

ITEM FOR FINANCE COMMITTEE

WRITE-OFF OF IRRECOVERABLE LOSS

Members are invited to approve the write-off of an irrecoverable loss of \$869,818.89, being an overpayment of housing allowances to a former contract staff of the Leisure and Cultural Services Department.

PROBLEM

Having exhausted all possible means of recovery, we need to write off the loss of \$869,818.89, being an overpayment of housing allowances to a former ex-Council contract (ECC) staff of the Leisure and Cultural Services Department (LCSD).

PROPOSAL

2. The Director of Leisure and Cultural Services, with the support of the Secretary for Home Affairs, proposes to write off the irrecoverable loss of \$869,818.89 under the Public Finance Ordinance (PFO) (Cap. 2).

3. This is a resubmission to the Finance Committee (FC) of the Legislative Council (LegCo). Due to time constraint, FC did not deliberate on the proposal set out in FCR(2016-17)76 before the end of the last term of LegCo last year.

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JUSTIFICATION**The Case**

4. The former ECC staff concerned was first employed by the former Urban Council (UC) on contract terms on 21 September 1998 and was entitled to a Non-accountable Cash Allowance (NCA) under the terms of employment with the UC. Following the dissolution of the UC and upon the establishment of LCSD on 1 January 2000, he continued to be employed on the then UC terms until the prevailing UC contract expired on 14 December 2000. He was then offered appointment on ECC terms by LCSD as from 15 December 2000.

5. For ECC staff of LCSD whose contracts were signed on or after 1 June 2000, and who were employed at a basic salary equivalent to that of a civil servant at the Master Pay Scale Point 34 or above and receiving housing benefits prior to the commencement of contract, they should only be entitled to a housing allowance equivalent to Home Financing Allowance (HFA) or Rent Allowance (RA) for a maximum aggregate period of 120 months, subject to their meeting the eligibility criteria of the respective housing benefit schemes.

6. However, it was found in 2004-05 that for the period of December 2000 to February 2005, this former ECC staff had received a total housing allowance of \$869,818.89, comprising an NCA of \$765,838.89 between 15 December 2000 and 31 August 2004; and an HFA of \$103,980.00 between 1 September 2004 and 28 February 2005. The NCA payment of \$765,838.89 should not have been made because the former ECC staff concerned, who was previously in receipt of NCA under the terms of employment with UC, was no longer entitled to NCA under the ECC terms signed with LCSD, while the payment of HFA amounting to \$103,980.00 should only have been made subject to his meeting the eligibility criteria stipulated in the relevant Civil Service Regulations. However, at the material time, the staff concerned had not provided any information in support of his eligibility to HFA (please also see paragraph 13 below).

Actions Taken

7. The Government took the case to court and demanded the return of \$869,818.89 from the aforementioned ECC staff. On 1 August 2008, the District Court dismissed the Government's claim and so the amount is considered as irrecoverable.

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8. In parallel with the recovery action, LCSD consulted the Department of Justice and referred the case to the Police in November 2006 for investigation of any possible deception or theft. Upon completion of investigation, the Police advised LCSD that no action would be taken against the former ECC staff concerned.

9. LCSD also conducted an internal investigation into the case and found that four officers were directly responsible for the overpayment of the housing allowances. One of them had retired before the overpayment was discovered. Summary disciplinary actions were taken against the other three officers having regard to the circumstances of the case and their level of involvement in the matter.

10. Taking into account the Court's judgment on the case, the disciplinary actions taken against the responsible officers as well as relevant legal advice, the Government decided that no surcharge action under the PFO should be taken against the staff involved in making the overpayment.

Enhanced Control Procedures

11. To prevent recurrence of similar cases, LCSD had, after the overpayment was discovered, critically reviewed the internal control procedures for payment of housing allowances for officers employed on ECC terms and introduced enhanced measures to ensure that all relevant applications would be processed in full compliance with the terms and conditions of the employment contracts and the established mechanism. These include centralising the vetting of the applications and escalating the level of approving authority for housing benefits of ECC staff. The measures have been implemented for the processing of all applications for the housing benefits of eligible ECC staff.

Write-off Proposal

12. The Government has exhausted all possible means of recovering the overpayment. The loss of \$869,818.89 is irrecoverable and should be written off.

13. In proposing this write-off, we have also assessed the housing benefits to which the former ECC staff concerned was actually entitled. According to the ECC terms, while the staff concerned was no longer eligible for NCA, he was entitled to housing benefits equivalent to HFA/RA with effect from the commencement of his employment contract signed with LCSD, subject to his

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meeting the eligibility criteria for HFA/RA. Should the ECC staff concerned apply for housing benefits with proof of his eligibility for HFA/RA for the period between December 2000 and February 2005 in accordance with the ECC terms, he would be eligible to the relevant housing allowance to which he was entitled and the Government would have to pay him housing benefits equivalent to an amount of \$826,226.80, which was slightly less than the overpayment of \$869,818.89. In such circumstances, the amount overpaid (\$869,818.89 – \$826,226.80 = \$43,592.09) would have been a smaller amount.

14. For cases of write-off of losses of public moneys, stores, etc. involving fraud or negligence, the current limit of delegated authority specified by the FC is \$500,000 in each case, or in respect of any one cause. Since the current case involves negligence of some LCSD staff and the amount exceeds the above financial limit, the approval of the FC is required for the write-off.

FINANCIAL IMPLICATIONS

15. The total amount proposed to be written off is \$869,818.89, with breakdown as follows –

(a)	Overpayment of NCA (from 15 December 2000 to 31 August 2004)	\$765,838.89
(b)	Overpayment of HFA (from 1 September 2004 to 28 February 2005)	\$103,980.00
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		Total: \$869,818.89

PUBLIC CONSULTATION

16. We submitted an information paper to the LegCo Panel on Home Affairs on the write-off proposal on 23 June 2016. Members raised no comments on the proposal. The proposal was subsequently submitted for approval by the FC vide FCR(2016-17)76 at its meeting on 12 July 2016, but the item was not discussed by the end of the last term of LegCo due to time constraint. We consulted the LegCo Panel on Home Affairs again on 22 May 2017 and Members supported the submission of this proposal to the FC.