

**Registration and Electoral Office failing to provide statistics  
on registered electors  
(Related to Code on Access to Information)**

**Investigation Report**

On 5 September 2020, the complainant complained to this Office against the Registration and Electoral Office (“REO”). On 25 September, we received the complainant’s consent and supplementary information.

**The Complaint**

2. The complainant claimed that he had written to REO on 9 July 2020 to request the following information under the Code on Access to Information (“the Code”):

- (1) the number of electors in eight Functional Constituencies of the Legislative Council (“LegCo”), which included Medical, Health Services, Engineering, Education, Legal, Accountancy, Social Welfare, and Architectural, Surveying and Planning, on the register of electors in each year between 1998 and 2002, 2005 and 2010 (“Information 1”); and
- (2) the number of individual electors in the Functional Constituency of Information Technology on the register of electors in each year between 1998 and 2015 (“Information 2”).

3. In its written reply to the complainant on 28 July 2020 (“Reply I”), REO stated that it had not kept any record of the number of electors in the Functional Constituencies concerned on the register of electors between 1998 and 2011 regarding Information 1. Meanwhile, it provided the number of electors in the Functional Constituency of Information Technology on the register of electors between 2012 and 2015 regarding Information 2. The complainant wrote to REO on the same day and enquired why REO could not provide Information 1 and part of Information 2. On 14 August, REO wrote to the complainant again (“Reply II”) and provided the number of registered electors in the nine Functional Constituencies mentioned in Information 1 and Information 2 regarding the LegCo General Elections in 1998, 2000, 2004 and 2008 (“election years”).

4. According to REO, it would regularly update the information about registered electors and delete the old data. REO reiterated that it had not kept the number of registered electors in the Functional Constituencies concerned on the register of electors between 1998 and 2011. As REO was aware that the Electoral Affairs Commission (“EAC”) had included the numbers of registered electors requested in Information 1 and Information 2 in the reports on LegCo General Election submitted to the Chief Executive in the election years (i.e. 1998, 2000, 2004 and 2008), it extracted the relevant figures from those reports and provided them to the complainant in Reply II. However, REO could not provide the complainant with the numbers of registered electors of the non-election years in or before 2011 (“the Requested Information”).

5. The complainant considered that it was REO’s responsibility to keep the information of registered electors properly for public inspection. He complained that REO’s deletion of old data and failure to provide him with the Requested Information amounted to maladministration.

### **Our Findings**

6. On 23 October 2020, REO provided information to this Office in response to our preliminary inquiry. On 7 December, we commenced the full investigation into this case and received further information from REO on 29 December. We issued our draft investigation report to REO on 8 February 2021 and REO rendered its comments on 15 March. Later, we had a meeting with REO’s representatives on 18 March to discuss the case. Having scrutinised the information and explanation provided by REO, we concluded our investigation on 24 March. Our findings follow.

### ***Response from REO***

#### Compilation and Publication of Information on Elector Registration

7. As EAC’s administrative arm, REO supports EAC in discharging effectively its statutory functions under the Electoral Affairs Commission Ordinance and executing its decisions regarding the delineation of Geographical Constituency and District Council Constituency boundaries, registration of electors and conduct of elections. Electoral registration officers shall arrange for elector registration, perform the annual statutory verification procedures, and compile and publish registers of electors in accordance with the Legislative Council Ordinance, Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District

Council Constituencies) Regulation, Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation and Registration of Electors (Appeals) Regulation.

8. When REO publishes the registers of electors, it will release on the same day the statistics on elector registration on the website (<http://www.voterregistration.gov.hk>) for public inspection. By means of press release, Government gazette and announcement in Chinese and English newspapers, REO will provide the details as to how the registers of electors can be accessed. REO pointed out that it would retain the statistics on elector registration of two general elections on the aforementioned webpage for public inspection.

#### Guidelines on Preservation and Destruction of Records

9. REO handles its routine administrative work including the management of elector registration records in accordance with the Government Regulations and Circulars and performs the procedures for preservation and destruction of records (such as Application for Elector Registration and copies of registers of electors and related documents) in accordance with the requirements of Records Disposal Schedules approved by the Government Records Service (“GRS”) Director. Normally, policy-related administrative records and other administrative records are retained for five and three years respectively.

#### The complainant’s Case

10. REO agreed with the complainant’s account of events arising from his request for information on 9 July 2020 and his follow-up enquiry on 28 July (see **paras. 2–4**).

11. REO explained that it would only retain the statistics on elector registration of two general elections (the two latest elections being 2012 and 2016 LegCo General Elections) (see **para. 8**). In December 2014, REO made a request to GRS for destruction of the records of statistics on the elector registration of Functional Constituencies in or before 2011, and in August 2018 obtained the approval from GRS. As REO had already deleted the statistics on elector registration for all general elections except the latest two and destroyed the records of elector registration in or before 2011, and there were no backup copies, it could not provide the complainant with the Requested Information.

12. According to REO, it had properly managed the elector registration records and information in accordance with the relevant requirements, hence no maladministration on its part. REO's justifications and comments were as follows:

- (1) REO had adhered to the requirements set out in the Records Disposal Schedules approved by GRS in performing the procedures for preservation and destruction of the records concerned. Whether the records were of archival value was determined when the relevant disposal schedules were drawn up. When processing requests for destruction of records, GRS may require sample records from REO for assessment in case of doubts about the archival value of those records assessed to be of no archival value. REO asserted that the records concerned were destroyed after obtaining the approval of GRS in accordance with GRS's record management procedures.
- (2) REO's collection, processing and documentation of information and data on elector registration aim primarily to facilitate the conduct of elections. Under the Electoral Affairs Commission Ordinance, EAC would submit a report to the Chief Executive within three months after an election, elaborating on the election. Statistics on elector registration in election years have been included in the reports prepared by EAC.
- (3) As explained above, EAC had already published detailed reports on various elections, recorded and preserved important information on elections and provided comprehensive statistics on elector registration for public inspection. Except for the complainant's case, there had not been any complaints so far about the unavailability of statistics on elector registration in non-election years.
- (4) REO had all along complied with the Code in providing information on elector registration to different applicants (including academic institutions, media, political organisations and LegCo/District Council members). Based on REO's experience, enquiries were mainly about the statistics on and variation in elector registration in election years, and enquiries about statistics on elector registration in non-election years had been rare. It showed that such statistics were of no archival or potential archival value.

## Preservation of Statistics on Each Year's Elector Registration since 2016

13. The Government announced in the 2015-16 Budget the availability of free access to online Government data in digital format. Hence, starting from 2016, REO has uploaded the statistics on each year's elector registration to the Public Sector Information Portal (data.gov.hk) for public inspection free of charge.

### **Our Comments**

14. This Office has scrutinised the information provided by REO. According to Government General Circular No. 2/2009, records are valuable resources of the Government to support evidence-based decision-making, meet operational and regulatory requirements and are essential for an open and accountable government. The Circular also states that Government departments should, in consultation with GRS, develop disposal schedules having regard to the administrative, operational, fiscal and legal requirements and archival values of the records. GRS will examine the draft disposal schedules and discuss with the departments concerned with a view to finalising the disposal schedules.

15. We do not dispute REO's explanation that it has to preserve and destroy records according to the disposal schedules approved by GRS (see **para. 12(1)**). Nevertheless, on the grounds listed in paragraph 18 below, we are of the view that REO should have taken the initiative to identify and preserve useful records including statistics on each year's elector registration even though the records should be destroyed according to the disposal schedules.

16. According to REO, whether the records were of archival value had been determined when the relevant disposal schedules were drawn up (see **para. 12(1)**). In this regard, we need to point out that it is essentially the responsibility of REO to judge whether records should be preserved or destroyed (see **para. 14**). In fact, destruction of records and preservation of useful information among the records do not clash with or contradict each other.

17. We notice that EAC's reports on LegCo General Elections have already included the statistics on elector registration in Functional Constituencies in each LegCo General Election (see **para. 12(2)**) including the relevant statistics of 1998, 2000, 2004 and 2008 that the complainant requested (see **para. 4**). That EAC has preserved such

information reflects that the statistics on elector registration, though dated, are still worth preservation as reference.

18. REO indicated that statistics on elector registration in non-election years were not important as enquiries about those statistical figures had been rare (see **para. 12(3) and (4)**). We could not subscribe to such reverse causation in REO's explanation. In our view, members of the public are certainly more concerned about the statistics on elector registration in election years as they are comparatively important, but it does not mean those relating to non-election years are insignificant. In fact, compiling and publishing statistics on elector registration are among the major duties of REO. Each year, REO publishes online the statistics on elector registration (see **paras. 7 and 8**). The statistics, relating to election years or non-election years, are of high archival and research values as they enable the Government and the public to have a clear understanding on the distribution and evolution of electors. That REO retains only statistics on elector registration in two latest general elections shows its lack of foresight. Such incomprehensive preservation of information is rather undesirable.

19. In our opinion, REO should give comprehensive and foresighted consideration in deciding what information is of archival value. We consider REO conservative and narrow-minded in seeing information relating to non-election years as insignificant.

20. As regards REO's practice of uploading the statistics on elector registration to the Public Sector Information Portal each year since 2016 (see **para. 13**), we consider it a natural course of action on REO's part as required under paragraph 1.4<sup>Note</sup> of the Code. In the long run, REO should preserve statistics on each year's elector registration in a systematic manner for Government reference and public inspection.

21. Given that REO has been preserving the statistics on each year's elector registration of two latest general elections, and the information is incomprehensive because the statistics do not include elector registration in non-election years in or before 2011, The Ombudsman considers this complaint **partially substantiated**.

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<sup>Note</sup> Paragraph 1.4 of the Code provides that each year departments will publish:

- details of their organisation
- information on the services they provide
- their performance pledges and the extent to which they have been met

## **Recommendation**

22. The Ombudsman recommends that REO keep regular records of statistics on each year's elector registration for Government reference and public inspection.

**Office of The Ombudsman**

**March 2021**