

致：選舉主任

使用選民資料承諾書
鄉郊補選

我承諾：

- (1) 只會將正式選民登記冊的摘錄的硬複本及／或軟複本的資料，用於與鄉郊補選競選活動有關的用途；
- (2) 向選民以電郵方式發送選舉郵件時以獨立郵件發送，把選民的電郵地址輸入「副本密送」欄位內或其他有效措施發送電郵，使每名接收者不能看到其他選民的電郵地址；
- (3) 會盡我所能防止選民的個人資料包括電郵地址遭洩露給未獲授權人士，以及如在不慎洩露了選民的個人資料的情況下，會防止第三者濫用有關資料，包括但不限於通知第三者他們正未獲授權持有選民個人資料，並要求對方立即刪除所有有關資料；
- (4) 在鄉郊補選後兩星期內¹把正式選民登記冊的摘錄的硬複本及／或軟複本，以及從上述複本複製的選民個人資料（如有的話）妥善銷毀；**以及**於上述限期前把「確認已妥善銷毀選民資料的回條」（「回條」）填妥並交回有關的選舉主任；以及
- (5) 倘若我未能於上述補選後兩星期內¹向選舉主任交回有關回條，以確認已妥善銷毀上述物料／資料，上述物料／資料應被視作已經遺失。由於有關物料／資料所載的選民資料有被未獲准許的或意外的查閱、處理、刪除、遺失或使用的風險，按照香港個人資料私隱專員公署（“私隱專員公署”）發出的《資料外洩事故的處理及通報指引》建議，我會將事件向私隱專員公署及有關執法部門（例如香港警務處）報告，以保障受影響資料當事人的個人資料私隱及利益。

我明白：

- (1) 任何人士如為與鄉郊補選有關的目的以外的任何目的，將上述正式選民登記冊的摘錄的硬複本及／或軟複本，或從上述複本複製的選民個人資料自行或准許他人以任何形式重現或複製、自行或准許他人使用、或傳給任何其他人士，均屬犯罪，可處罰款港幣 5,000 元及監禁 6 個月[#]；
- (2) 根據《個人資料（私隱）條例》（第 486 章）第 64 條，任何人披露未經資料使用者同意而取自該資料使用者的某資料當事人的任何個人資料，而該項披露(a)是出於獲取金錢得益或其他財產得益的意圖，不論是為了令該人或另一人受惠而獲取，或(b)是出於導致該當事人蒙受金錢損失或其他財產損失的意圖，該人即屬犯罪，一經定罪，可處罰款\$1,000,000 及監禁 5 年[#]。另外，任何人（披露者）在未獲資料當事人的相關同意下，披露該當事人的個人資料，而(a)披露者的意圖，是導致該當事人或其任何家人蒙受任何指明傷害；或(b)披露者罔顧是否會（或相當可能會）導致該當事人或其任何家人蒙受任何指明傷害，披露者即屬犯罪，一經定罪，可處 6 級罰款（\$100,000）及監禁 2 年。如該項披露導致該當事人或其任何家人蒙受任何指明傷害可處罰款\$1,000,000 及監禁 5 年；
- (3) 選舉管理委員會及香港特別行政區政府（包括民政事務總署）（“政府”）概不就候選人故意或不慎洩露選民的個人資料給未獲授權人士，或將選民的個人資料用於非競選活動用途承擔任何責任。候選人必須就洩露選民的個人資料給未獲授權人士，或將選民的個人資料用於非競選活動用途承擔一切責任，並須就其所引致或涉及的一切法律責任、費用、開支、法律行動、法律程序、申索、要求、損失及損害賠償，向選舉管理委員會及政府作出彌償，並保持令其獲得彌償；以及
- (4) 倘若我未能於上述補選後兩星期內¹向選舉主任交回有關回條，以確認已妥善銷毀上述物料／資料，即使我有向私隱專員公署及有關執法部門報告，選舉主任會將上述物料／資料視作已經遺失，並會向私隱專員公署及／或有關執法部門（例如香港警務處）報告此個案。

我已細閱、明白並同意後頁的須知事項。

*候選人／選舉代理人簽署： _____

*候選人／選舉代理人姓名（正楷）： _____

鄉事委員會名稱： _____

*鄉村／墟鎮名稱： _____

日期： _____

[#]詳見《選舉管理委員會（選民登記）（鄉郊代表選舉）規例》（第 541K 章）第 31(4)及 32(3)條。

*請刪去不適用者。

¹就 2024 年 12 月 1 日舉行的鄉郊補選而言，提交限期是指 2024 年 12 月 16 日下午 6 時或之前。

須知事項

候選人在處理所有形式的選民個人資料（包括但不限於印刷品上的個人資料）時，必須採取下列措施：

- (1) 確保處理／貯存選民個人資料的電腦／伺服器受保密裝置保護，以防止未經授權連接／取用；
- (2) 確保是次補選後兩星期內¹，妥善刪除及銷毀所有曾使用過和管有的選民個人資料（不論形式），並把填妥的「確認已妥善銷毀選民資料的回條」交回有關選舉主任；
- (3) 如果你已從軟複本匯出資料作處理，你必須於是次補選後兩星期內¹將資料刪除並確保被刪除的數據檔案將來不可被復原；
- (4) 保存選民個人資料的接收、檢索及銷毀的書面記錄；及
- (5) 如有懷疑選民個人資料外洩，應立即報告民政事務總署、香港個人資料私隱專員公署及有關執法部門（例如香港警務處）。

候選人如委任選舉代理人或其他選舉工作人員處理選民個人資料亦必須：

- (6) 確保選舉代理人或有關選舉工作人員擁有足夠的知識及具有適當的意識處理資訊保密工作；
- (7) 明確規定選舉代理人或有關選舉工作人員要遵從《個人資料（私隱）條例》（第 486 章）（《條例》）第 3 保障資料原則²及告知他們選民個人資料只可用於由候選人指定與是次補選有關的目的及必須採取上述(1) - (5)的措施；
- (8) 書面告知選舉代理人或有關選舉工作人員關於保障選民個人資料的責任及確保他們了解《條例》第 4 保障資料原則²；及
- (9) 要求選舉代理人或有關選舉工作人員書面承諾遵從《條例》第 3 保障資料原則²和遵辦候選人所指示的保密要求，同時採取適當措施確保他們遵辦有關保密要求。

致：選舉主任

領取確認書

我已於 _____（日期）從選舉主任收妥 _____（鄉事委員會）
_____（*村／墟鎮）*原居民代表／居民代表／街坊代表選舉的下列物品：

- 正式選民登記冊的摘錄的硬複本，載有有關鄉郊地區內選民的姓名、主要住址、通訊地址(如有的話)、電郵地址(如有關選民已向民政事務總署提供電郵地址作接收候選人的選舉郵件之用); 及／或
- 正式選民登記冊的摘錄的軟複本，載有有關鄉郊地區內選民的姓名、主要住址、通訊地址(如有的話)、電郵地址(如有關選民已向民政事務總署提供電郵地址作接收候選人的選舉郵件之用)。

我已檢視包裝上的封條，沒有發現任何損毀。

*候選人／選舉代理人簽署： _____

*候選人／選舉代理人姓名（正楷）： _____

* 請刪去不適用者。

請於合適的方格內加上✓號。

日期： _____

²請參閱《鄉郊代表選舉活動指引》第七章及香港個人資料私隱專員公署於 2023 年 7 月發出的「給候選人、政府部門、民意調查組織及公眾人士的選舉活動指引」。

To : Returning Officer

Undertaking on the Use of Electors' Information
Rural By-election

I hereby undertake:

- (1) to use the information in the hard copy and/or soft copy of an extract of the Final Register solely for the purpose related to the electioneering activities for the Rural By-election;
- (2) when sending out election mail to electors by email, to address each elector by an individual email, to enter the email addresses of electors into the "bcc" column or use other proven means to send out the emails in such a way that each recipient will not be able to view the email addresses of other electors;
- (3) to make every endeavour to prevent any disclosure of electors' personal data, including email addresses to unauthorized persons and, in the event of inadvertent disclosure of electors' personal data, to prevent any misuse of the relevant information by third parties, including but not limited to informing the third parties that they are in possession of electors' personal data without authorization of the electors and requiring them to delete all relevant information immediately;
- (4) to duly destroy the hard copy and/or soft copy of an extract of the Final Register and the electors' personal data copied from the aforesaid copies (if any) **within 2 weeks¹** after the Rural By-election, **AND** return the duly completed "Reply Slip on Confirmation of Destruction of the Elector's Information" ("Reply Slip") to the relevant Returning Officer ("RO") before the above deadline; and
- (5) if I fail to return the relevant Reply Slip on the confirmation of destruction of the above materials/information to the RO within 2 weeks¹ after the above By-election, the aforementioned materials/information should be regarded as lost. Since the electors' information contained in the relevant materials/information will be exposed to the risk of unauthorized or accidental access, processing, erasure, loss or use, I shall follow the recommendation of the "Guidance on Data Breach Handling and the Giving of Breach Notifications" which was issued by Office of the Privacy Commissioner for Personal Data, Hong Kong ("PCPD") to report the incident to the PCPD and the relevant law enforcement agencies (e.g. the Hong Kong Police Force) so as to protect the personal data privacy and the interests of the data subjects concerned.

I understand that:

- (1) it is an offence for any person to reproduce or permit another person to reproduce in any form, use or permit another person to use, or impart to any other person, the hard copy and/or soft copy of an extract of the above Final Register or the electors' personal data copied from the aforesaid copies for any purposes other than the purpose related to the Rural By-election. Any person who commits the said offence is liable to a fine of HK\$5,000 and to imprisonment for 6 months[#];
- (2) according to section 64 of the Personal Data (Privacy) Ordinance (Cap. 486), a person commits an offence if the person discloses any personal data of a data subject which was obtained from a data user without the data user's consent, (a) with an intent to obtain gain in money or other property, whether for the benefit of the person or another person; or (b) with an intent to cause loss in money or other property to the data subject. Such person is liable on conviction to a fine of \$1,000,000 and to imprisonment for 5 years; In addition, a person commits an offence if the person discloses any personal data of a data subject without the relevant consent of the data subject (a) with an intent to cause any specified harm to the data subject or any family member of the data subject; or (b) being reckless as to whether any specified harm would be, or would likely be, caused to the data subject or any family member of the data subject. Such person is liable on conviction to a fine at level 6 (\$100,000) and to imprisonment for 2 years. If the disclosure causes any specified harm to the data subject or any family member of the data subject, such person is liable on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 5 years;
- (3) the Electoral Affairs Commission and the Government of the Hong Kong Special Administrative Region (including the Home Affairs Department) ("the Government") shall not be responsible for any disclosure, intentional or inadvertent, of electors' personal data to unauthorized persons, or for any use of electors' personal data for non-electioneering activities by the candidate(s). The candidate(s) shall be fully responsible for any disclosure of electors' personal data to unauthorised persons or any use of electors' personal data for non-electioneering activities, and shall indemnify and keep indemnified the Electoral Affairs Commission and the Government against all legal liabilities, costs, expenses, legal actions, legal proceedings, claims, demands, losses and damages arising out of or in connection with such disclosure or use; and
- (4) if I fail to return the relevant Reply Slip to the RO within 2 weeks¹ after the above By-election, the RO will regard the aforementioned materials/information as lost and report the incident to the PCPD and/or the relevant law enforcement agencies (e.g. the Hong Kong Police Force), even if I have reported the incident to the PCPD and the relevant law enforcement agencies.

I have read, understood and agreed to the "Important Notes" overleaf.

Signature of *Candidate/Election Agent : _____

Name of *Candidate/Election Agent (BLOCK LETTERS): _____

Name of Rural Committee: _____

Name of *village/market town: _____

Date : _____

See sections 31(4) and 32(3) of the Electoral Affairs Commission (Registration of Electors) (Rural Representative Election) Regulation (Cap. 541K).

* Please delete whichever is inapplicable.

¹ For the Rural By-election to be held on 1 December 2024, the submission deadline refers to **on or before 6 p.m. of 16 December 2024**.

Important Notes

Candidates must adopt the following measures when they handle electors' personal data in all forms (including but not limited to personal data contained in printed materials) :

- (1) ensure that the computer(s)/server(s) in which electors' personal data are processed/stored is/are protected by security devices to prevent unauthorised access/retrieval;
- (2) **ensure proper erasure and destruction of all the electors' personal data (regardless of their form) used or held, and return the duly completed "Reply Slip on Confirmation of Destruction of the Elector's Information" to the relevant Returning Officer ("RO") within two weeks¹ after this By-election;**
- (3) if you have exported the information from the soft copy for processing, you must also delete the information within two weeks¹ after this By-election and ensure that the deleted data file cannot be recovered in the future;
- (4) keep a written record of the provision, retrieval and destruction of electors' personal data; and
- (5) report to the Home Affairs Department, Office of the Privacy Commissioner for Personal Data, Hong Kong and the relevant law enforcement agencies (e.g. the Hong Kong Police Force) immediately in the event of any suspected leakage of electors' personal data.

Candidates who engage election agent or other election personnel to handle electors' personal data must also:

- (6) ensure that the election agent or relevant election personnel possess adequate knowledge and appropriate awareness to handle work of information security;
- (7) explicitly require the election agent or relevant election personnel to follow Data Protection Principle 3² of the Personal Data (Privacy) Ordinance (Cap. 486)("PDPO") and inform them that the electors' personal data should only be used for purposes specified by the candidate in relation to this By-election and that the measures as outlined in items (1) - (5) above must be adopted;
- (8) inform the election agent or relevant election personnel in writing in relation to their responsibilities in protecting the personal data of electors and ensure that they understand the requirements of Data Protection Principle 4² of the PDPO; and
- (9) obtain written undertakings from the election agent or relevant election personnel that they should act in compliance with Data Protection Principle 3² of the PDPO and follow the security requirement imposed by the candidate, and take appropriate measures to ensure compliance by them with the relevant security requirements.

To : Returning Officer

Acknowledgement of Receipt

I acknowledge receipt of the following material(s):

- a hard copy of an extract of the Final Register which contains the names, principal residential addresses and correspondence addresses (if any) of the electors of the relevant Rural Area and their email addresses (if the electors concerned have provided such email addresses to the HAD for the purpose of receiving election mails from candidates); and/or
- a soft copy of an extract of the Final Register which contains the names, principal residential addresses and correspondence addresses (if any) of the electors of the relevant Rural Area and their email addresses (if the electors concerned have provided such email addresses to the HAD for the purpose of receiving election mails from candidates)

of the _____ (*Village / Market Town) of the _____ (Rural Committee) for the *Indigenous Inhabitant Representative / Resident Representative / Kaifong Representative election from the Returning Officer on _____ (Date).

I have inspected the seal(s) on the package(s) and found it/them intact.

Signature of *Candidate/Election Agent : _____

Name of *Candidate/Election Agent (BLOCK LETTERS) : _____

Date : _____

*Please delete whichever is inapplicable.

Please tick in the appropriate box(es).

² Please refer to Chapter 7 of the "Guidelines on Election-related Activities in respect of the Rural Representative Election" and "Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public" issued by the Office of the Privacy Commissioner for Personal Data, Hong Kong in July 2023.