

Leicester  
City Council

**WARDS AFFECTED:**  
**Corporate issue – All wards**

**CABINET**

**5<sup>th</sup> September 2006**

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## **Funding of Anti Social Behaviour Service**

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### **Report of the Chief Executive**

#### **1.0 Purpose of Report**

1.1 This report addresses the principle of transferring budgets with services as part of structural reviews. In particular, it deals with the Leicester Anti Social Behaviour Unit (LASBU) and its budget, recently transferred from Housing to Adult and Community Services (ACS).

#### **2.0 Summary**

2.1 There have been and continue to be many changes in the structure of departments over the last year and this year, and officers are managing complex budget transitions during the year as a result. In this particular budget the transfer is complicated by the fall-out of £33k Home Office funding and £247k NRF funding at March 2006, at a time of potential growth in demand for LASBU services.

2.2 As a principle, the Chief Executive has decided that re-organisations of departments and services should be supported by identifying a viable and transparent budget to transfer with the activities. As a consequence of this he has concluded that £592,000, the forecast spend for 2006/07 as at April 2006, should transfer from Housing to Adult and Community Services to meet the requirements of the LASBU service in the new department. As £239,000 has already been made available by the Housing Department this leaves a residue of £353,000 to be found. A summary of the budget position for ASB services is shown at appendix A.

2.3 There are a number of options on how to deal with this residue, as outlined below, for example by:-

- a transfer from the Housing General Fund
- commissioning services on housing management that could be charged to the Housing Revenue Account
- charging all or part to the £500,000 growth provided for crime and disorder in

the 2006/07 budget

- reducing the current level of service to realise savings

All of these options are considered in detail in the supporting information.

2.4 Cabinet should be aware that the Community Safety and Housing Scrutiny Committee has already considered this issue at its last meeting and agreed the following resolution:

“(1) that the Committee asks Cabinet to endorse the Housing Department's robust stand against anti-social behaviour and that any Cabinet decision does not in any way weaken this policy which Full Council agreed.

(2) that the Committee does not accept that the Housing Department is responsible for the so-called £353k shortfall. There was £170k allocated in the Council's budget to cover this important work by LASBU, and this money should be found. The Committee urges the Chief Executive to find the difference or full amount outside of the Housing General Fund, which is the smallest budget in the Council. Additionally, the Committee feels that the work of LASBU should not decrease whilst this work is carried out.”

2.5 In light of potential risks associated with using the Housing Revenue Account outlined in this report, members may wish to consider using more of the £500,000 growth in crime and disorder funding, or the Housing General Fund to meet the shortfall. However, both of these options would result in personnel and service disruption and would require more detailed reports being brought back to cabinet. This would extend the uncertainty of the issue for a further time period and would reduce the time available to make any necessary savings and cuts.

2.6 In the exceptional circumstances of this case members may therefore consider the following solution as being the most acceptable available:-

£170,000	Contribution from Crime & Disorder Growth
<u>£183,000</u>	To be found from Housing Revenue Account
<u>£353,000</u>	

### **3.0 Recommendations**

3.1 Cabinet is recommended to:

- (i) Note the decision of the Chief Executive that in principle re-organisations of departments and services should be supported by identifying a viable and transparent budget to transfer with the activities
- (ii) Consider the implications in respect of LASBU and agree how LASBU services should be funded.

### **4.0 Financial Implications (Steve Charlesworth)**

4.1 These are outlined in the supporting information.

## 5.0 Legal Implications (Carolyn Howard / Anthony Cross)

- 5.1 ASBO work could be funded through the Housing Revenue Account where such work is deemed to be part of the council's housing management function. The HRA account is ring-fenced; it should not be used to fund activities that are not prescribed; nor should prescribed activities be funded by the General Fund.
- 5.2 Legal Services' support in connection with ASB-related work is very demand-led. ASB work by its nature is often complex, and once cases are ready to go forward for court action, the court process is used to maximum effect to enable early hearings for urgent cases. More complex cases can require a number of court hearings before they can be concluded.

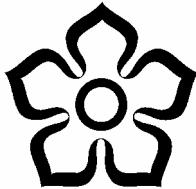
## 6.0 Report Author

Liz Reid Jones, Head of Policy & Performance, CXO

Extension: 6097

### DECISION STATUS

<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)



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### Report of the Chief Executive

## SUPPORTING INFORMATION

### 1.0 Report

- 1.1 The current budget for the LASBU was based on best estimates of current work with total forecast spend at April 2006 at £592,000. The latest forecast based on current activity is now £633,000.
- 1.2 The Corporate Director of Housing raised concerns on a number of occasions about the budget to support the LASBU. At the same time members included an additional £500,000 (£400,000 in future years) for crime and disorder issues and indicated that £170,000 would be available for LASBU growth in the 2006/07 budget.
- 1.3 The service has had to respond to an increase in cases coming through the housing department and an increase generally in the number of ASB incidents. In the year 2005/06 the LASBU dealt with 448 referrals. In the first 4 months of this year the service has dealt with 188 referrals, indicating a possible total for the year in excess of 550. The LASBU has been experiencing similar growth since its establishment. The increase in costs is not related to employee costs, but to do with legal costs directly related to an increase in the number of cases. A significant percentage of referrals relate to housing management on council estates.
- 1.4 There is currently a headline shortfall in the budget of £394,000 (including the £41,000 difference between original predictions and the latest forecasts). Two proposals for funding from the Crime and Disorder growth of £500,000 in the 2006/07 budget are awaiting decision by the Corporate Director of Adult and Community Services following consultation with the cabinet lead. If these are confirmed then the actual shortfall would be £224,000. Of this £41,000 would be met from ACS as it is an increase in activity after the service was transferred from Housing in April 2006. Therefore in responding to the decision of the Chief Executive, Housing would need to transfer a further £183,000 to ACS.

1.5 As outlined above the Community Safety and Housing Scrutiny Committee at its meeting on 3<sup>rd</sup> August did not accept that the Housing Department are responsible for the shortfall and asked that the money be found from outside of the Housing General Fund.

1.6 There are a number of options and related implications for funding the shortfall on the ASB budget.

#### 1.6.1 **Transfer from Housing General Fund (HGF)**

1.6.1.1 The total budget for HGF is £6.1 per annum. It covers six main areas:-

- Housing Benefits
- Council Tax Collection
- Housing Options
- Housing Renewal in the Private Sector
- Energy Services
- Voluntary Organisations

1.6.1.2 If the Housing Department General Fund is required to find the overall shortfall (£353,000) or even the reduced shortfall (£183,000) in the remainder of this financial year, it will clearly have a marked and detrimental effect on services.

1.6.1.3 To make reductions of this order will mean cuts in services, staffing reviews and redundancy notices. Assuming a decision is taken on 4<sup>th</sup> September to cut certain Housing services it would take 3 months before a staffing review would be completed, and as staff have at least one month notice of redundancy (this could be up to 3 months) only 2-3 months of staff costs could be saved in the current financial year, which would further be offset by any redundancy costs.

1.6.1.4 The Corporate Director of Housing therefore concludes that even with an agreement to cut services the savings achievable in the current financial year would be small. However, if sufficient cuts in services are made then the full amount could be achieved in 2007/08.

#### 1.6.2 **Charge all or part to the Housing Revenue Account (HRA)**

1.6.2.1 Housing have already identified £68,000 (accounted for in the funds being made available to Adult and Community Services) from the Housing Revenue Account. However, this covers only the cost of evictions not “high level” work connected to such things as prostitution, drug dealing, gang violence etc.

1.6.2.2 From a departmental perspective there are arguments against using the HRA to fund such high level ASB work. There is a view that this would not be in accordance with the government’s intention under the 1989 Local Government and Housing Act, which stopped cross-subsidising tenants’ rents from the General Fund and the General Fund from tenants’ rents. However, this is an area of debate nationally and practices vary across the country.

1.6.2.3 If funding was required from the HRA, then attempts would be made to meet the lower budget (£183,000) during the year without affecting the service to tenants with any non-funded balance met from HRA reserves. The longer term funding of the shortfall would then be addressed as part of the 2007/08 rent setting review as is normal in such circumstances.

1.6.2.4 Should Members decide to use HRA monies to fund part or the entire shortfall, then cuts would have to be made in the ongoing revenue resources available to fund either Housing Management or Housing Maintenance services. If Housing Management services were cut then it is likely that we would need to either cut the number of Neighbourhood Housing Offices and front line Housing staff supporting communities or withdraw/cut a number of Estate Warden Services. If the cuts were applied to the Housing Maintenance Service, this would reduce the resources available to meet the Government's Decent Homes target in resources available for modernising either kitchens or bathrooms in tenant's homes.

### 1.6.3 **Charge all or part to the growth bid in 2006/07 revenue budget**

1.6.3.1 Growth funding for crime and disorder matters of £500,000 was approved in the 2006/07 budget. The decision on the allocation of the funding has been delegated to the Corporate Director of ACS in consultation with the cabinet lead. As yet this money has not been formally allocated, although funding has been provisionally earmarked and a number of schemes are already operating. £170,000 has been earmarked for LASBU to pick up part of the ending of NRF funding. It is therefore possible that part of the problem could be met by funds from the growth.

1.6.3.2 It should be noted that some funding from the LPSA is still in dispute with the Home Office and £120,000 will probably need to be found from this growth to compensate. The £500,000 reduces to £400,000 in 2007/08, although any additional funding from street lighting advertising originally estimated at £100,000 will be added to this budget but the robustness of this figure has always been in doubt. The proposals against the £500,000 also include other schemes losing time limited funding such as the NRF.

### 1.6.4 **Reduce current ASB and crime and disorder services**

1.6.4.1 All services must be provided within available budgets. If the money is not allocated to LASBU, action will have to be taken to reduce the service. Staff savings could be identified which could reduce the size of the team, saving approximately £120,000. Additional savings would be possible if this course of action was chosen, by closing the current offices, saving a further £40,000/£50,000.

1.6.4.2 A reduced team would provide a minimal tenancy service for the city council, rather than a cross-tenure citywide service. The Unit would be able to deal with 2 or 3 cases a week rather than the 10/11 cases a week at present. It could only deal with the cases that needed a legal intervention, rather than working on preventative measures.

1.6.4.3 Legal costs would remain approximately the same. They might even increase

as there would no longer be an early intervention service. At any one time we have 12/16 cases with Legal Services.

## **2.0 Financial Implications (Steve Charlesworth)**

- 2.1 Under Financial Procedure Rules, Directors are responsible for ensuring that their total controllable budget is not overspent in total and that no controllable budget line is over-spent. This is endorsed by the Council's Devolved Financial Management – Code of Practice which states, as a key principle, that Corporate Directors are responsible for the financial affairs of their departments.
- 2.2 When it appears that a controllable budget will be over-spent, the action available includes: reducing expenditure or increase income; re-direct resources within a controllable budget line or vire resources from another controllable budget line; or make use of funds in carry forward reserves.
- 2.3 Directors do not have the authority to vire resources or use reserves if this would result in a change of Council policy.
- 2.4 In 2005/06, the LASBU budget was £340,000, resourced from NRF and Home Office funds with a contribution from the Housing Revenue Account. The actual spend in 2005/06 was £560,000, the over-spend of £220,000 was due, in part, to a higher level of legal fees and was funded by the Housing General Fund.
- 2.5 By December 2005 it had become apparent that the spend was going to exceed the budget and redundancy notices were ready to be issued. This was one of many schemes affected by the loss of NRF funding. At that time there was a possibility that NRF funding might still be appropriate to help fund LASBU and so it was decided to delay the issue of the redundancy notices. It is now clear that LASBU is unlikely to meet NRF funding criteria which is substantially overbid and action must be taken to resource LASBU services.
- 2.6 The forecast spend for 2006/07 was £591,900 in April (the latest forecast is now £633,000). The budget is resourced by £68,000 from the Housing Revenue Account and £171,000 from the Housing General Fund, leaving a shortfall of £353,000 (now £394,000). An additional £170,000 has been provisionally set aside from the Crime and Disorder growth monies. Confirmation of this funding is still required, but assuming it is forthcoming the shortfall then will be £183,000.
- 2.7 The decision taken by the Chief Executive that re-organisations and services should be supported by identifying a viable and transparent budget to transfer with the activities resolves the question of balancing the LASBU budget in the immediate term. It is now clear that the issues originally flagged up by the Housing Department are most unlikely to be resolved by NRF funding. The added complication arising from reorganisations and transfers mean that matters cannot simply be resolved within a single department. As the financial year progresses, the problems are exacerbated. The issues therefore need to be resolved speedily.
- 2.8 The issue remains that funding the LASBU to this level puts additional pressures on other parts of the Council. The fundamental choices are around whether

LASBU activities should remain at the current level. If so, then either alternative sources of funding should be identified to support the team or the impact of service reductions elsewhere to fund this are accepted. If not, then action should be taken to reduce the size of the team in order to reduce costs forthwith.

- 2.9 Transferring funds from other departments or general reserves in cases where shortfalls occur is not recommended nor is it good practice.

### **3.0 Legal Implications** (Carolyn Howard / Anthony Cross)

- 3.1 ASBO work should be funded from the Housing Revenue Account (HRA) where such expenditure comes within the prescribed items. The general duty to maintain an HRA derives from section 74 Local Government and Housing Act 1989. Items to be included within the account are prescribed within Part II, Schedule 4 to the Act and include at item 1 “expenditure on repairs, maintenance, and management”.
- 3.2 The HRA is a record of income and expenditure relating to the Council’s housing stock. Income and expenditure on other housing support services (e.g. support for RSLs or private sector schemes) are not charged to HRA but to the General Fund.
- 3.3 The HRA is ring-fenced; there is no discretion as to which items should or should not be included within it. (Although difficulty, or discretion, may lie in determining whether an individual item amounts to, say, “management”.) The Council must not fulfil its housing management function by using monies from the General Fund; nor should it use HRA monies to fund anything not within the prescribed list.
- 3.4 Monies from the HRA should therefore only be used to fund ASBO work where such work comes within the management (or other prescribed) remit.
- 3.5 The Council has, as a statutory requirement, a Business Plan relating to the HRA. The most recent version identifies among its priorities dealing with anti-social behaviour and harassment. The Anti-Social Behaviour Act 2003 amends the Housing Act 1996 to require that all housing authorities prepare and publish a policy in relation to anti-social behaviour and procedures for dealing with it. A recent consultation document from the Department for Communities and Local Government (formerly ODPM) suggests that calculation of future housing subsidy to cover an authority’s HRA maintenance and management functions will be linked in part to local crime levels. There is therefore a strong inference that tackling crime by the use of ASBOs is an HRA function where it is also part of a council’s housing management function.
- 3.6 In the absence of specific guidance about what ASBO activities are part of a housing management function there is a view that “low level” ASBO work should be funded from HRA; “high level” work should be funded from elsewhere. Evidence has been received from the Housing Quality Network that in their opinion this would be the usual practice (albeit, it appears, by and large with LHAs with ALMOs). However, there is no statutory requirement to maintain this division: the deciding factor must be whether, if funding from HRA, the ASBO work remains within the housing management function, and would be something



that would normally be done as part of the exercise of such a function. Case law indicates that this function is construed in the widest possible sense. This, therefore, admits a wide interpretation of what would be of benefit to Council tenants. The law also requires that proper [accounting] practices are followed in debiting HRA but there are no specific requirements for the cost of ASBO work between housing management and other functions. As long as the basis of the apportionment is appropriate, and is reasonably based in the circumstances, i.e. for Leicester, it is difficult to see how a challenge could succeed; after all some apportionment would have to be made that would also have to be appropriate. If there is a successful challenge then another basis of apportionment would be used, this may mean that other monies will have to be found.

- 3.7 Legal Services' support in connection with ASB-related work is very demand-led. ASB work by its nature is often complex, and once cases are ready to go forward for court action, the court process is used to maximum effect to enable early hearings for urgent cases. More complex cases can require a number of court hearings before they can be concluded.

#### 4.0 Other Implications

OTHER IMPLICATIONS	YES/NO	PARAGRAPH REFERENCES WITHIN SUPPORTING PAPERS
Equal Opportunities	Yes	
Policy	Yes	
Sustainable and Environmental	Yes	
Crime and Disorder	Yes	
Human Rights Act	No	
Elderly / People on Low Income	Yes	

#### 5.0 Background Papers – Local Government Act 1972

- 5.1 None

#### 6.0 Consultations

<b>Consultee</b>	<b>Date Consulted</b>
Alistair Reid	7/8/06
Colin Sharpe	
Mike Forrester	
Dave Pate	
Pat Hobbs	
Steve Charlesworth	
Carolyn Howard	
Anthony Cross	

## **7.0 Report Author**

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**SUMMARY OF LASBU FINANCIAL POSITION**

	2005/06	2006/07	2006/07
	Actual	Original Projection	Revised Projection
<b>Expenditure</b>			
Employee Costs	282,719	289,800	289,800
Other Costs	64,248	83,600	83,600
Legal & Related Costs	<u>213,166</u>	<u>218,500</u>	<u>259,600</u>
Total Costs	<u>560,133</u>	<u>591,900</u>	<u>633,000</u>
<b>Funding</b>			
Home Office	33,000		
NRF	247,000		
HRA	60,000	68,000	68,000
Housing General Fund		171,000	171,000
Crime & Disorder Bid		125,000 **	125,000
Crime & Disorder Bid (legal costs)		<u>45,000 **</u>	<u>45,000</u>
Total Funding	<u>340,000</u>	<u>409,000</u>	<u>409,000</u>
Overspend	220,133 *	182,900	224,000

**Notes**

\* LASBU overspent its budget by £220k in 05/06.  
This overspend was charged to the General Fund.

\*\* To be confirmed.

The overspend will increase or decrease dependent on the level of Crime and Disorder funding.

Following a second budget monitoring exercise the projected expenditure has increased by £41k.

The above figures exclude the 'Beat It' project (BCA funded project now ended).