

## **MANCHESTER CITY COUNCIL**

### **Proposed Public Space Protection Order Sections 59 and 64 of the Anti-social Behaviour, Crime and Policing Act 2014**

#### **STATEMENT OF REASONS for proposing to make the**

#### **CITY OF MANCHESTER (ROCHDALE CANAL UNDERCROFT, PICCADILLY) PUBLIC SPACE PROTECTION ORDER**

##### **1.0 INTRODUCTION**

- 1.0.1 The Rochdale Canal enters into Manchester City Centre at Piccadilly (within the City Centre ward). The canal has a series of nine locks, known as the “Rochdale Nine” before terminating at the Bridgewater canal in Castlefield. As the Canal enters into the “Rochdale Nine”, just past the Piccadilly Canal basin, the Canal passes through an area known as ‘the Undercroft’. This area comprises a section of canal tunnel of some 130 metres in length, located below the road network and City Centre buildings. The Undercroft is largely out of sight from passing pedestrians and vehicles, being below street level. The Undercroft towpath and the related access ramps provide a through-route from Minshull Street /Auburn Street junction (at the rear of the Crown Court) to Dale Street.
- 1.0.2 The Rochdale Canal was reopened fully to navigation in 2002, having been closed to navigation in 1952. During the period of closure the “Rochdale Nine” remained open to navigation as part of the “Cheshire Ring” of canals, which links the Bridgewater, Trent and Mersey, Macclesfield, Ashton, Peak Forest and Rochdale Canals together.
- 1.0.3 The Rochdale Canal has a recognised amenity value and increases the attractiveness of Manchester City Centre to developers, tourists, residents and workers. Hotels, apartments, businesses and offices have opened along the canal frontage. The Canal is also close to the excellent transport links at Piccadilly train station and local nightlife attractions on Canal Street Gay Village and the Northern Quarter.
- 1.0.4 Despite such development within the area, there are long-standing, continuing and serious problems of crime and anti-social behaviour occurring in the Undercroft. These include robbery, assault, sexual activity and drug-related behaviour, particularly during the evening and night-time hours.
- 1.0.5 This crime and anti-social behaviour is persistent and unreasonable and affects lawful users of the towpath (who can become victims of crime at this location), as well as adjacent premises. Although the Undercroft towpath is by its very nature largely enclosed, some sections of the towpath are visible from adjoining hotel and business premises. These

'activities' that occur within the Undercroft have a detrimental effect on the quality of life of the guests, staff and residents of those premises. These matters are discussed in the statements below.

- 1.0.6 There is a further serious issue to be considered in relation to the criminality taking place in the Undercroft. In recent years, a number of fatalities by drowning have occurred within the Undercroft. In these cases, robberies and assaults have led to persons involved either falling or being pushed into the canal and being unable to get out, sometimes with fatal consequences.
- 1.0.7 There have been eight incidents where individuals have been pushed into the Rochdale Canal (Undercroft Section) (from 2011 to 2014) and four fatalities (from 2009 to 2014).
- 1.0.8 Two more fatalities in the Undercroft section of the Rochdale Canal have taken place more recently, in 2014 and 2015.
- 1.0.9 In 2008, following an Inquest into one such death, the Coroner wrote to the Council stating:
- "I strongly urge for there to be a review of the waterways in the centre of Manchester with the intention of deciding what appropriate extra warning signage, lighting, life-saving equipment, etc. may be appropriate in any given area. Consideration might need to be given to additional fencing or walling".
- 1.0.10 In response to the Coroner's concerns, the Manchester Water Safety Partnership was formed. It includes as members the City Council, Greater Manchester Police (GMP), Greater Manchester Fire and Rescue Service (GMFRS), and the Canal and River Trust (CRT). The Partnership's aims are to introduce measures to improve water safety in the vicinity of the canal, and, in particular, in this context, to recommend measures to protect the public where the risk of water-related incidents and drowning is heightened by the levels and types of crime that are occurring adjacent to the water.
- 1.0.11 Manchester City Council and its partners in the Manchester Water Safety Partnership have undertaken a number of measures to improve public safety on Manchester's canal network and on the Undercroft in particular. Despite the continued use of managed CCTV with loudspeaker, regular GMP police patrols/operations and the introduction of additional water safety equipment, criminal activity and crime-related drowning has continued to occur. Whilst these measures may have had some effect, they have been largely unsuccessful in reducing to any notable extent the on-going problem of crime, anti-social behaviour (ASB) and crime-related drowning.
- 1.0.12 In the context of (i) the persistent and unreasonable nature of the serious crime and anti-social behaviour occurring on the Undercroft on a daily

basis (in the evening in particular) and (ii) the limited success of the interventions of GMP, GMFRS, the Canal and River Trust and the Council to reduce such effects, the Council is proposing additional measures as a means of addressing these on-going problems. The proposal considered in this Statement is the making of a Public Space Protection Order to prohibit public access to the Undercroft towpath, along with certain associated lengths of towpath, access ramp and landings (also referred to in this Statement as the 'Restricted Area') between the hours of 10pm in the evening and 7am the following morning, on every day of the year.

1.0.13 It is recognised that the Undercroft has amenity value as an off-street route, in daytime hours in particular, despite the on-going problems of crime and ASB referred to in this Statement. Therefore, the Council is only proposing to prohibit access to the Undercroft during night time hours. In this way, the Council is seeking to strike a reasonable and appropriate balance between pedestrian use and the need to protect the public at the times of highest risk from the serious issues of crime and anti-social behaviour that are 'facilitated' by the enclosed nature of the Undercroft, the consequences of which are made much more serious by its close proximity to water.

1.0.14 The proposed times of closure -10pm to 7am - have been chosen as it is during these hours when the majority of the serious crimes and related fatalities-by-drowning are occurring (see analysis below). There will be certain limited exemptions from the prohibition of entry, such as boaters' access. Pedestrian access will continue to be available in the normal manner between the hours of 7am and 10pm.

## 2.0 **REVIEW OF EXISTING MEASURES INTRODUCED TO ADDRESS THE CRIME AND ANTI-SOCIAL BEHAVIOUR OCCURRING IN THE UNDERCROFT**

2.0.1 Before considering the proposal to introduce a Public Space Protection Order, it is considered appropriate to review the various measures that have been introduced to address the on-going issues with crime, anti-social behaviour and fatalities-by-drowning that are occurring in the Restricted Area.

### 2.1 **MCC Health & Safety**

2.1.1 The Council's Health and Safety Manager reports that:

- 2.1.1.1 • The Coroner required the Council in 2009 to set out its intentions regarding the provision of water rescue equipment, improvements to lighting and the CCTV provision.
- 2.1.1.2 • Lifesaving equipment has been installed within the Undercroft on a number of occasions with lifesaving rings being fixed to the wall. The equipment has always been stolen as soon as it is replaced.

- 2.1.1.3 • The Undercroft is illuminated by a system of artificial lights at sufficient lighting levels for boaters and pedestrian access. The lighting is repeatedly subject to vandalism including accessing and altering the electrical control box, painting over light fittings and damage. The electrical control box has previously been used to turn off the lighting to assist with personal robberies taking place.
- 2.1.1.4 • Manchester City Council maintains and inspects the Undercroft lighting on a regular basis to ensure the lights are operational and working. When lighting issues are reported by staff or members of the public, remedial measures to replace faulty lighting are promptly actioned.
- 2.1.1.5 • CCTV has been operating in a monitoring role for many years within the Undercroft. The effectiveness of the CCTV within the Undercroft continues to be influenced by the known disadvantages of CCTV, vandalism of cameras, the inability of a camera system to physically stop crime and ASB from directly taking place. Specifically within the Undercroft, there have also been a number of incidents where persons have carried out indecent acts in direct view of the cameras in the knowledge of their presence.
- 2.1.1.6 • The Canal and River Trust have installed grab chains on the downstream Lock 84 approach walls and under Dale Street Bridge. The grab chains have been installed at water level to help the public self-rescue or stay afloat. The work was completed in June 2015. The Canal and River Trust have also installed additional fencing on the approaches to the footbridge within the Undercroft and access restrictor plates on the Lock gates of Lock 84 to prevent the lock gates being used to cross over the canal.
- 2.1.1.7 • Improvements to lighting and CCTV have previously been estimated at £80K and £20K respectively for the Undercroft. However, improvements to such passive controls do not directly prevent access to this location for vulnerable persons, who are most at risk of criminal and anti-social activity that has been the precursor to some of the drowning incidents.
- 2.1.1.8 • The Public Space Protection Order will allow the installation of gates, as part of a package of risk controls including signs, grab chains and measures to prevent crossing the lock gates, which will displace vulnerable persons away from an area of high risk during the early hours and significantly reduce the chance of further water related fatalities associated with criminal activity and anti-social behaviour at this location.
- 2.1.1.9 • It is recommended that the PSPO gates are locked to prevent access between 10pm and 7am.

## 2.2 **Greater Manchester Police**

- 2.2.1 Greater Manchester Police continue to carry out patrols of the Rochdale Canal (Undercroft) Area including:  
“Operation Limehouse staffed by the Neighbourhood Beat Officers (NBO) and Police Community Support Officers (PCSO), who are dedicated to the operation around their existing daily demands. These resource considerations and the continual intricate issues associated with the Undercroft means that the operation runs almost continually. The specific intensions of the Operation focused upon the following:
- 2.2.1.1 • To reduce and disrupt criminal activity conducted by those who offend in the City Centre and adjoining areas.
  - 2.2.1.2 • To engage with males in the area advising of the issues associated with taking part in sexual activity in a public place and dissuades them from using the area for such activity.
  - 2.2.1.3 • To reassure businesses and the local community by the use of additional high-visibility patrols.
  - 2.2.1.4 • To pro-actively by way of high visibility and plain clothes patrols challenge and seek out individuals who are believed to be active in committing robbery, and like offences in the area.
  - 2.2.1.5 • Positive action to be taken if underage males are seen engaging in activity on the tow path, Sexual offences prevention orders (SOPO), intelligence submissions etc.”
- 2.2.2 GMP and Greater Manchester Fire and Rescue Service continue to carry out public awareness campaigns highlighting the issues of public safety within the Undercroft.

2.3 All of these issues are considered further below.

## 3.0 **THE LEGAL BACKGROUND TO PUBLIC SPACE PROTECTION ORDERS**

- 3.1 Before considering the proposed Public Space Protection Order (PSPO) and to put the matter in context, it is appropriate to consider the legislation. Chapter 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (‘the Act’) provides for the making of PSPOs in the circumstances set out below (PSPOs are in some ways a replacement for the section 129A Highways Act ‘alleygating’ powers).
- 3.2 Section 59 (1) of the 2014 Act empowers local authorities to make a public spaces protection order if they are satisfied on reasonable grounds that the following two conditions are met:
- a. The first condition is that:
    - The activities carried on in a public place within the authority’s area have had a detrimental effect on the quality of life those in the locality , or
    - It is likely that activities will be carried on in a public place

- within that area and that they will have such an effect.
- b. The second condition is that the effect, or likely effect, of the activities:
- Is, or is likely to be, of a persistent or continuing nature,
  - Is, or is likely to be, such as to make the activities unreasonable, and
  - Justifies the restrictions imposed by the notice of proposals.

3.3 The Public Space Protection Order must identify the public place ('the Restricted Area') to which the prohibition applies. The PSPO must also identify the 'activities' that are being carried on in the Restricted Area and which are having a detrimental effect on the quality of life of those in the locality.

3.4 Section 59 (5) of the Act provides that a PSPO can only impose reasonable prohibitions or requirements in order to prevent the detrimental effect caused by the anti-social activities from continuing, occurring or recurring or to reduce the detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

3.5 Section 60 of the Act provides that a PSPO may not have effect for a period of more than 3 years, unless extended.

3.6 Section 64 of the Act provides further requirements in respect of PSPOs that affect public rights of way.

#### 4.0 **THE PROPOSED PUBLIC SPACE PROTECTION ORDER**

4.1 The Undercroft is a unique environment within Manchester City Centre. There are no other locations in the City Centre that provide a public space without the informal surveillance of passing pedestrians or vehicles, so close to water, over such a distance. Furthermore, pedestrians cannot change their paths once within the Undercroft, the only option is to return in the direction entered if danger is encountered, as the towpath is restricted on all sides by high walls / overhead structures/ or water. These conditions mean that there is a risk associated with members of the public using the Undercroft, particularly at night. This level of risk is demonstrated by the statistics of crime and anti-social behaviour provided by GMP and by the comments from persons in the locality (considered below).

4.2 The Council is therefore proposing the making of a PSPO (with backing of the Manchester Water Safety Partnership) to enable gates to be located on the towpath and to prevent pedestrian access to the Restricted Area overnight between the hours of 10pm in the evening and 7am the following morning, all days of the year. The objective of the Proposal is to reduce crime and anti-social behaviour, and the resultant risk of crime-related deaths by drowning, which are having a detrimental effect on the quality of life in the locality. The Proposal is made in the context of the Undercroft being a unique environment where there is little

public surveillance and limited means of escape, should a member of the public be faced with crime or anti-social behaviour.

4.3 It is proposed that the PSPO will be operative for the maximum duration of 3 years. The Council will monitor the effectiveness of the PSPO, particularly in terms of its hours of operation. Before its expiry, the Council will review the effect of the PSPO and may undertake the statutory procedures to enable the PSPO to be continued for a further period, or amended in its terms of operation (subject to authorisation).

#### 4.4 **The Restricted Areas**

4.4.1 The Restricted Areas are shown on drawing. no. 208286H-PSPO-LOC-0001 at Appendix 1

4.4.2 The Legislation provides that the PSPO must define a 'Restricted Area' where its provision will apply. The proposed Restricted Areas comprise sections of the Rochdale Canal towpath that are formed mainly by 'the Undercroft', but also includes (i) one canal lock (Lock 85) (ii) all associated towpath landings (iii) the access ramp to Minshull Street / Auburn Street. It has been necessary to include within the Restricted Area sections of the towpath which are not parts of the 'underground' sections of the towpath, including the pedestrian exit point on Auburn Street (along with their associated lengths of towpath and access ramps) so as not to create a 'dead-end', where further crime and ASB could occur. See drawing 208286H-PSPO-LOC-0001.

4.4.3 **Restricted Area A:** runs, easterly - (i) from the entrance onto the Rochdale Canal towpath at the back of the footway at the Minshull Street / Auburn Street junction, (ii) down the towpath ramp and along the towpath (iii) continuing along the towpath under the bridge which provides access from Auburn Street into Manchester Minshull Street Crown Court and under the bridge crossed by Aytoun Street (iv) continuing along the towpath into the Undercroft section of towpath below the following roads and buildings:

(a) under 1-3 Piccadilly, M1 3AQ (Malmaison Hotel), (b) under A6 Piccadilly/London Road, (c) under 111 Piccadilly, M1 2HY (formerly known as Rodwell Tower) (d) under 111 Piccadilly car park (e) under Ducie Street bridge;

(v) The Restricted Area fully encompasses all the of the towpath within the Undercroft, including the landings around Lock 85, the store under Dale Street bridge and the former London Road Wharf dock landings;

(vi) and continuing in an easterly direction, the Restricted Area terminates at the spandrel (exterior) facade of Dale Street bridge.

**Restricted Area B:** comprises of the whole of the area of the canal landing on the northern side of Lock 85, located under 111 Piccadilly, and

is described from south-west to north-east as follows: – from the point where the canal landing is adjacent to the supporting structure of the Piccadilly road bridge and continuing in a north-easterly direction so as to encompass the full length and width of the landing, including the area on the western side of the former wharf.

These two areas together are referred to as ‘the Restricted Area’ in this Statement of Reasons.

- 4.4.4 It should be noted that the Restricted Area provides no direct access to the adjacent hotels, apartments or business premises. However, some of those premises do overlook the towpath and are affected by the ‘detrimental activities’ occurring in that area.

#### 4.5 **The Proposed Locations of the Gates**

- 4.5.1 A single gate is to be located at wall height at the entrance to the towpath ramp on the junction of Auburn Street / Minshull Street at street level, at the back of the footway. The installation of a gate at street level at this location is to signify to the public that the towpath is closed and to ensure that the gating does not create a ‘dead end’ further along the towpath.

- 4.5.2 A further single gate will be located under the bridge into Manchester Crown Court (Minshull Street). This gate will be at full height to the underside of the bridge, to prevent persons climbing over it.

- 4.5.3 Two single gates will be located under Dale Street bridge at towpath level. These gates will be to the full height to the underside of the bridge, to prevent persons climbing over of them. One gate is for ‘Boaters’ access’ and will provide a connection from Lock 84 (outside the Restricted Area) to the barge mooring for Lock 84 (within the Restricted Area) to ensure that Lock 84 can be operated by visiting barges at all times. The Boaters’ gate will be opened by a Boaters’ Key available from the Canal and River Trust. A further gate at this location will be for the use of pedestrians (to access the towpath) and will be closed in accordance with the PSPO. The Boaters’ area and the towpath, within the Restricted Area, will be separated with railings.

#### 4.6 **The Status of the Towpath.**

- 4.6.1 Section 74 of the 2014 Act defines a ‘public place’ as any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission’. Therefore highway status is not a prerequisite of gating, as it was with alleygating orders under the previous legislation.

- 4.6.2 The canal towpath is not shown as a Public Right of Way on the Council’s Definitive Map and Statement of Public Rights of Way, nor is it recorded as highway maintainable at public expense on the Council’s Street Record. However, section 64 of the 2014 Act provides that certain



procedural requirements must be followed where the proposed PSPO would affect a public right of way. In this case, City Wide Highway Support, for the Council as local Highway Authority, has taken a view on this matter and considers that it is likely that the towpath has become a public right of way on the basis of its long use by the public as a pedestrian route. Therefore it will be necessary for the decision-maker to consider the provisions of section 64, which are -

- a) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;
- b) the likely effect of making the order on other persons in the locality;
- c) in a case where a highway constitutes a through route, the availability of a reasonably convenient alternative route.

4.6.3 Considering these three points in turn –

- a) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;

4.6.3.1 None of the premises that either adjoin or are adjacent to the towpath have direct access on to the canal towpath within the Restricted Area. The owners and occupiers of adjoining premises are supportive of the Proposal.

4.6.4 b) the likely effect of making the order on other persons in the locality;

4.6.4.1 The Undercroft is a unique area in the City Centre in that it is undercover, with no pedestrian entrance / exit points other than at Dale Street or Minshull Street / Auburn Street. The nature of the Undercroft is therefore that it is enclosed and self-contained for a considerable distance (of around 250 metres). This is in contrast, for example, with the adjacent Canal Street / The Village length of towpath, which is at street level, which has a high level of pedestrian traffic and which is overlooked by adjoining premises throughout its length. For this reason, the most immediate detrimental effect of the problems caused by crime and Anti-social behaviour in the Undercroft is unlikely to extend beyond the towpath itself and the premises immediately adjacent to it (those premises are supportive of the proposal).

4.6.4.2 As has been stated in the Introduction however, the Canal is in an important City Centre location with high amenity value. The area attracts local visitors, tourists and is located in close proximity to hotels, residences and businesses. These activities are detrimental to the locality in terms of both the immediate effect on victims of crime and ASB, but also in relation to the effect on the quality of life of those who live in the locality.

4.6.4.3 In terms of a wider concept of locality, the area is in a prime City Centre

location, which draws in visitors and tourists as well as locals. Persons in the City Centre generally may be at risk of becoming victims of crime and anti-social behaviour if they visit the Undercroft, particularly if they visit at night and are not aware of the problems that they may encounter.

4.6.4.4 It is acknowledged by the Council that the length of canal towpath forming the proposed Restricted Area has amenity value in terms of its own distinctive characteristics and that it does provide an off-street through-route connecting to the road network at both ends.

4.6.4.5 Although the route through the proposed Restricted Area has amenity value, it is not a continuous route and does not join directly with other sections of Rochdale Canal or Ashton Canal towpath outside the Restricted Area.

The route is not a cycle route nor is it recommended for use by cyclists.

4.6.4.6 As the towpath is not directly connected to other sections of towpath network, it is not the easiest or most obvious route for a cyclist or walker using the towpath network to cycle or walk into Manchester City Centre. If cycling or walking through the proposed towpath section within the Restricted Area has the advantage of avoiding road junctions, where the traffic is busier, the risk is offset by walking in extremely close proximity to water or by the greater risk of becoming a victim of crime or ASB.

4.6.4.7 The adjoining businesses do not have direct access to the towpath, so there would be little if any direct effect on those businesses, their staff, or the hotel guests, in terms the prevention of access to the towpath over-night.

4.6.4.8 The Council has concluded from the evidence provided in support of the proposal that the amenity and recreational use during the day-time has been diminished by the adverse reputation that the Undercroft has for crime and anti-social behaviour (during the night-time in particular). Therefore, as stated elsewhere in this Statement, the Council, in proposing a night-time closure only, are endeavouring to strike a balance between maintaining access to the towpath and addressing the activities that are having a detrimental effect on the locality.

4.6.4.9 The Restricted Area will be less well used over-night by the general public as a through-route or for its recreational amenity value.

4.6.4.10 The leisure walking route of the Cheshire Ring which follows the Rochdale Canal is not marked on Ordnance maps as following the towpath within the Restricted Area. The publication entitled The Canal Walks Vol. 4 – Walking Cheshire Canal Ring (Merrill, 1990) provides walking instructions that do not follow the towpath through the Restricted Area but provides the same route as the alternative route described in section 4.6.5.1 below.

4.6.5 c) in a case where a highway constitutes a though route, the availability of a reasonably convenient alternative route;

4.6.5.1 The Council considers that a reasonably convenient alternative route is available to pedestrians when the PSPO is in effect, by following -

the street footways, from Minshull Street, along Auburn Street, crossing Aytoun Street and crossing the A6 London Road via a pedestrian crossings, and then along Ducie Street to the entrance to the towpath by 81 Dale Street/Dale Street Bridge, and vice versa.

The length of the alternative route is 295 metres when compared with 250 metres of the route of the towpath through the Restricted Area. The reasonably convenient Alternative Route is shown on drawing. no. 298286H-PSPO-LOC-0002.

4.6.5.2 In terms of road safety along the alternative route, there are maintained footways and controlled pedestrian crossing points at the junction of A6 Piccadilly / A6 London Road / Ducie Street / Auburn Street and the junction of Aytoun Street / Auburn Street.

4.6.5.3

Ref	Location	Time (24HRS)	Day	Date	Description	Casualty Age	Casualty Sex	Casualty Type	Severity	Contributory Factors
A1035580	Aytoun Street Junction with Auburn Street	03:15	Sunday	29/08/2010	Male under influence of alcohol attempts to cross road and collides with taxi	21	M	Pedestrian	Slight	Pedestrian Alcohol; Distraction outside Vehicle;
A1068123	Aytoun Street Junction with Auburn Street	21:14	Tuesday	18/12/2012	Vehicle 1 Travelling S along Aytoun Street Pedestrian Runs in Front of Tram attempting to cross road. Collision occurs	29	M	Pedestrian	Slight	Pedestrian Alcohol; Pedestrian Drugs;

**Table 1: Road Collisions involving Pedestrians June 2010-2015 on Alternative Route**  
(Data taken from Greater Manchester Accident Investigation (GMAXI) system maintained by Transport for Greater Manchester with Greater Manchester Police data)

4.6.5.4 Table 1 indicates the only road collisions within the GMAXI database for the entire Alternative Route as described in the paragraph above.

4.6.5.5 Two collisions involving pedestrians were found to have taken place at the junction of Aytoun Street / Auburn Street during the last 5 years. Both collisions involved pedestrians very likely to be under the influence of alcohol and took place in the evening and early morning. No other collisions involving pedestrians were recorded as taking place along the rest of the alternative route either on the footways or at junctions.

## 5.0 REVIEW OF THE CRIMINAL AND ANTI-SOCIAL BEHAVIOUR TAKING PLACE WITHIN THE PROPOSED RESTRICTED AREA

5.1 Greater Manchester Police have carried out an in-depth review of the statistical data and other information they hold on investigated crime, reported incidents and anti-social activities occurring in the Undercroft. (The GMP Report is titled -'The Undercroft, City Centre Manchester – Problem Profile'). The GMP Report is confidential. However, extracts

from the report are reproduced below with the permission of GMP.

5.2 The GMP Report defines the location of the Undercroft  
“as a towpath on the Rochdale Canal between Minshull Street and Dale Street within the City Centre on the North Manchester Division”.

5.3 Within the GMP Report, the category of ‘Incidents’ include all reports to GMP and vary in type from the more serious crimes, such as robbery, to reports coming within non-criminal categories, such as ‘Concern for Welfare’. All reports to GMP, including Anti-social Behaviour, are logged in the database of Incidents.

Incidents which are criminal offences and are investigated are also recorded in the Crimes database, which categorises the Crimes according to the offence.

The GMP Report has analysed both the database of Incidents and the database of Crimes.

5.4 The most relevant statistics and tables are set out below.

5.5 The GMP Report explains its approach to the data analysis and notes that the nature of the offences and activities taking place within the Undercroft (including sexual offences) does not ‘encourage’ their reporting by the victim, nor provision by the victim of clear location of where the crime or incident took place. Therefore, the GMP Report summarises the descriptions of the crimes and incidents as either (i) definitely occurring or (ii) having a strong possibility of occurring within the Undercroft. The analysis by GMP is based on data between November 2010 and August 2014.

5.6 The following extracts from the GMP Report, show the numbers and types of all crimes, incidents, and occurrences of anti-social behaviour taking place during both the day-time and night-time.

## 5.7 Investigated Crime

5.7.1 The crimes in the table below have been investigated by GMP.

5.7.2

Crime Description	Definitely Occurred	Strong Possibility	Total	Percentage
Robbery of Personal Property	22	2	24	38.1
Theft from person	17	1	18	28.6
Common assault	5	1	6	9.5
Wounding or carrying out an act endangering life	2	0	2	3.2
Misc. Thefts	2	0	2	3.2
Actually bodily harm and other injury	1	1	2	3.2
Sexual Assault on a Male aged 13 and over	1	0	1	1.6
Rape of a male aged 16 and over	1	0	1	1.6
Outrage Public Decency	1	0	1	1.6
Exposure and voyeurism	1	0	1	1.6
Other Offences against the State & Public Order	1	0	1	1.6
Inflicting grievous bodily harm without intent	1	0	1	1.6
Possession of controlled drugs (Cannabis)	1	0	1	1.6
Rape of a female aged 16 and over	1	0	1	1.6
Murder	1	0	1	1.6
<b>Total</b>	<b>58</b>	<b>5</b>	<b>63</b>	<b>100.0</b>

**Table 2: Investigated Crimes identified as definitely occurring or strong possibility of taking place within Undercroft (November 2010-Aug 2014) (extract from GMP The Undercroft Problem Profile Report (chpt 5.3) dated Feb 2015)**

5.7.3 As can be seen from Table 2, 58 investigated crimes were identified by the analysis of the crime database as having definitely occurred within the Undercroft. The most prevalent crimes are robbery (which forms the highest percentage of investigated crime), theft and assault. Threats to harm, abusive behaviour and criminal damage were also investigated. There was one investigation of a murder.

5.7.4 Various offences of a sexual nature were investigated as crimes. However, the number of crimes of a sexual nature does not reflect the number of reported Incidents (see Table 3). The reasons for this are explained in the GMP report as follows:  
 “Victims of crime may be reluctant to disclose that an offence had actually occurred within the Undercroft due to the embarrassment or the shame associated with the location’s reputation, whilst others may not be entirely truthful about the sequence of events, particularly if they had attended the Undercroft to participate in activities of a sexual nature.”

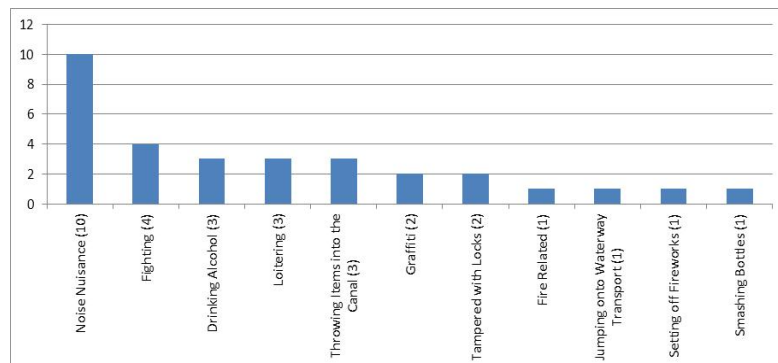
## 5.8 Incidents reported to GMP

### 5.8.1

Incident Nature	Definitely Occurred	Strong Possibility	Total	Percentage
Sexual Activity	38	1	39	15%
Anti Social Behaviour	11	20	31	12%
Information Only	16	15	31	12%
Robbery	22	7	29	11%
Concern for Welfare	17	8	25	10%
Suicidal/Threatening to Jump into the Canal	7	13	20	8%
Person in Canal	5	12	17	7%
Theft From the Person	6	6	12	5%
Threats to Harm	7	2	9	3%
Assault	5	4	9	3%
Drug Related Activity	4	5	9	3%
Abusive Behaviour	4	1	5	2%
Criminal Damage	1	3	4	2%
Domestic Related	0	4	4	2%
Identification of Suspect	3	1	4	2%
Animal Related	3	0	3	1%
Theft	1	1	2	1%
Body in Canal	1	2	3	1%
Burglary Other	0	1	1	0%
Theft From Motor Vehicle	0	1	1	0%
<b>Total</b>	<b>151</b>	<b>107</b>	<b>258</b>	<b>100%</b>

**Table 3: Nature of Incidents identified as definitely occurring or strong possibility of taking place within Undercroft (Sept 2011-Aug 2014) (extract from GMP The Undercroft Problem Profile Report (chpt 8.3) dated Feb 2015)**

### 5.8.2



**Table 4: Types of Anti-social Behaviour Incidents in more detail than identified in Table 3 (Sept 2011-Aug 2014)**

### 5.8.3

Table 3 provides an overall record of the types of reported Incident occurring in the Undercroft. Some of the categories in Table 3 are not being used as part of the evidence to support the making of the PSPO e.g. 'Information Only'; 'Concern for Welfare' of person; 'Identification of Suspect'; 'Theft from Motor Vehicle' and 'Animal Related'. The analysis of Table 3 below relates to 'activities' that are having a detrimental effect on the locality.

### 5.8.4

Table 4 shows the types of Anti-social Behaviour Incidents recorded. GMP categorise anti-social behaviour as:

“people behaving in a manner where their actions harm or lack

consideration for the wellbeing of others and deemed contrary to fundamental norm for society conduct.”

- 5.9 Tables 2, 3 and 4 show that there are numerous occurrences of crime and anti-social behaviour taking place within the Undercroft. These range from serious criminal offences to incidents of ‘anti-social behaviour’ (some of which may also be categorised as crimes).

Statements from persons in the locality indicate that there are more occurrences of certain of these ‘activities’ than are reported to and recorded by GMP in its report.

- 5.10 As well as providing statistical information, the GMP Report provides the following summary of a typical crime scenario involving robbery and assault:

“The Modus Operandi described within the recent crimes reflects the increasing concerns highlighted within the media, where vulnerable men are visiting the Undercroft and are being specifically targeted by other men who are pretending to be cruising. The offenders are then physically distracting those victims in a sexual fashion before removing their property in a sly manner, which seemingly goes unnoticed by the victim. Common Assault was the third highest reported crime within the vicinity of the Undercroft and was identified as the highest offence type categorised under Violence against the Person (6/50%). Within half of the offences, the victim was approached by either one or two offenders and asked for a cigarette before being physically assaulted, pushed mainly in the chest area and into the Rochdale Canal.

The majority of the crime specifics reveal that during the offences there was little intervention or assistance offered by passers-by despite those victims vocalising their obvious distress. The victims were only approached once the offenders had left the scene and their safety would not be compromised. The offenders appear to rarely consider the presence of other people as deterrents, even though they could potentially act as witnesses or even intervene.”

- 5.11 The GMP Report fully covers all efforts GMP have made to address the number of Incidents reported and the types of crime being carried out within the area.

5.12 **Comments from Persons in the Locality**

- 5.12.1 The section of Rochdale Canal towpath within the Restricted Area is close to Manchester Piccadilly station and other business premises, some of which look out onto the Restricted Area. The detrimental effect on the quality of life for those living and working in the locality is evidenced by the following comments-

- 5.12.2 “This has been an on-going issue for many years with the Undercroft a magnet for antisocial behaviour as these people are drawn to the area we suffer constantly from drug taking perceived and actual threatening behaviour people sleeping rough, graffiti, rubbish left on the canal basin making the area a difficult one for ordinary people to feel comfortable in going about their business and hence influencing its economic viability.”
- 5.12.3 “Litter, needles, condoms and people engaging in sexual activity. When they are challenged they continue with their behaviour and just laugh at you...A canal side should be a place of beauty. It should be a selling point for our company. It looks terrible when you walk over... and look down to see dozens of used condoms, water bottles and needles, and I hate asking my team to clear it.”
- 5.12.4 “There have been several occasions affecting the team whether it be visually or types of behaviour and/or verbal aggression with the front line team.”
- 5.12.5 “I have personally witnessed men engaging in sex on the side of the canal... and on several occasions I have witnessed group sex of 8 or more men not only are these acts unpleasant in such close proximity... but they also leave used condoms etc. in full view... I have also witnessed the area being used by males and females to inject drugs leaving needles on the tow path.”
- 5.12.6 The full statements demonstrate the impact of crime and ASB and related ‘activities’, which, on a daily basis, unreasonably affects the locality, including the witnessing of sexual activity, drug-taking, defecation / urination, and the ‘discovery’ of the detritus of those ‘activities’, including drug paraphernalia, condoms and human waste.

5.13 **Statement from the Council’s City Centre Manager**

5.13.1 The City Centre Manager has also provided the following comments

“What makes this a particularly difficult and unique area is the mix of people who use the area, it is promoted, and rightly so, as part of the canal network which attracts leisure craft and holidaymakers bringing them into direct contact with an environment used during the evening time for sexual activities and other anti-social behaviour resulting in complaints to the Council.”

“In summary the Undercroft presents this section of canal as a place that is unpleasant and intimidating to canal users, the



general public and to the operatives who have to clean up the area. In turn this puts pressure on resources to clean and maintain the area and also respond to complaints and concerns from the public and businesses that both the Council and Canal and River Trust are neglecting their duties.”

#### 5.14 **Statements from Community Groups**

5.14.1 A residents association complained to the Council:  
“this is the path at the side of the canal lock which is close to Dale St and is accessed from the doorway/path on Dale St...it is absolutely filthy with litter, condoms, etc. and stinks, this is a health hazard.”

5.14.2 The Council Operations Team replied:  
“I visited the area with the team yesterday, the towpath was litter picked etc. I have instructed the team to clean and weed the walls along Dale Street and the steps leading down to the Canal. With regards to the Undercroft, this has deteriorated since it was last cleaned. The area is full of condoms, human excrement and needles. The team will clean the area again this morning...”

#### 5.15 **Statements from Boaters**

5.15.1 Boaters navigating the canal have reported:  
“Much of the area was in an appalling state with filth and rubbish everywhere. The stench of urine was somewhat overpowering and in contrast to the previous evenings experience, was extremely unpleasant.”

“I recently had the displeasure of entering Manchester via the Rochdale Canal and the locks known as the Manchester 9. I can honestly and vigorously say that it was the worst boating experience in my 10 years travelling round the canal system. I experienced... refuse, pollution, saw drugs deals being concluded, was approached by ‘druggies’ and ‘alkies’; saw the rag bedding of dossers; saw human excrement and smelt urine.”

### 6.0 **THE DETRIMENTAL ACTIVITIES**

6.1 The 2014 Act provides that it is necessary for the PSPO to identify the ‘activities’ that are being carried on in the public place and which have had a detrimental effect of the quality of life of those in the locality. Those ‘activities’ are listed at Appendix 3. They comprise the majority in type and category of the Crimes, Incidents and acts of Anti-social behaviour that have been recorded by GMP and which have been cited by persons in the locality as having an unreasonable effect on the locality.

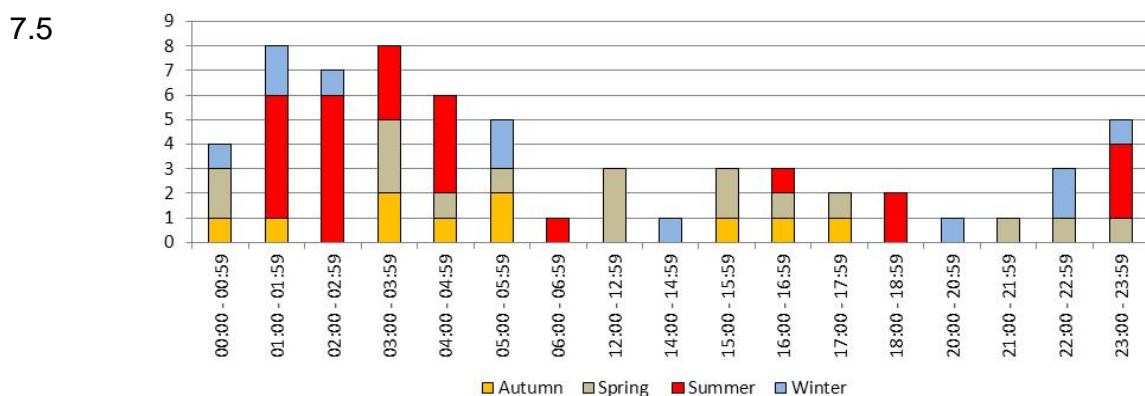
### 7.0 **THE PROPOSED HOURS OF CLOSURE OF THE RESTRICTED AREA**

7.1 To assist in determining the most appropriate hours of closure, an in-depth statistical analysis of the types and timings of the criminal activity and anti-social behaviour occurring in the Restricted Area was undertaken. However, it should be noted that in determining the hours of closure of the Restricted Area, the Council has endeavoured to strike a balance between maintaining the use of the towpath for as long as possible, whilst addressing the on-going issues of crime and anti-social behaviour.

7.2 The information provided by GMP regarding when reported crimes were taking place (including in particular robbery and theft from person) provided a clear indication that the majority of such crimes occurred later in the evening than the originally proposed closure time of 7pm. It should also be noted that when the informal consultation was undertaken in July 2014, the proposed hours of closure were 7pm to 7am – the proposal is now that the closure should commence at 10pm.

7.3 Given the proximity of the proposed Restricted Area to City Centre bars, there is the possibility that certain persons who may be in the Undercroft during the evening and night time hours may have taken alcohol. These circumstances may lead to an increased vulnerability of such persons to the crime and ASB occurring on the Undercroft.

7.4 Greater Manchester Fire and Rescue report that two thirds of the rescue call outs received by them to attend the section of the Rochdale Canal, within the proposed Restricted Area, have taken place during the hours of 10pm and 7am the following morning. The prevalence of night-time call outs to rescue persons who have fallen (or been pushed) into the canal suggests that the public are at greater risk of drowning or needing to be rescued from the canal adjoining the Restricted Area during the hours of 10pm and 7am (when it is proposed to restrict access to the Undercroft).



**Table 5: All crimes (including definitely taking place and with a strong possibility of taking place) within the Undercroft by time frame and season (the hours 7am to midday are not recorded in this Table as no investigated Crimes have taken place during these hours) from Nov 2010 until August 2014**

7.5.1 Table 5 shows that the level of crime rises from 10pm at night, peaking between the hours of 1am and 3am in the morning, and with significant

levels of crime continuing until 7am in the morning.

7.6

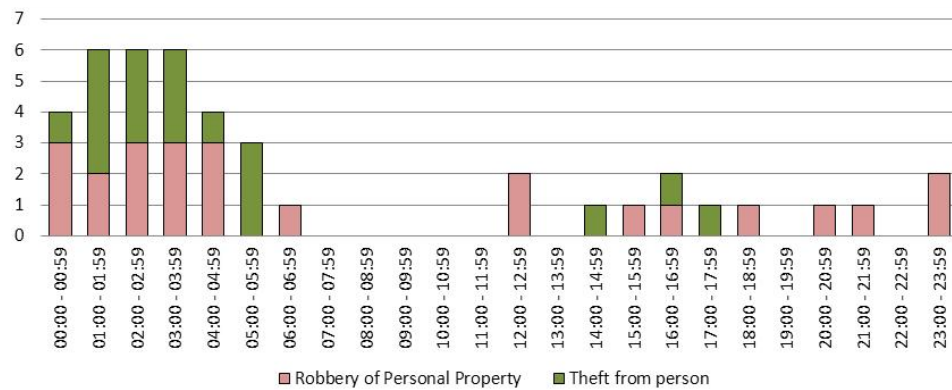
Time Frame	Autumn	Spring	Summer	Winter	Total	% of Total
19:00-06:59	7	10	22	10	49	78
21:00-06:59	7	10	22	9	48	77
22:00-06:59	7	9	22	9	47	75

**Table 6: All Crime within Time Frames reviewed for when the Undercroft would be closed**

7.6.1

Table 6 shows that whether the closure of the gates commences at 7pm, 9pm, or 10pm, a similar total of crimes are occurring overnight. This data indicates that a later closure (10pm) can therefore be justified, both in terms of dealing with crime and ASB and in seeking to maintain access by the public for use of the towpath as a through-route.

7.7

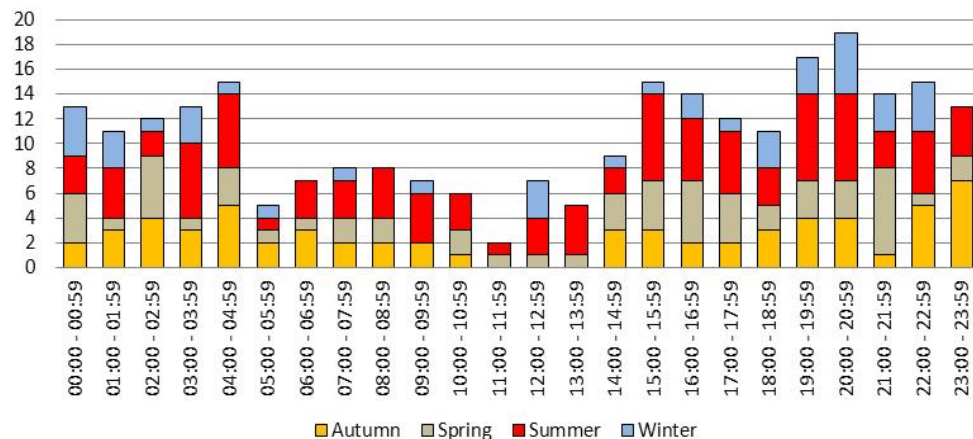


**Table 7: Personal Robbery and Theft from the Person (including definitely and possibly) by time frame and season**

7.7.1

Table 7 shows the most prevalent crimes (robbery and theft) by hour of the day, starting with midnight. It is clear that the majority of robberies and thefts from the data take place after 11pm, with no recordings between 7am and midday in the morning.

7.8



**Table 8: All Incidents (including definitely and possibility) within the Undercroft by time frame and season**

7.8.1

Table 8 shows that recorded Incidents (including sexual activity, robbery and theft from person) are reported throughout the day in contrast with

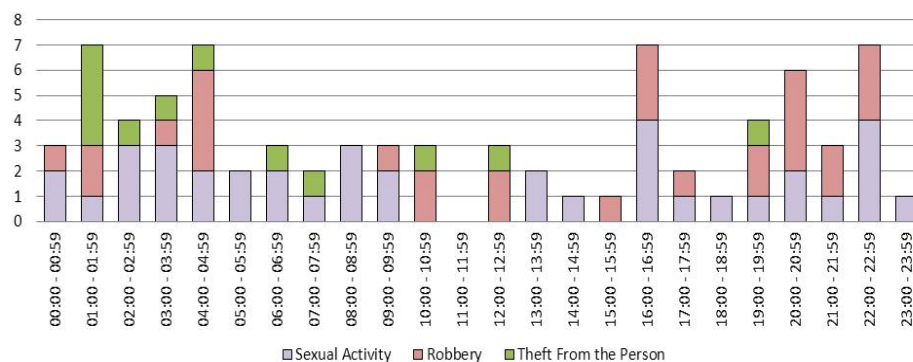
investigated crime as shown in Table 5 and Table 6 above. The numbers of incidents are lower in the morning, with notable levels of Incidents occurring in the afternoon and evening, which would be outside the time of the proposed PSPO. However, in promoting a 10pm to 7am closure, the Council is endeavouring to strike a balance between continued public access to the towpath and the need to reduce the exposure of the public to the risk of serious crime and anti-social behaviour taking place at night.

7.9	Time Frame	Autumn	Spring	Summer	Winter	Total	% of Total
	19:00-06:59	43	32	51	28	154	60
	21:00-06:59	35	26	37	20	118	46
	22:00-06:59	34	19	34	17	104	41

**Table 9: All Incidents within Time Frames reviewed for when the Undercroft would be closed**

7.9.1 Table 9 indicates that there was some merit in commencing the closure at 7pm. However, as stated above, the determination of the start time of the closure is a balance between public access and the need to address the detrimental activities.

7.10



**Table 10: Incidents (including definitely and possibly) of Sexual Activity, Robbery and Theft from Person by time frame and season**

7.10.1 Table 10 shows the incidents with the highest number of reports (including sexual activity, robbery and theft from person) are generally highest from 7pm in the evening.

7.11 The crimes and incidents reported most frequently to Greater Manchester Police were identified as being more prevalent from 10pm and onwards through the night, with most of the water rescues and retrievals also being requested during the night. The evidence of GMP shows that the night-time levels of crime and ASB are at their lowest at around 6-7am.

7.12 Therefore, in seeking to balance public use of the towpath with the need to reduce crime and ASB, the Council has concluded that a closure time of 10pm and reopening at 7am, when there are more passers-by walking along Dale Street towards the City Centre to work, would provide a fair and reasonable balance.

8.0 **POTENTIAL FOR THE DISPLACEMENT OF CRIME AND ANTI-SOCIAL BEHAVIOUR**

8.1 Crime and ASB occurring overnight in the Undercroft could be 'displaced' into other areas of the City, including other sections of the canal towpath. However, when compared to the Undercroft, there are no similar areas that are so hidden from view for such a continuous length, within such close proximity to water. Areas under other road bridges and buildings are smaller, with no large hidden spaces.

8.2 If there is displacement to nearby areas of canal they are considered, for the reasons given above, to be safer. For example, the adjacent Canal Street is more subject to the surveillance from passers-by and adjacent buildings, a large number of apartments and offices also overlook areas further along the canal network. If displacement of the ASB does occur, the behaviour will be to more public areas, which do not have the same characteristics as the Undercroft and therefore, comparatively, the public will be safer as a result.

8.3 If it can be shown that crime or anti-social behaviour has moved away from the Undercroft to other areas of the City Centre, the Council will continue work with GMP and the Fire and Rescue Service and local communities to address any issues should they occur.

8.4 It is recognised by the Council that in not recommending a complete closure of the towpath, within the proposed Restricted Area, 'activities' including crime and ASB may continue to occur during the day-time. Furthermore, it cannot be ruled out that 'activities' which occur during the night-time will not be 'displaced' into the day-time, when the Restricted Area is open to the public.

8.5 Greater Manchester Police have stated that, irrespective of the proposed gating of the Restricted Area, the area will still form part of their patrol plan for the area -

"Operation Limehouse commenced in August 2011 and is still running, staffed by the Neighbourhood Beat Officers (NBO) and Police Community Support Officers (PCSO), who are dedicated to the operation around their existing daily demands. These resource considerations and the continual intricate issues associated with the Undercroft means that the operation runs almost continually."

8.6 The proposed 10pm to 7am closure will not, therefore, provide a complete solution to the issues of crime and ASB occurring in the Restricted Area. However, it should again be emphasised that in proposing a night-time closure the Council is endeavouring to strike a balance between the public utility that the towpath may provide and the need to reduce the levels of crime and anti-social behaviour that are putting the public at risk and having a detrimental effect on the locality.

## 9.0 **ENFORCEMENT OF THE PSPO AND OPERATIONAL MATTERS**

### 9.1 **Enforcement of the PSPO**

9.1.1 The PSPO will provide a prohibition of 'being in' the restricted area as the area will be locked by gates. The prohibition can be enforced by either prosecution or by the issuing of Fixed Penalty Notice by authorised persons, which will include GMP and authorised officers of the Council. However, the presence of locked gates will mean that the prohibition will be largely self-enforcing.

9.1.2 To help deter unauthorised access, the gates have been specially designed to be to the full height under bridge structures to prevent climbing over. The gates also have railings panels to their sides to prevent climbing around. Security grade wire-mesh will be added to parts of the railings and gates to again prevent climbing.

9.1.3 The gates will be locked and unlocked by a Greater Manchester Police approved security contractor, who will be appointed by Manchester City Council. The appointment of the security contractor will commence before the completion of the construction of the gates and subject to the making of the Public Space Protection Order.

9.1.4 The security contractor will be responsible for checking no-one is within the Restricted Area prior to the locking of the gates at night.

9.1.5 The times of opening and closing, along with emergency contact details will be posted on signs within the Restricted Area.

### 9.2 **The Locking of the Gates and Maintenance**

9.2.1 Keys to the Restricted Area will be managed by the Security Contractor.

9.2.2 The separate Boaters' area, which provides mooring within the Restricted Area for Boaters' to access Lock 84 24 hours a day, will be accessible with a 'Boaters' Key'. A high railing fence will divide the accessible Boaters' area from the Restricted Area of the towpath to secure the Restricted Area.

9.2.3 The gates to the Restricted Area will be subject to a maintenance contract to ensure they are kept in a good state of repair. The maintenance will be funded by the Council.

### 9.3 **Exemptions from the PSPO**

9.3.1 The following persons will be exempt from the prohibition of access (i) boaters using the towpath in connection with the navigation of barges and boats on the Rochdale Canal (ii) Emergency Services (iii) Security Contractor staff employed by Manchester City Council to carry out security work in the area (iv) adjacent property owners and statutory

authorities requiring access for security purposes and to carry out repairs (v) Canal and River Trust operatives (vi) Council officers in pursuance of their official duties; and (vii) persons authorised in writing by Manchester City Council.

## 10.0 **INFORMAL CONSULTATION ON THE PROPOSAL**

10.1 In July 2014, the Council undertook an extensive informal Consultation on the intention to gate the Undercroft. A number of responses to the Consultation were received in direct response, and further comments were provided by members of the public over the following months.

10.2 The purpose of the Consultation was to seek opinions regarding the levels of support for, or objections regarding, the proposed night-time closure of the Undercroft. The responses to the Consultation enabled the Council to develop the Proposal in the context of the various views and opinions expressed. It should be noted that at the time of the Consultation (July 2014) the proposed hours of closure were from 7pm in the evening to 7am in the morning (one of the changes from the original proposal is to commence the closure at 10pm).

10.3 The Consultees were written to directly and included Councillors, the emergency services, statutory bodies, adjoining businesses and landowners, rights of way societies and the Lesbian and Gay Foundation (due to the proximity of the Undercroft to The Village).

10.4 The results of informal consultation were, in summary, as follows -

### 10.5 **Local Councillors**

10.5.1 All the Local Councillors are very supportive of the PSPO and the proposal to gate the Undercroft section of towpath. Councillors have run regular press and local campaigns to raise public awareness of the issues within the Undercroft.

### 10.6 **The Police, the Fire and Rescue Service and the Canal and River Trust**

10.6.1 The GMP, the Fire and Rescue Service and the Canal and River Trust have all issued letters and statements in support to the proposal. Indeed, these three organisations are members of the Manchester Water Safety Partnership and have therefore been actively involved with the development of the Proposal. They are therefore fully supportive of the intention to introduce the PSPO.

10.6.2 The Canal and River Trust (CRT) are the charity responsible for the operation and maintenance of the Rochdale Canal. The CRT state that –

“The Trust is aware of the night time activities, criminal activities and anti-social behaviour that commonly take place in the area

known as the Undercroft and firmly believe that these have been a contributory factor in a number of fatalities in this area.”

The Trust states that they have been involved with measures to reduce the level of crimes and ASB and improve water safety in the Undercroft. However “All of these have either been circumvented or not proven to have a lasting impact.”

CRT staff and operatives are not normally in the area at night, however: -

“They report being exposed to/having to deal with a range of issues which are a consequence of the night time activities including the presence of human waste – faeces, urine; used condoms, needles and other wastes...and report that this occurs on virtually every occasion.”

The Trust is concerned that members of the public are exposed to these issues as well as their staff.

The Trust acknowledges that it has to carefully consider closing off or limiting access to the canal network, balancing the requirements of boating and general public with the level of ASB and crime within the Undercroft.

“The proposal for a night-time gating of the site aims to balance these competing issues. We know that the worst and most impactful activities occur at night time, and are more common in the summer. Maintaining the routes open during the day balances the demands for people to be able to sail/walk/cycle through this section and use the towpath at the times of greatest demand for general use.

We support the initiative to gate the Undercroft at night believing this to be a significant step towards preventing future fatalities and other criminality in this area, allowing the canal to become more normal environment for the future, and for the overall benefit of the canal network in Manchester.”

## 10.7 **Consultation with Groups representing Users of Public Rights of Way**

10.7.1 The Ramblers’ Association, the Open Space Society, the Peak and Northern Footpath Society and the Greater Manchester Pedestrians’ Association have been consulted, as relevant ‘user groups’. The main points of their responses are summarised below:

10.7.2 The Open Spaces Society commented:

- the Society would be opposed to the closure and any variation;
- the towpath is part of the long distance walk called the “Cheshire



- Ring” and it provides a traffic-free route through the city;
- any problems with anti-social behaviour could be met with more policing, not the closure of the towpath or limitations on its use;

- 10.7.3 The Greater Manchester Pedestrians’ Association commented:
- they are surprised and disappointed with the proposal;
  - that the towpath is a useful route across the City and avoids the complicated pedestrian crossing of London Road;
  - and suggested (i) the opening up of the 111 Piccadilly car park (ii) more police patrols (iii) CCTV - to eliminate anti-social behaviour, as an alternative to a PSPO;
- 10.7.4 The Ramblers’ Association commented that:
- they appreciated the Council is endeavouring to strike a balance between public safety and public rights through a ‘night-time’ closure;
  - in principle they are not opposed to restricting access at night but that they would seek to obtain the timing to a later evening closure

10.8 **Response to the Points Raised by the Public Rights of Way User Groups**

10.8.1 Firstly, it is noted that the Ramblers’ Association recognise the issues that the Council is seeking to address and the balance that the Council is seeking to achieve, and, therefore, in principle that the Ramblers do not object to the Proposal (the Proposal is now for a 10pm closure, addressing one of the Ramblers’ comments).

10.8.2 Addressing the points of objection raised by the Open Spaces Society and the Pedestrians’ Association –

10.8.3 **That the Undercroft is part of the Cheshire Ring**

10.8.3.1 The Cheshire Ring is a boating circuit including sections of six canals in Cheshire and the Greater Manchester. Whilst it is acknowledged that walkers and cyclists do follow the route of the Cheshire Ring, the section of canal towpath within the Restricted Area is not cited (Merrill, 1990) as being part of the walking route of the Cheshire Ring, nor is it indicated as the route on the Ordnance Survey Explorer Map 277.

10.8.3.2 If the towpath is followed, as an alternative to this section of the Cheshire Ring, it should be reiterated that the closure is at night and for a relatively short length of the towpath.

10.8.4 **That the Undercroft provides a traffic-free route through the City, avoiding the complicated pedestrian crossing on London Road**

10.8.4.1 The Council is not seeking to inconvenience walkers and there is an alternative route at street level only 45 metres longer than using the towpath.

10.8.4.2 The safety of the road crossings along the proposed Alternative Route are reviewed in Table 1 above. As previously stated Table 1 shows two collisions involving pedestrians have taken place on the junction of Aytoun Street / Auburn Street only. Both incidents involved pedestrians where alcohol intoxication was listed as a contributory factor and took place late at night / early morning.

10.8.4.3 It should also be noted that all the road crossings are subject to high levels of pedestrian footfall and continue to be used without issue, by hundreds if not thousands of people every day walking to and from the nearby Piccadilly Station, Northern Quarter and adjacent areas.

10.8.5 **That any problems with anti-social behaviour could be met with more policing or CCTV**

10.8.5.1 GMP has continued to run Operation Limehouse since 2011 within the proposed Restricted Area / Undercroft. This Operation is staffed by the Neighbourhood Beat Officers (NBO) and Police Community Support Officers (PCSO) that are dedicated to the operation around their existing daily demands. The main focus was on offering reassurance to businesses and the local community through high-visibility patrols to disrupt criminal activity.

10.8.5.2 CCTV with loud speaker (to warn offenders that they are being filmed) continues to be operated and maintained within the proposed Restricted Area.

10.8.6 **That 111 Piccadilly car park could be 'opened up'**

10.8.6.1 111 Piccadilly is an office and car park owned privately. The car park of 111 Piccadilly is part of the physical structure of the tower office block. The office has many lease holders who have rights over the parking spaces. It is therefore unfeasible to demolish the car park.

10.8.6.2 Opening up and removing the car park would require a major constructional change to the fabric of the office block.

10.9 **Responses from Members of the Public**

10.9.1 Following the general publicity given to the proposals, two letters were received from members of the public expressing concern over the proposed gating at night, as they thought that it would set a precedent which would remove the public's freedom and access to rights of way.

10.9.2 In response, it is stated that all such proposals for the restriction of access by a PSPO must be considered on a case by case basis and the implementation of this particular Proposal would not, in itself, set a precedent for the Council in terms of the use of the PSPO legislation in

other situations. In this Proposal, the Council seeks to emphasise that a particular set of circumstances have arisen due to the unique nature of the Undercroft and given these circumstances, it is appropriate and justified to address the activities occurring overnight within the Restricted Area by way of a PSPO.

- 10.9.3 It is recognised that in closing the Restricted Area at 10pm and reopening at 7am the following morning, there will, to some degree, be a restriction on legitimate access during the overnight period that in other circumstances may not be justified. However, gating is permitted by the legislation where there is a need to address unreasonable activities, that are having a detrimental effect on the locality. Having considered all relevant factors, including Human Rights issues, the Council considers that the PSPO can be justified in this particular case.

10.10 **Responses from other Persons in the Locality**

- 10.10.1 Manchester Crown Court on Minshull Street has written confirming that the Court has no issues with the Proposal.

10.11 **Responses from LGBT Representatives**

- 10.11.1 No formal response was received from the letter sent to the LGBT Foundation. However, a LGBT Foundation website article entitled "Safer Cruising in Manchester" (dated 24/02/12) warns men who are intending to have sex alongside the Rochdale Canal near to Manchester's Gay Village of the levels of anti-social behaviour occurring at that location. The article also states that Greater Manchester Police are becoming increasingly concerned about both the levels of attacks on the men using the area for cruising and of complaints from the general public regarding incidents that cause offence to others.

- 10.11.2 Regular meetings take place with The Village Action Forum and The Village Business Association. These meetings have been attended by a GMP Chief Inspector and the City Council. The Undercroft gating scheme has been discussed at these meetings with attendees who include various LGBT groups.

10.12 **Responses from Other Organisations**

- 10.12.1 No objections or comments were received from the statutory undertakers.

10.13 **Responses from Canal Boaters**

- 10.13.1 In connection with the Council's consultation, the Canal and River Trust carried out a consultation with their Members and Volunteers.

- 10.13.2 Statements in favour of the Proposal included -
- agreeing that this was the most rational and cost effective way of managing the area;

- that a night-time closure is regrettable but unavoidable;
- that there is a need to ensure that the proposals secure the area properly;
- that the Waterway Management and times of opening need to be advertised and signed at earlier locks to advise Boaters;
- the need to ensure that the locks can still be operated by providing access to the landings during the hours of closure;

10.13.3 Statements against the proposal included -

- Canals should be open to all for access not closed. Gates will exclude the law abiding and encourage the anti-social behaviour. Better lighting and CCTV, removal of secluded areas, more police patrols preferred;
- Gates will get damaged;
- Unfair to punish Boaters for behaviour of others;

10.13.4 General comments from those involved in the Canal and River Trust included:

- Concern was raised that barges may become stuck in the Undercroft area once gates are locked, as there are no moorings in the area. The area should also be opened earlier as boats set off early;
- a general desire to see an improvement in CCTV and lighting and ensure Boaters' key access is provided to the towpath gate when it is closed;
- suggest opening with a Boaters' key so Boaters can access 24/7 otherwise against;

10.14 **Responses to the Concerns of Boaters**

10.14.1 The canal navigation will not be closed. The implementation of the proposal by way of various gates and fences will ensure and barges and other boats will still be able to navigate the Rochdale '9', 24 hours a day, all year round.

10.14.2 Access to the Lock 84 mooring and the landings around Lock 85 will be maintained for Boaters. Access to the Lock 84 mooring will be with a Canal and Rivers Trust Boaters' key. Lock 85 is within the Restricted Area and will still be able to be navigated during the hours of towpath closure. Signage will be placed ahead of the Restricted Area on the canal network to inform approaching barges and boats and emergency contact details will be provided on signs within the Restricted Area. Boaters will not be disadvantaged and will continue to have the same levels of access. It is expected however that if Boaters are using the towpath at night, the overnight gating of the towpath is likely to improve their experience of the locality.

10.14.3 The points suggesting improved lighting, improved CCTV, increased Police patrols and the removal of secluded areas have already been addressed above.

- 10.14.4 Regarding the potential for damage to the gates, a contractor will be appointed as part of the construction procurement to ensure that the gates are maintained and kept in working order.
- 10.15 **Responses by Members of the Public to Publicity in the Print Media and On-line**
- 10.15.1 A press release asking for public comment resulted in articles appearing in the Manchester Evening News and on the 'Manchester Confidential' website. This resulted in a large number of comments, both in support of, and in objection to, the Proposal.
- 10.15.2 A number of the comments on the websites suggested possible alternatives to gating off the area, including:
- More police patrols;
  - More criminal prosecutions;
  - Patrol paid for by local Bars and Nightclubs;
  - Review bar licencing in area;
  - Brighter lighting;
  - Better CCTV and speaker warning;
  - Removal of all hiding places and gathering locations;
  - Increase width of towpath to make safer;
  - Brighter painting including entrances;
  - Improve barriers;
  - Improve safety measures including emergency button and safety rope;
- 10.15.3 Many respondents suggested a review of towpath closing times for the following reasons:
- Commuters still use area at 7pm in evening even if dark;
  - Used for leisure jogging early morning and late evening;
  - Gates should be unlocked at 6am as boats start off early;
  - One suggestion to close the area for 24 hours;
  - Dusk to dawn closure policy;
- 10.15.4 If the proposal were to go ahead, some respondents raised concerns relating to design and operation:
- Design of gates – can they open and work;
  - Waterways – make sure gates are impassable when closed;
  - Gates will get damaged and vandalised;
  - Liability if gate is locked and somebody falls in and there is a delay getting help;
- 10.15.5 Respondents also raised their concerns relating to effects on locality if the Proposal is implemented:
- The Activities would move to another area and how would this be then resolved or managed;
  - other Cities manage these issues in other ways;

10.15.6 Some respondents also acknowledged the anti-social nature of the behaviour within the area and discussed alternative means of addressing it, such as the provision of safe 'cruising' areas within the City, as provided in the Netherlands.

10.16 **Responses to the Concerns of Members of the Public to Publicity in the Print Media and On-line**

10.16.1 The majority of comments have been addressed above. However, further comments are given in response below.

10.16.2 Addressing the suggested alternatives to gating off the area:

- Private security guards are already employed by several of the adjoining premises adding to the costs of the businesses. Private security guards however cannot enforce the law or issue Fixed Penalty Notices;
- Premises Licensing is already reviewed in accordance with the Council's Licensing Authority Licensing Policy 2011-2016. The Policy objectives include the prevention of crime and disorder; the prevention of public nuisance, public safety and the protection of children from harm;
- As stated previously the Restricted Area is already sufficiently lit and has CCTV with loudspeakers. The majority of recessed areas within the Restricted Area have already been walled off. The recess under Dale Street will also be blocked off as part of the Proposal;
- The width of the towpath cannot be increased as it will reduce the area required for canal barges and boats;
- The Undercroft section of the Restricted Area is already painted white or light colours except where there is brickwork;
- The Canal and River Trust have improved barriers and added grab chains to the canal walling within the Restricted Area.

10.16.3 The proposed towpath closing time of 7am to 7pm has been reviewed and the proposal is for the closure to commence at 10pm.

- Commuters will still be able to access the area at 7pm (until 10pm) in the evening all year round;
- Boaters will be unaffected by the Proposal;
- The Public Space Protection Order, including times of opening and closing will be monitored and reviewed before expiry of the PSPO;

10.16.4 Regarding the design and operation of gates :

- A specialist contractor will maintain the gates and repair them as necessary after construction;
- The gates were designed in consultation with the Emergency Services and they are satisfied with their access arrangements;

10.16.5 The effects on locality:

- Has been addressed above

## 10.17 **Review of the Meeting with Potential Objectors held in July 2015**

- 10.17.1 On 22 July 2015, Council officers and GMP met with the Open Spaces Society and the Pedestrians' Association, as they had previously indicated that they would object to the Proposal. Also in attendance was the 'Loiterers Resistance Movement' representative, who had previously expressed certain reservations regarding the Proposals in communications with the Council. The Ramblers' Association were also invited to the meeting. However, they responded to the effect that the Ramblers' were prepared to accept the closure of the towpath between 10pm and 7pm.
- 10.17.2 The Officers in attendance explained the Proposal in the context of the on-going and serious problems of crime and anti-social behaviour occurring in the Undercroft. The representatives of the Open Spaces Society and the Pedestrians' Association stated their opposition to the Proposal. Their concerns are (i) the Proposal is 'the thin end of the wedge' (ii) that the alternative 'above-ground' route through street-traffic is more dangerous than the towpath (iii) the public is being denied choice (iv) cyclists should be able to use the route before 7am; and (v) that GMP should be doing more to address these matters, rather than the Council resorting to a night-time closure.
- 10.17.3 These points have already been addressed elsewhere in this Statement.

## 10.18 **Review of the Consultation**

- 10.18.1 Following the informal Consultation in July 2014, the Manchester Water Safety Partnership (the Council, GMP, Greater Manchester Fire and Rescue Service and the Canal and River Trust) met on a number of occasions to discuss the responses and review the comments made.
- 10.18.2 The Council has considered the responses to the Consultation and the statistical information provided in the GMP Report and - with the support of the Water Safety Partnership – the Council has decided that there are grounds for commencing the closure at 10pm (which would also address the request from the Ramblers' that the closure should commence at 10pm rather than 7pm).
- 10.18.3 A number of the respondents to the Consultation suggested improvements to lighting, CCTV and Police patrols. However, they may have been unaware of the level of security and safety interventions that are already present within the Restricted Area. The relative lack of success of these measures is one of the reasons that the PSPO is being proposed.

## 11.0 **TIMESCALES**

11.1 Subject to no objections being received or maintained, it is anticipated that the Public Space Protection Order would come into effect in early 2016.

## **12.0 FINANCIAL IMPLICATIONS**

12.1 The fees and works for the project are being funded by Manchester City Council, Greater Manchester Police, Greater Manchester Fire and Rescue and the Canal and River Trust.

## **13.0 RISK MANAGEMENT IMPLICATIONS**

### **13.1 Equality Impact**

13.1.1 The Equality Act 2010 has imposed a public sector duty under which all public bodies have to provide equality of opportunity and give due regard to the need of people with “protected characteristics” as they are defined in the Equality Act.

13.1.2 The general duty of equality imposes a duty on public authorities when exercising public functions to have due regard to the need to (i) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act (ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

13.1.3 The Equality Act sets out nine protected characteristics; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

13.1.4 In this case, it is considered that the characteristics of age, disability and sexual orientation are protected characteristics that may have some relevance to the Proposal. These characteristics have been identified in terms of the effects that the over-night closure of a through-route may have on disabled persons who may otherwise have used the towpath and would have to follow the overground alternative route.

### **13.2 Persons with a Disability**

13.2.1 The Restricted Area is one which by its very nature presents difficulties of use for persons with a disability. There are sloping access ramps, in close proximity to water, and distinct changes in light and noise levels, which would make use by visually and hearing impaired persons more challenging. Persons with a disability would be particularly vulnerable to the crime, anti-social behaviour and the crime-related drowning that the PSPO is seeking to address. The street-level alternative route is longer (by 45 metres) than using the Restricted Area. However, it is relatively level and pedestrian crossings are provided at main roads, with tactile signals and paving.



13.2.2 The Council's Access Officer has commented on design but not raised any objections in principle to the Proposal.

13.2.3 On balance the Council considers that the likely effect of the gating of the Restricted Area over-night would have on the disabled users is limited and the benefits of gating the area outweigh any such limited effect on disabled users.

### 13.3 **Sexual Activity and Homosexual Men**

13.3.1 A further potential impact on a protected characteristic arises due to the Undercroft being a known meeting place for homosexual men. One of the 'detrimental activities' that the PSPO is seeking to address is the use by men as a place to engage in sexual activity. Campaigns have been undertaken to dissuade such persons from using the Undercroft for that activity not least for their own safety, as they have been victims of robbery and assault. The Council has consulted the LGBT Foundation. The PSPO is not being proposed to 'target' gay men however the sexual activity which is occurring in the Undercroft is one of the 'detrimental activities' which is evidenced as being of particular concern in the locality.

13.3.2 On balance, the Council considers that the likely effect of the gating of the Restricted Area over-night would have on the gay men who may use the area for such activities is limited and the benefits of gating the area outweigh any such limited effect on such users.

### 13.4 **Age**

13.4.1 It is known that some of the persons visiting the Undercroft will be vulnerable in terms of engaging in crime and ASB, or being a victim of it, because of their young age. Other persons may have particular vulnerability due to their older age.

13.4.2 Preventing access to the Restricted Area is likely to have a positive effect on these groups.

### 13.5 **Conclusion on Equality Impact**

13.5.1 It is recognised by the Council that there may be some impact in the Proposal on the protected characteristics identified above. However the Undercroft towpath is not particularly suitable at night (or during the day) for disabled users, for the reasons set out above. The carrying on of sexual activity during the proposed hours of closure is one of a number of 'detrimental activities' which form the basis of the proposal. Some of that activity, as it is taking place in a public place, may constitute a criminal offence. However, having due regard to the Council's duty under section 149 of the Act, it is considered that the limited impact on groups with protected characteristics is outweighed by the benefits associated with the anticipated reduction in anti-social behaviour and crime.

## 14.0 **HUMAN RIGHTS ISSUES**

- 14.1 When introducing a new PSPO, the Council must be satisfied that it has complied with the requirements of the European Convention on Human Rights (ECHR). In particular, section 72(1) of the 2014 Act requires the Council to have particular regard to such rights of freedom of expression (Article 10) and freedom of assembly (Article 11) of the Convention as would be affected by the PSPO. However, these are Qualified Rights which means that in considering those rights, the Council is required to consider both the rights of the individual and the needs of the wider community. The interference of Qualified Rights is permissible where (i) there is a clear legal basis for the interference with the Qualified Right; (ii) the interference seeks to achieve a legitimate aim (such as the prevention of crime or in the interests of public safety); and (iii) the action is necessary and proportionate.
- 14.2 Article 10 gives people the right to freedom of expression, including the right to freedom to hold opinions and to receive and impart information and ideas without interference by public authority. The Proposal does not directly seek to prevent the expression or communication of views. Individuals will only be prevented from accessing the Restricted Area between 10pm and 7am. The Undercroft will be available for 15 hours every day, during the day, for persons to express or communicate their opinions at that location.
- 14.3 Article 11 gives people the right to freedom of peaceful assembly and to freedom of association with others.
- 14.4 As has been set out above, it is known people do gather in the Restricted Area between 10pm and 7am (rather than using it to walk through and along the towpath). However, the people that gather within the Restricted Area may be engaged in criminal or anti-social behaviour or are at risk of being adversely affected by such activity.
- 14.5 It is a deliberate consequence of the PSPO that the otherwise legitimate right to pass and re-pass along the Restricted Area will be prohibited over the restricted hours. However, legitimate use of this section of the towpath during 'night-time' hours is limited in extent compared to daytime usage, when the public will be walking along the towpath and the Undercroft for recreation or to travel to and from work.
- 14.6 It is considered that the restriction on access would have limited effect on Article 8 (Right to Respect for Private and Family Life - which includes interactions in public) and little effect on Protocol 1 Article 1 (right to the Protection of Property). However, these are also qualified rights and so regard should be had to the human rights of property owners and persons in the locality who are being affected by the crime and anti-social behaviour.

14.7 On balance therefore, the Council is of the opinion (i) that such engagement as there is of the Articles referred to above is limited; and (ii) that such effect as there is on the rights of persons who would otherwise access the Restricted Area can be justified in its own terms and when balanced against the unreasonable effect that the 'detrimental activities' have on the quality of life of those in the locality.

14.8 Therefore, whilst there may be limited infringements with these Articles by the making of this PSPO, the Council is of the view that any such infringement is justified by the need to protect public safety and to reduce crime in the Restricted Area. The restrictions are permitted under the Anti-Social Behaviour, Crime and Policing Act 2014 and are the minimum necessary, taking into account all other measures which have been attempted in recent years to address these issues.

## 15.0 **CONCLUSION**

15.1 Section 59 (1) of the 2014 Act empowers local authorities to make a public space protection order if they are satisfied on reasonable grounds that the following conditions are met:

- That activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality; and

the effect of the activities:

- Is persistent or continuing nature
- Is unreasonable; and
- Justifies the restrictions imposed.

15.2 The Council is proposing the making of a PSPO to prohibit access to the Restricted Area between the hours of 10pm and 7am. It is considered that the Proposal meets the legislative requirements for the reasons that have been set out in this Statement.

15.3 The Report of GMP shows the nature and extent of the reported 'activities' that are occurring on the Undercroft. The statements of persons in the locality, the Canal and River Trust and others in support of the Proposal record how the 'activities' are unreasonable and how they are having a detrimental effect on the quality of life through either (i) being a victim of crime or ASB (ii) being a witness to detrimental 'activities'; or (iii) encountering the detritus of those unreasonable 'activities', such as condoms, drug paraphernalia and human waste.

15.4 The PSPO may also reduce the risk of crime-related deaths by drowning at night, when persons who are currently accessing the Undercroft may be more vulnerable due alcohol intoxication. Both the GMP report (which covers a 4 year period) and the statements from persons in the locality show clearly how these 'activities' (i) are persisting and continuing, on a daily basis; and (ii) how by their very nature the 'activities' are

unreasonable.

- 15.5 The gates, to enforce the over-night closure, will be kept open from 7am in the morning until to 10pm in the evening, 365 days a year. The Restricted Area will also be kept open for boaters to operate the lock gates when moving through the area 24 hours a day, 365 days a year. The closure of the Restricted Area between the hours of 10pm and 7am is considered to be the shortest period of closure to achieve the objectives of the PSPO.
- 15.6 The Council considers that the making of a Public Space Protection Order, subject to the consideration of representations, is reasonable, proportionate and justified in these circumstances.

**Proposed Public Spaces Protection Order**  
**Section 59 and 64 of Anti-Social Behaviour, Crime and Policing Act 2014**

**Appendix 1 The Restricted Area**  
**Plan Showing the Restricted Area**  
**(to be read in conjunction with Drawing Numbers:**  
**208286H-PSPO-LOC-0001 – the Restricted Areas Plan**  
**and 208286H-PSPO-LOC-0002 - the Alternative Route Plan)**

**Appendix 2 Description of Restricted Area and Reasonably Convenient Alternative Route**  
**(to be read in conjunction with Drawing Numbers: 208286H-PSPO-LOC-0001 and 208286H-PSPO-LOC-0002)**

<b><u>Description of Restricted Area</u></b>	<b><u>Description of Reasonably Convenient Alternative Route</u></b>
<p><b>Restricted Area A:</b> runs, easterly - (i) from the entrance onto the Rochdale Canal towpath at the back of the footway at the Minshull Street / Auburn Street junction, (ii) down the towpath ramp and along the towpath (iii) continuing along the towpath under the bridge which provides access from Auburn Street into Manchester Minshull Street Crown Court and under the bridge crossed by Aytoun Street (iv) continuing along the towpath into the Undercroft section of towpath below the following roads and buildings:</p> <p>(a) under 1-3 Piccadilly, M1 3AQ (Malmaison Hotel), (b) under A6 Piccadilly/London Road, (c) under 111 Piccadilly, M1 2HY (formerly known as Rodwell Tower) (d) under 111 Piccadilly car park (e) under Ducie Street bridge;</p> <p>(v) The Restricted Area fully encompasses all the of the towpath within the Undercroft, including the landings around Lock 85, the store under Dale Street bridge and the former London Road Wharf dock landings;</p> <p>(vi) and continuing in an easterly direction, the Restricted Area terminates at the spandrel (exterior) facade of Dale Street bridge.</p> <p><b>Restricted Area B:</b> comprises of the whole of the area of the canal landing on the northern side of Lock 85, located under 111 Piccadilly, and is described from south-west to north-east as follows:  – from the point where the canal landing is adjacent to the supporting structure of the Piccadilly road bridge and continuing in a north-easterly direction so as to encompass the full length and width of the landing, including the area on the western side of the former wharf.</p> <p>These two areas together are referred to as ‘the Restricted Area’ in this Statement.</p>	<p>The Council considers that a reasonably convenient alternative route is available to pedestrians when the PSPO is in effect, by following -</p> <p>the street footways, from Minshull Street, along Auburn Street, crossing Aytoun Street and crossing the A6 London Road via a pedestrian crossings, and then along Ducie Street to the entrance to the towpath by 81 Dale Street/Dale Street Bridge, and vice versa</p>

### **Appendix 3 The Detrimental Activities**

Robbery

Theft

Assault

Threats to harm

Abusive behaviour

Criminal damage

Anti-social behaviour including –

- drug taking and drug-related activity
- sexual activity
- defecation and urination