



## Criminal Justice Bill: Report Stage

### *Briefing for all MPs: Stop the Criminal Justice Bill from Criminalising Homelessness*

**Together, we are calling on all MPs to support NC10, NC11 and amendments 2-27 which will stop the dangerous and dehumanising plans to criminalise homelessness and fully enact the repeal of the Vagrancy Act of 1824.**

For years, we have campaigned to scrap the Vagrancy Act of 1824, alongside politicians from all parties, people facing homelessness, local authorities and police forces. In February last year, both Houses of Parliament supported the repeal of the Vagrancy Act via an amendment to the Police, Crime, Sentencing and Courts Bill in a landmark rejection of the outdated laws that criminalise sleeping rough. However, no commencement date was included so the Vagrancy Act technically remains in force.

The Criminal Justice Bill includes replacement legislation for the Vagrancy Act, through the introduction of new powers to tackle 'nuisance rough sleeping' and 'nuisance begging'.

**The measures include moving people on, imprisoning them and fining them up to £2,500, and many go even further than the Vagrancy Act. They will result in worse criminalisation of people experiencing homelessness.**

This not only reneges on the UK Government's repeal of the Vagrancy Act but will breakdown trust in services and push people further into destitution and exploitation, undermining the Government's own efforts to end rough sleeping.

In Wales, policing is reserved, so police powers introduced around nuisance begging and rough sleeping under the Criminal Justice Bill would apply in England and Wales. The Welsh Government recently outlined its concerns on these proposals, stating that the proposals “are likely to prevent vulnerable people engaging with the services they need to support them away from begging in practice rather than addressing the complex underlying causes of this activity.” It emphasised that “rather than a punitive approach to rough sleeping [...], psychologically-informed environments and trauma-informed responses should underpin all interactions with those rough sleeping.”<sup>1</sup>

**People experiencing homelessness should be treated with dignity and humanity, not with the threat of police action. Support these amendments to put a stop to these plans.**

## The amendments

NC10, NC11 and amendments 2-27 already have the support of members across all political parties. Collectively, they will stop the unnecessary criminalisation of homelessness by removing provisions relating to nuisance begging and nuisance rough sleeping, introducing a commencement provision for the repeal of the Vagrancy Act and by allowing the UK Government to update guidance to clarify use of existing powers under the Anti-social Behaviour, Crime and Policing Act 2014, and ensuring in the guidance that homelessness cannot be criminalised.

## Why are they needed?

### 1. Criminalisation won't help people leave homelessness behind for good

No one should be punished for being homeless. We know people who sleep rough already face violence and stigmatisation and we reject the characterisation of rough sleeping and turning to others for help as a nuisance. If enacted, these laws would drive people further from the help they need.

Fining or moving people on who have nowhere to go does not solve homelessness. All it does is risk physically displacing people to less safe areas and break down trust between people forced to sleep on the streets and the organisations and authorities that can provide them with support to move away from the streets, entrenching the issue in a way that makes it harder to solve. Enforcement risks pushing people into other riskier behaviour to secure an income such as shoplifting or street-based sex work.

In a survey of people sleeping rough carried out by Crisis, 56% said enforcement measures such as the Vagrancy Act contributed to them feeling ashamed of being homeless. A quarter (25%) said that following an enforcement intervention their alcohol consumption increased as a result, and 21% said the same for drug use.

**Amendments 2-27 and NC10 will finally put a stop to the criminalisation of homelessness.**

The UK Government states that they are placing rehabilitation and support at the centre of their approach. However, there is nothing in this Bill that requires an offer of support, such as an offer of suitable accommodation, to be made to people sleeping rough or begging, and no additional funding for support services will accompany this Bill. Local authorities and homelessness services are already struggling to support the record numbers of households facing homelessness, trapped in temporary accommodation after being let down by the systems that should keep all of us safe.

In the context of increased homelessness among people leaving the asylum system, we are concerned that criminalisation could result in non-UK nationals, including people with refugee status, having their limited leave to remain refused or cancelled under immigration rules. This could put non-UK nationals in vulnerable circumstances to avoid sleeping rough or threat of removal from the country.

To ensure people aren't trapped in a cycle of being criminalised for rough sleeping, the UK Government must focus on evidence-based interventions that end rough sleeping, such as providing safe, settled homes with wraparound specialist support services, including through the national roll out of Housing First in England for people with multiple and complex support needs. Homeless Link's research into the long-term outcomes and impact of Housing

<sup>1</sup> [Legislative Consent Memorandum – Criminal Justice Bill \(senedd.wales\)](#)

First found a wide range of benefits including increased tenancy sustainment, a reduction in mental and physical health needs and a significant decrease in anti-social behaviour.<sup>2</sup>

## 2. Police already have sufficient powers where there is genuine alarm and distress to the community

Parliamentary time is being used to duplicate powers that are already available to police and local authorities to deal with instances of genuinely harmful begging, including relating to fraud or organised crime:

Crime	Legislation
Anti-social behaviour, including threatening words and harassment	Anti-social Behaviour, Crime and Policing Act (2014) Public Order Act (1986)
Begging under false pretences of need	Fraud Act (2006)
Forcing others to beg, including children	Serious Crime Act (2007) Modern Slavery Act (2015)
Trespassing, including on private land, with power to remove unauthorised campers	Criminal Law Act (1977) Criminal Justice and Public Order Act (1994) Public Order Act (1986) Highways Act (1980)

Community Protection Notices (CPNs) under Chapter 1 of the Antisocial Behaviour, Crime and Policing Act 2014 allow for an authorised person to issue a CPN “if satisfied on reasonable grounds that a. the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and b. the conduct is unreasonable”. Section 35 dispersal orders, under the Antisocial Behaviour Crime and Policing Act 2014, already provide police powers to move someone on from a public place for 48 hours place if that person has, or is likely to cause harassment, alarm or distress.

**Powers introduced by this legislation mark an unprecedented expansion of police and local authority enforcement powers to criminalise people facing homelessness and destitution in a more targeted way, and on top of an array of existing powers could subject people who are destitute to layers of criminalisation.**

During Committee stage, the Minister confirmed these concerns by outlining how the new powers in this Bill could be used simultaneously alongside existing legislation.

When working with police forces and local authorities on repeal of the Vagrancy Act, we were advised that it would be helpful for the UK Government to update the guidance related to current primary legislation, including the Anti-social Behaviour, Crime and Policing Act 2014, to provide clarity about the range of enforcement measures and support tools available to the police where there is genuinely criminal or antisocial behaviour relating to begging.

**NC11 will allow the UK Government to update guidance so it is clear what existing enforcement powers can be used in the circumstances when aggressive begging risks genuine alarm and distress to the community and where there are no other approaches that are reasonably available.**

NC11 also requires the UK Government to work with stakeholders and people with lived experience to update this guidance to address any gaps, such as the need to be able to intervene in cases of severe distress or chronic self-neglect, and ensures guidance would include clear safeguards for homelessness.

## Background

### What does the Bill say about nuisance rough sleeping and begging?

Both the definitions of nuisance rough sleeping and nuisance begging are extremely broad and will result in people being criminalised simply because they are homeless. We disagree with the Minister for Policing’s statement that

<sup>2</sup> [https://homeless.org.uk/documents/1073/Exploring\\_holistic\\_Housing\\_First\\_outcomes\\_full\\_report.pdf](https://homeless.org.uk/documents/1073/Exploring_holistic_Housing_First_outcomes_full_report.pdf)

this is precisely worded. The Bill says that someone can fall under this definition even if they haven't slept rough – but just look like they might be or are intending to and that someone can be considered a 'nuisance' if they are sleeping in a doorway, if they have 'excessive smell', or use 'insulting words'.

This completely dehumanises those of us who are forced to sleep rough and introduces ways for people to be criminalised based on opinion. People sleeping rough, and particularly women, often sleep rough in less visible places because they are 17 times more likely to experience violence and abuse.<sup>2</sup>

While some forms of begging can be harmful, including aggressive begging and organised crime, the broad definition of 'nuisance begging' would target people for passive begging and for their homelessness, disconnected from any real harm. Someone in one of the long list of locations included, which covers essentially anywhere in city centres, simply existing alongside a cap or a cup could fall foul of this definition. Liberty state that this amounts to a blanket ban and therefore is in breach of Article 8 of the European Convention on Human Rights (ECHR).

Behaviour that does not cause distress or alarm to others should not be a criminal offence, least of all when people are destitute. It is critical to recognise that people beg when they are in the most severe forms of destitution and cannot afford to live. Crisis research with people sleeping rough found that one in three had begged at some point over a 12-month period and the main reason given was needing to buy food (78%).

Crucially, the legislation does not provide for a definition of 'beg' and so is open to wide interpretation. For example, it is possible under this legislation an individual waiting outside a soup kitchen, queuing for a food bank, café or shop for charitable donations (that a number of businesses provide) could be considered as begging in one of the specified locations, and be captured under the nuisance begging definition and subject to criminalisation.

The Local Government Association in England has highlighted that begging is often the result of street homelessness which is linked to the shortage of affordable housing across this country, leaving people with very few options. They state that Local Authorities and other agencies need to work together to provide support to people to eradicate begging and street homelessness, the focus should largely be on support into accommodation, prevention, multi-agency working and housing supply.

## **What new enforcement powers does the Bill introduce?**

The powers contained within the Bill, in respect of both nuisance rough sleeping and nuisance begging, directly re-introduce the powers under the Vagrancy Act, reneging on the UK Government's repeal of the Act.

Under the Criminal Justice Bill, if someone appears to sleep rough or intending to sleep rough and engaged in 'nuisance' behaviour, and does not comply with being moved on and not returning for 72 hours, they can be imprisoned or fined up to £2,500. Individuals can't appeal against these Directions if, for example, a judgement has been incorrectly made as a result of the broad definitions.

Additionally, Police and Local Authorities can place stringent requirements on an individual that can compel them to not engage in certain behaviour, and to positively engage in support services through Prevention Notices and Prevention orders, for up to 3 or 5 years respectively. Non-experts in homelessness and effective support might issue unlawful Prevention Notices that place entirely unreasonable requirements on individuals to engage in support services unsuited to their needs or with limited chance of success – particularly, if they are not provided with suitable, or even any, accommodation and may still be sleeping on the streets.

Appeals have to be made within 21 days, which is not enough time to access legal advice and prepare a defence and it is unclear whether legal aid would be available for such an appeal, as it is not available for similar Community Protection Notice appeals. Moreover, the validity of a notice is not an available defence if someone is charged with a breach. So, if an individual were subject to an unreasonable notice then they might be breaching it repeatedly.

The Bill makes all three enforcement tools (directions, notices and orders) available to authorities if either the nuisance rough sleeping or nuisance begging conditions are met on top of existing powers that can address genuine antisocial, distressing or alarming behaviour.