

ITEM FOR FINANCE COMMITTEE

WRITE-OFF OF A JUDGEMENT DEBT

Members are invited to approve the write-off of an irrecoverable debt totaling \$824,344.47 owed to the Government by a former Supplies Supervisor II responsible for handling case property of the Hong Kong Police Force.

PROBLEM

A former Supplies Supervisor II (SS II) who was responsible for handling case property of the Hong Kong Police Force (HKPF) was unable to repay the Government a debt. Having exhausted all possible legal means, the Government fails to recover the debt and the sum of money has to be written off.

PROPOSAL

2. In accordance with section 38 of the Public Finance Ordinance (Cap. 2) (PFO), the Commissioner of Police, with the support of the Secretary for Security, seeks the approval of the Finance Committee (FC) for writing off the above irrecoverable debt of \$824,344.47, which comprises the money stolen by the former SS II and its interest.

JUSTIFICATION

The Case

3. On 20 February 2003, a former SS II (referred to as “L” below) who was tasked with handling case exhibits at the Crime New Territories South Region of the HKPF, was found to be absent from duty and his whereabouts were unknown. An exhibit of \$1,358,000 in cash that he was handling was also missing.

/Criminal

Criminal Investigations and Further Details

4. Regional Crime Unit of New Territories South Region took over the case. It was discovered that some other case exhibits handled by L, including cash and valuable property, were also missing. Upon checking, it was confirmed that the missing cash and exhibits involved in the case, along with the aforementioned sum of missing money, were as follows –

- (a) HK\$1,403,250 in cash;
- (b) RMB1,670.70 in cash;
- (c) US\$270 in cash;
- (d) a gold ring and a gold necklace;
- (e) two Octopus cards; and
- (f) three credit cards.

5. On 7 March 2003, L surrendered to the Police and admitted that he had stolen the above property. Upon investigation, the Police recovered some of the missing property, namely –

- (a) HK\$708,387.60 in cash;
- (b) RMB1,610.00 in cash;
- (c) a gold ring and a gold necklace;
- (d) two Octopus cards; and
- (e) three credit cards.

The Government was required to compensate the owners for failing to recover the missing money, including HK\$694,862.40, RMB60.70 and US\$270.

Criminal Proceedings, Judgment and Disciplinary Action

6. On 9 March 2003, the Police prosecuted L for six counts of theft upon the Department of Justice (DoJ)'s advice. On 18 July 2003, L pleaded guilty to all the counts at the District Court and was sentenced to imprisonment for two years and eight months. On 28 November of the same year, he was punished by dismissal.

/Debt

Debt Recovery Actions Taken

7. Since May 2004, DoJ has been initiating debt recovery actions against L, serving on him demand letters on behalf of the HKPF for the amount of compensation made by the Government to the owners arising from the missing money, involving HK\$694,862.40, RMB60.70 and US\$270. In view of L's replies to DoJ in February and April 2005 stating his inability to repay the debt, DoJ applied to the District Court for the issuance of a writ of summons on behalf of the HKPF in December 2006.

8. On 2 February 2007, the District Court, in respect of the claims, ordered L to pay an amount of \$697,024.30^{Note} to the Government of the Hong Kong Special Administrative Region, plus the interest and fixed costs. DoJ issued demand letters to L on two occasions between October 2007 and April 2008. L did not respond to those letters, nor did he settle the judgment debt ordered by the Court.

9. In July 2008, L filed a bankruptcy petition and was adjudged bankrupt on 26 August 2008. DoJ filed a proof of debt with the Official Receiver against L's bankruptcy estate. The judgment debt and the interest calculated up to L's bankruptcy date were \$824,344.47 in total (see paragraph 24 below for the breakdown).

10. In August 2012, L was discharged of the bankruptcy order and his receiver confirmed that L had no assets available for distribution to his creditors. According to the Bankruptcy Ordinance (Cap. 6), the discharge of a person from a bankruptcy order releases him from all bankruptcy debts. In this connection, L was released from all bankruptcy debts, including the judgment debt in question. After the said discharge, the Government cannot take any further action to recover the debt.

11. The Government has exhausted all possible legal means to recover the debt but to no avail. We have no choice but to write off the debt and the interest.

/Other

^{Note} Covering all money (to be claimed from L) converted to Hong Kong Dollar value.

Other Follow-up Actions*Supervisory Responsibilities*

12. Upon discovery of the incident, the Police conducted a comprehensive internal investigation. Statements had been taken from the officers concerned to verify whether L's supervisors had followed the relevant inspection procedures and discharged the supervisory responsibilities. It was found upon investigation that an Executive Officer, the then Property Control Officer (PCO) of Crime New Territories South Region, had allegedly failed to properly supervise L's daily duties, and failed to properly administer the access to valuable property in the Property Office according to the prescribed checking procedures, thereby giving chances to L to steal the property. The Administration immediately took disciplinary actions against the above officer for his alleged misconduct in accordance with the established procedures for civil servants.

Preventive and Improvement Measures

13. The management of the New Territories South Region reviewed the property control and monitoring system immediately after the incident. It was considered more appropriate for inspectorate officers equipped with knowledge and experience in crime investigation and case property handling to monitor the daily operation of the Property Office. Since the day following the incident, the responsibility for regulating the operation of the Property Office was transferred to inspectorate officers across the board. The PCO in the Police is now generally taken up by the Commander of Administration and Support Sub-unit (ASSUC) or the Commander of Property Office Sub-unit, both of them being inspectorate officers. In police stations or formations without an ASSUC, the PCO shall be an inspectorate officer designated by a Superintendent of Police (SP). This improvement measure tightens the supervisory control of the Property Office and imposes a stricter discipline over the officers. Supervisors are held responsible for their subordinates' acts or negligence. The Police will seriously deal with any improper conduct or dereliction of duty and conduct disciplinary investigation accordingly.

14. Despite the fact that the subject case mainly involves the misconduct of the Property Officer and the negligence of the PCO, the management of the New Territories South Region had, immediately after the incident, conducted a comprehensive review on the supervisory role of all officers (including SPs and inspectorate officers) in respect of property control procedures, in order to identify areas for improvement and enhancement. Briefing sessions were also conducted for all the officers concerned, reminding them of the proper procedures for handling and administering property.

15. Reviews on the current procedures and mechanisms are conducted by the Police from time to time to ensure that the property control mechanism is up-to-date. For example, in 2012, the Police comprehensively examined the property control practice, taking on board good frontline practices in property handling procedures, with a view to further enhancing the relevant procedures and augmenting officers' awareness of property security. In 2013, to exercise more stringent control on the timely disposal of property, an improvement measure was implemented to ensure that officers would expedite the handling of case property upon the completion of the investigation. To further safeguard the security of valuable property, the Police currently require supervisory officers, during regular inspection of the Property Office and the safe, to thoroughly check every sum of cash valued over \$30,000, as a means to further safeguard the security of such property. Furthermore, a stringent internal audit system is in place to require officers to make clear records of property handling, so as to ensure officers' strict compliance with the Police General Orders (PGO) and the Force Procedures Manual (FPM), as well as enhancing their accountability.

16. The Police have also stepped up the monitoring of property handling through the Communal Information System (CIS) and have been continuously improving its functions during the past decade. Through the CIS supervisory and monitoring function, a supervisory officer may now check the withdrawal and receipt of property in the safe and the Property Office under his supervision, as well as the inspection records of the management staff. These practices are to ensure that regular inspections of property are conducted according to the guidelines. To enhance its security, CIS of the next generation will require officers to place their warrant cards on a card reader for verifying their identities, in addition to inputting their personal passwords, in the return and receipt of property.

17. As far as manpower deployment is concerned, the Police have also formulated policies on restricted posting arrangements, with a view to ensuring that posts involving property control duties are to be taken up by suitable officers. Formation commanders may make restricted posting arrangements for officers with potential conflicts of interest, of doubtful integrity or in debt, until the problem concerned has been resolved. Such a posting arrangement helps to further strengthen the control over staff responsible for property handling.

Stringent Administration of Property

18. As far as the safe keeping of property is concerned, there are stringent guidelines in the PGO and the FPM to regulate the handling and administration of property. Regarding the handling of case property, police officers shall count and record the property on the spot at the time of seizure, make a detailed record of the property in the CIS, and subsequently place the property in the Property Office.

/Property

Property Officer shall carefully check the property against the particulars of its CIS record before taking over the property. As for the security of the Property Office, no person except the Property Officer and the PCO is allowed to enter the Property Office without authorisation.

19. Besides, a PCO at inspectorate rank will conduct weekly random checks and inspections of the property in the Property Office with reference to the CIS record. The officer will check against each and every property received since the last inspection to ensure that no property is missing. The PCO will make a record in the CIS of the property inspected in every regular inspection.

20. Unless with the delegated authority of the Assistant Divisional Commander (Administration) (ADVC ADM), only the Officer-in-charge of the Case (OC Case) or the seizing/exhibits officer, or an officer with the OC Case's written authorisation, may retrieve a property from the Property Office for further investigations or for presenting to the court as evidence. Reasonable grounds shall be given by the officer for the withdrawal of the property. Such grounds, together with detailed particulars of the property withdrawal officer, shall be entered into the CIS. In addition, the officer concerned shall return the property to the Property Office before off-duty, and ensure that the receiving officer acknowledges the receipt of the property in the CIS. In the event that the property has not been returned within the specified period of time, the Property Officer shall report the case to ADVC ADM for the latter to decide on further actions.

21. Regarding the return of case property, when the OC Case considers that it is no longer necessary to retain the property involved, he/she may issue an instruction to the PCO through the CIS. Upon receiving the instruction via the CIS, the PCO will contact the owner to collect the property. Two officers shall be present to witness the return of cash and property to the owner, and they shall also record the necessary information in the CIS, including details of the property and particulars of the returning officer, the witnessing officer and the person(s) collecting the property. If the property involved is a sum of cash over \$5,000, or if it is an article with a value of over \$5,000, one of the witnesses shall be an officer at inspectorate rank or above.

/Promotion

Promotion of Integrity Management

22. Over the years, the Police have spared no efforts in promoting integrity management and enhancing the good conduct of police officers to prevent similar incidents. A comprehensive integrity management strategy is currently in place within the Force, under which a wide spectrum of different measures are implemented to promote the Police values of integrity and honesty. Moreover, a set of behavioural guidelines has been drawn up to establish a code of conduct that police officers should follow while on or off duty.

Authority to Write Off a Debt

23. Under section 38 of the PFO, the Financial Secretary (FS) is empowered to write off losses of public moneys, stores, etc. without financial limit for cases not involving fraud or negligence. However, for cases involving fraud or negligence, FS may only exercise his power of write-off subject to such conditions, exceptions and limitations FC may specify and the limit is \$500,000 in each case, or in respect of any one cause. Since the current case involves fraud by a staff member (see paragraphs 4 to 6 above) and the amount exceeds the financial limit (see paragraph 24 below), we need to seek FC's approval for writing off the debt.

FINANCIAL IMPLICATIONS

24. The total amount of debt that has to be written off (inclusive of interest) is \$824,344.47, with the following breakdown –

Item	Amount \$
Judgment debt	697,024.30
Interest – From 1 December 2006 to 2 February 2007	13,402.39
Interest – From 3 February 2007 to 26 August 2008 (Bankruptcy date)	113,917.78
Total:	824,344.47

PUBLIC CONSULTATION

25. We consulted the Legislative Council Panel on Security on the write-off proposal on 7 February 2014. Members supported our proposal to seek FC's approval on the proposed write-off.

/BACKGROUND

BACKGROUND

26. L, a former SS II, was responsible for handling case property of the HKPF. He was found to have stolen the case exhibits and cash, and the Government had to compensate the owner for the missing money. The amount of money that the Government demanded from L in relation to the compensation totaled \$824,344.47 (inclusive of interest). L subsequently filed a bankruptcy petition. Despite having exhausted all possible legal means, the Government failed to recover the debt from L. The debt was confirmed irrecoverable upon discharge of L's bankruptcy order, and therefore has to be written off.

Security Bureau
April 2014