by abduction.

## Engaging in Deceptive Behaviour

- ✘ Do not engage in, or authorize another person either expressly or by implication to engage in, any of the following conduct:
  1. inducing any person by a deception to vote or not to vote for a particular candidate or particular candidates at an election;
  2. inducing any person by a deception not to vote at an election.

## Other Offences in relation to Voting

- ✘ Do not invite or induce any person to vote at an election knowing that the person is not entitled to do so.
- ✘ Do not invite or induce any person to vote at an election knowing that the person has given materially false or misleading information to an electoral officer.
- ✘ Do not destroy, deface, take or otherwise interfere with a ballot paper in use or that has been used at an election, without lawful authority.
- ✘ Do not destroy, remove, open or otherwise interfere with a ballot box in use at an election, without lawful authority.

# (4) ELECTION EXPENSES AND ELECTION DONATIONS

## Election Expenses

- ✘ Do not incur election expenses more than the prescribed maximum amount for the constituency concerned for the District Council Election.

Constituencies	Maximum Amount of Election Expenses
<b>(A) Geographical Constituency</b>	
Central	\$512,400
Western, Southern District Northwest	\$585,600
Southern District Southeast, Kwun Tong North, Tsuen Wan Northwest, Yuen Long Rural East, Wu Tip Shan, Robin's Nest, Tai Po South, Sai Kung and Hang Hau	\$658,800
Yau Tsim Mong South, Yau Tsim Mong North, Kwun Tong Southeast, Kwun Tong Central, Tsuen Wan Southeast, Tuen Mun East, Tuen Mun North, Yuen Long Town Centre, Tin Shui Wai South and Ping Ha, Tin Shui Wai North, Tai Po North, Tseung Kwan O South, Tseung Kwan O North, Sha Tin West, Sha Tin South, Sha Tin North, Kwai Chung East, Kwai Chung West, Islands	\$732,000
Tai Pak, Kwun Tong West, Tuen Mun West, Sha Tin East, Tsing Yi	\$805,200
Hong Wan, Chai Wan, Sham Shui Po West, Kowloon City South, Wong Tai Sin East	\$878,400
Wan Chai, Sham Shui Po East, Kowloon City North, Wong Tai Sin West	\$951,600
<b>(B) District Committees Constituency</b>	
District Committees Constituency	\$100,000

- ✘ Do not incur election expenses in excess of the amount specified in the authorization if you are an election expense agent.
- ✘ Do not incur election expenses at or in connection with an election unless you are a candidate incurring election expenses solely for yourself or you are a candidate's authorized election expense agent (except that person publishes an election advertisement on the Internet; and the only election expenses incurred by that person for the purpose of publishing the advertisement are the electricity charges and/or charges necessary for accessing the Internet).

## Election Donations

- ✘ Do not use election donations for a purpose:
  1. other than that of meeting a candidate's election expenses; or
  2. other than that of promoting a candidate's election or prejudicing the election of another candidate or other candidates.
- ✔ Do issue to the donor a receipt for election donations of more than \$1,000 in value, specifying the name and address of the donor and particulars of the election donation.
- ✔ Do give election donations of more than \$1,000 in value received by a candidate who does not know the name and address of the donor, the unused election donations and election donations that exceed the prescribed maximum amount of election expenses to a charitable institution or trust of a public character chosen by the candidate before lodging the election return.

## Election Returns

- ✓ Do lodge an election return clearly setting out all election expenses incurred by a candidate and his authorized election expense agent(s); and all election donations received by or on behalf of the candidate with the Chief Electoral Officer (“CEO”) by the statutory deadline as required under section 37 of the ECICO.
- ✓ Do lodge the election return with:
  1. in the case of each election expense of \$500 or more, an invoice and a receipt giving particulars of the expenditure issued by the goods or service provider;
  2. in the case of each election donation of more than \$1,000 in value, a copy of the receipt issued to the donor specifying the name and address of the donor and the particulars of the donation;
  3. a copy of the receipt given by a charitable institution or trust of a public character to which the candidate has chosen to give his election donations (including anonymous election donations of more than \$1,000 in value, unused election donations and election donations that exceed the prescribed maximum amount of election expenses);
  4. (if applicable) a written explanation setting out the reason why an election donation was not disposed of in accordance with paragraph (3) above; and
  5. a declaration verifying the contents of the election return.
- ✓ Do lodge the election return with the CEO within the period as required by the law if a person, at any time before the close of nominations for the election, has publicly declared an intention to stand as a candidate at the election; even if, he does not submit the nomination form in the end; or after being nominated as a candidate at the election, he has withdrawn his nomination or his nomination has been ruled invalid; or he is returned uncontested, or not elected, or has not incurred any election expense.

*Remark: A “candidate” is defined not only as a person who stands nominated as a candidate, but also a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election.*

- ✗ Do not make any statement that the candidate knows or ought to know is materially false or misleading in the election return or the revised copy of the election return.

## (5) ELECTION PETITION / ELECTION APPEAL

- ✗ Do not withdraw an election petition/election appeal for an advantage.
- ✗ Do not offer an advantage as an inducement to or a reward for any person’s withdrawal of an election petition/election appeal.
- ✗ Do not solicit or accept an advantage as an inducement to or a reward for any person’s withdrawal of an election petition/election appeal.

### **The following two new offences have been introduced upon the amendment of the Elections (Corrupt and Illegal Conduct) Ordinance in 2021:**

1. It is a corrupt conduct to wilfully obstruct or prevent any person from voting at the election or get another person to obstruct or prevent a third person from voting at the election.
  2. It is an illegal conduct to incite another person not to vote or to cast invalid vote at the election by carrying out any activity in public during the election period.
- ✓ Any person who comes across or suspects any contravention of the ECICO is encouraged to make a report to the ICAC immediately.

