1 Purpose of the report
The Purpose of this report is to provide Cabinet Members with an overview of the ASB Reforms following commencement of the Anti-Social Behaviour Crime & Policing Act 2014, provide details of local implementation of the new powers and make the recommendations for approval detailed below.

2 Recommendations
a) Members note the Anti-social Behaviour Reforms and local implementation detailed within the report.

b) Members note that policies and procedures requiring amendment following the legislative changes will be undertaken by the relevant service areas and approved as necessary.

c) That the level of fines for Fixed Penalty Notices (FPNs) issued as a sanction for breaching Community Protection Notices and Public Spaces Protection Orders be set at £90 to bring them in line with the fine level set throughout Greater Manchester Authorities and Greater Manchester Police, and that the level is reduced to £60 for payment within 14 days of the FPN being issued.

d) Members approve the local Community Trigger criteria and process in line with the Greater Manchester approach.

e) Members note that the review and monitoring of anti-social behaviour powers within the legislation be undertaken through the Rochdale Safer Communities Partnership’s Anti-social Behaviour Priority Group.

3 Background
3.1 In May 2012 the Home Office produced a white paper, “Putting Victims First: more effective responses to Anti-Social Behaviour” which outlined the Government’s proposed changes to the way we tackle anti-social behaviour.

3.2 A Bill was developed and went through Parliament and the House of Lords to receive Royal Assent 13th March 2014. The Anti-Social Behaviour, Crime & Policing Act 2014 finally commenced on the 20th October 2014, with the exception of part 1 of the Act relating to Injunctions which are to replace Anti-
Social Behaviour Orders (ASBOs). The commencement of Part 1 has been postponed until 23rd March 2015. The Anti-Social Behaviour sections of the Act have introduced changes and new powers which are designed to put victims at the heart of a response to anti-social behaviour and give professionals the flexibility they need to deal with any situation.

3.3 Parts 1-6 of the Act covers anti-social behaviour and have introduced 6 new powers which replace 19 existing ones. The powers are designed not only to provide effective respite for victims and communities but also to stop future anti-social behaviour by the offender. They are designed to tackle anti-social individuals, environmental nuisance and anti-social behaviour in particular premises or locations.

3.4 The Act also introduces 2 new measures, The Community Trigger and The Community Remedy, which give victims a greater say in the way their reports of anti-social behaviour are dealt with.

3.5 **Overview of the ASB Reforms**

To Tackle Problem Individuals

3.6 **Civil Injunctions** have been developed to replace Anti-Social Behaviour Orders, ASB Injunctions, Intervention Orders, Drink Banning Orders and Individual Support Orders. As previously advised this part of the Act is yet to commence.

The Act empowers the civil courts to grant an injunction against a person aged 10 or over for the purpose of preventing them from engaging in anti-social behaviour. Some important changes to this new power are as follows:-

- A wider range of agencies can submit applications ie police, Council, Social Housing Providers, NHS Protect, Environment Agency
- As well as restrictions within the injunction positive requirements can be applied for ie support services to tackle drug / alcohol, anger management etc..
- Breach of an injunction will no longer be a criminal offence. It will be a court order breach of which is a civil offence (Contempt of Court) and responsibility for enforcing the order with lie with the agency who applied for the injunction upon further application to the Court after a breach.
- The duration of the order has changed. For over 18s it continues to be for a fixed period or indefinite but for under 18s the maximum duration is restricted to 12 months.
- The anti-social behaviour to support an application can now be against a member within the same household therefore allowing the scope to tackle domestic violence cases.

3.7 **Criminal Behaviour Orders** have been developed to replace ASBOs on conviction / drink banning orders on conviction. The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence in any criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before the courts. Some important changes to this new power are as follows:-

- Local Authorities can now submit applications to the Crown Prosecution Service for them to apply to the Courts for a Criminal Behaviour Order on conviction
- Again positive requirements can be added to the Order
- The duration of the order has changed. For over 18s minimum of 2 years and up to an indefinite period. For under 18s between 1 and 3 years.
3.8 **To Tackle Problem Places**
The Act has consolidated a range of tools to deal with place specific anti-social behaviour providing us with more generic powers to address a wide range of behaviour that negatively affect the community’s quality of life.

3.9 **Community Protection Notices** have been developed to replace littering clearing notices, street litter clearing notices and graffiti removal notices. The Notices are intended to deal with particular, ongoing problems or nuisances which negatively affect the community’s quality of life by targeting those responsible e.g. storing rubbish, loud music …

3.10 A CPN can be issued with a requirement to stop doing certain things, to do certain things or to take reasonable steps to achieve specified results. They can be issued to anyone over the age of 16 years, a business or organisation.

3.11 The CPNs do not replace statutory nuisance and this will continue to be dealt with by Environmental Health Officers within Public Protection under existing legislation. This new power, however, serves as a useful tool in tackling noise nuisance that doesn’t amount to statutory nuisance but is having a detrimental impact of the community’s quality of life.

3.12 CPNs can be issued by the police, local authority and social housing providers, if designated by the Local Authority after a minimum period of 6 months following commencement of the Act.

3.13 Breach of a CPN is a criminal offence which is punishable by way of a fine or by fixed penalty notice (FPN) which is set locally.

3.14 **Public Spaces Protection Orders** have been developed to replace designated public place orders, gating orders and dog control orders and are available to Local Authorities to use to address anti-social behaviour in public places. PSPOs impose conditions on the use of a particular area. They can prohibit certain activities, place certain requirements and be targeted at specific people, certain times or in certain circumstances e.g. control the presence of dogs in parks such as excluding them from children’s play areas, restrict the number of dogs that can be walked, restrict access to certain rights of way where anti-social behaviour is occurring, restrict the consumption of alcohol in public place. These Orders can last for 3 years before requiring a review. Any Orders under the old legislation will remain in place for a period of 3 years. Rochdale currently has a boroughwide Designated Public Place Order which restricts drinking alcohol in a public place which will cease on 20th October 2017.

3.15 Like the CPNs breach of a PSPO is a criminal offence dealt with by way of a fine or FPN which is set locally.

3.16 **Closure Powers** have been developed to replace Premises, Crack House and Section 161 Closure Orders. The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. This new power is available for use by both police and local authorities. A closure notice can be issued in the first instance out of court for 24 hours or extended from 24 to 48 hours by a police superintendent or designate of Council. Subsequently an application to the
Magistrates Court is made to either cancel the notice or apply for a closure order for a period up to 6 months.

3.17 **Police Dispersal Powers** have been introduced to replace Section 30 Dispersal Orders and Section 27 Direction to Leave. The police dispersal powers are a quicker and more flexible measure which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. The powers if implemented can allow the police to direct a person aged 10 or above who has committed or is likely to commit anti-social behaviour, crime or disorder to leave an area for up to 48 hours. Failure to comply with a direction under this power is a criminal offence.

3.18 **A New Absolute Ground For Possession** has been introduced as an additional tool for landlords (private and social housing providers) to speed up the possession process in cases where anti-social behaviour or criminality has been proven in another court. If a tenant, member of tenant’s household or a person visiting the property is convicted of a serious offence, breached an injunction / CBO / noise abatement notice, or tenants property has been closed for more than 48 hours then this new power could be considered however this new provision is intended for the most serious cases of anti-social behaviour.

3.19 **Empowering Communities**

The Act introduces **two new measures** which are designed to give victims and communities a say in the way in which anti-social behaviour is dealt with.

3.20 **The Community Trigger / ASB Case Review** has been introduced to allow victims (or family members, carers, councillors on their behalf) to request a multi-agency review of their anti-social behaviour case. If the victim has complained to Rochdale Borough Council, Greater Manchester Police and/or a Registered Housing Provider (social landlord) at least three times about separate incidents in the last six months (nb..each incident must have been initially reported within 1 month of taking place) they can activate the Community Trigger. This does not replace an organisations' own complaints procedures.

3.21 **The Community Remedy Document** will be used as part of the existing process for delivering community resolutions by the police. It will give victims of low-level crime and anti-social behaviour a say in the punishment of offenders out of court (also for conditional cautions and youth conditional cautions).

3.22 The Community Remedy Document is a list of actions that the victim will be invited to choose from when a community resolution is used ie verbal / written apology, reparation, mediation etc.

**Local Implementation**

3.23 The anti-social behaviour policy is to be amended to reflect the change in use of ASBOs to injunctions in readiness for proposed commencement of Part 1 of the Act in April 2015. The ASB Procedure will remain unchanged in structure other than the legislative changes required for our formal action. Informal measures, early intervention and support procedures will remain unaltered. Standard forms, templates and documents for the injunctions are being developed through the Greater Manchester ASB Reforms Working Group in readiness for commencement of Part 1 of the Act.
3.25 Criminal Behaviour Orders are already being used by the Partnership as an effective enforcement tool in tackling ASB. A protocol for local authority applications to the Crown Prosecution Service has been developed and standard Court documents, templates, forms etc. have been produced.

3.26 Specimen Community Protection Notices and related warning letters are being developed. Given the postponement in delegating CPN use to housing providers, decisions around this will be considered in the future with housing providers.

3.27 Community Services currently have policies in place for Gating Orders and Closure Orders which are being amended to reflect the Public Spaces Protection Orders and Closure Powers within the new legislation. A number of premises closures under the new legislation have been successfully carried out by GMP to tackle crime and disorder.

3.28 Dispersal Powers are now being effectively used as a quick responsive measure to tackle anti-social behaviour. A number have been undertaken throughout the borough as part of anti-social behaviour operations.

3.29 The Greater Manchester Community Remedy Document was developed by the Chief Constable and Police and Crime Commissioner following consultation and has been rolled out to all police officers and PCSOs throughout GM divisions.

3.30 Rochdale’s Community Trigger criteria has been set at 3 reports of anti-social behaviour in the last 6 months, based on an agreed consistent approach across Greater Manchester and in line with the Manchester area pilot scheme. The process for Rochdale has been developed and approval is requested from members (see attached Rochdale’s Community Trigger Process).

Community Services are the single point of contact and co-ordinate the undertaking of ASB case reviews. The Community Trigger has been published locally and to date 2 reviews have been undertaken in response to requests.

3.31 In excess of 150 frontline professionals from various partner agencies have undergone localised training on the ASB reforms delivered by officers from key agencies ie Community Safety, Public Protection, Legal Services, GMP and Rochdale Boroughwide Housing.

3.32 Alternatives considered
The ASB reforms are within the Anti-social Behaviour Crime & Policing Act 2014 and are therefore a statutory requirement to implement.

4 Financial Implications
4.1 Changes in relation to Injunctions (Part 1 of the Act) will have a financial implication on the Council in that breaches become the responsibility of the agency who secured the injunction. Under the old legislation breaches were prosecuted by the CPS on behalf of the police. The Council will therefore be required to prosecute breaches of their orders.

4.2 The cost implications in relation to this are not significant as the number of orders the Council have secured have reduced year on year through the use of other tools and powers eg. 11/12 – 6 ASBOs, 12/13 – 4 ASBOs, 13/14 – 0 ASBOs, 14/15 – 2 ASBOs. In addition these Orders have a shorter duration of 12m for young people.
4.3 The cost implications of Order breaches cannot be accurately predicted as it depends on individual's compliance. However the Home Office have confirmed a national 40% breach rate per annum with an estimated breach unit cost of £600-£700. More local statistics have evidenced that of the 4 current live ASBOs there have been 12 breaches in the last 12 months.

4.4 Community Safety has a current budget allocation for Legal Services of 20K per annum which relates to all associated costs for legal work. Any shortfall will be met by Community Safety's operational budget.

4.5 The recommended level for Fixed Penalty Notices (FPNs) of £90 to bring in line with Greater Manchester will result in a 10% deficit from the FPNs for the legislation it replaces. Assessment on the financial impact has been considered minimal risk as the old legislation it is replacing was rarely utilised as other enforcement powers were deemed more effective.

5 Legal Implications
5.1 The commencement of the Anti-social Behaviour Crime and Policing Act is a change in legislation and therefore has an implication on legal procedures. Legal Services currently undertake litigation work on behalf of services relating to tackling anti-social behaviour and will incorporate the changes in light of the new powers into their remit.

5.2 As the Council will prosecute for breaches of injunctions secured by them there will be a requirement to provide an out of hours on-call provision in the event an offender is arrested for breach of an order, with powers of arrest, on a Friday as the offender is to be presented in Court within 24 hours (except for Sundays). As this is not within the employment contracts of Legal Services negotiations will need to take place with Community Safety and Legal Services and put into a service level agreement. The impact of this will be minimal in light of the intended use of the powers as stated in section 4.

6 Personnel Implications
6.1 The new tools and powers within the legislation will be utilised by existing officers in the services to which they relate however as stated above there may be out of hours work for legal Services which is not within their contract of employment and this will have to be arranged.

6.2 Appropriate consultation will therefore be undertaken with any officers directly affected by the proposed changes to their working patterns

7 Corporate Priorities
7.1 N/A

8. Risk Assessment Implications
8.1 The council and partner agencies need to manage expectations in tackling anti-social behaviour arising from the new legislation particularly in a challenging financial climate. Agencies will continue to work in partnership through our various teams and forums to maximize our resources eg Case Intervention Group, Partnership Enforcement Team, Joint Action Group, Partnership Business Group, ASB Risk Assessment Conference.

9. Equalities Impacts
9.1 Workforce Equality Impacts Assessment

There are no (significant) workforce equality issues arising from this report.

9.2 Equality/Community Impact Assessments
Widespread consultation with the public and practitioners was undertaken by the Home Office at various stages of implementation of the reforms from the White Paper through to commencement of the Act.

Assessment of equality impact formed an integral part of the national consultation process, including through specific equality impact questions, to identify pertinent concerns and issues. Guidance has been followed by the Home Office to ensure that a broad demographic of stakeholders were involved and consulted.

Age, Disability, Gender, Gender Identity, Race, Religion Sexual Orientation, and Socio-Economic indicators are all relevant factors in anti-social behaviour and the legislation has been developed to bear this in mind.

The measures introduced under the Act will be used to address complaints of anti-social behaviour perpetrated against all people within the Borough regardless of their equality characteristics.

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**Background Papers**

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