



BRIEFING PAPER

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Rough Sleepers: Enforcement Powers (England)

By Hannah Cromarty,
Georgina Sturge, Joe
Ryan

The 2020 autumn count in England recorded 2,688 people sleeping rough, representing a fall of 37% on 2019 but 52% higher than the number recorded in 2010.¹ The 2020 count coincided with a national lockdown in response to the Covid-19 pandemic, which is likely to have impacted the numbers recorded.

Rough sleeping is often associated with nuisance activities such as begging, street drinking and anti-social behaviour. Homelessness is a complex issue and entrenched homelessness presents particular difficulties; addictions and criminal and offending behaviour may be a symptom of homelessness as well as an underlying cause.²

Nuisance activities can have a negative impact on local communities. The police and local authorities have a range of powers to tackle these activities. However, homelessness organisations are concerned that the use of these powers criminalises rough sleeping and does not address the root cause of the problem.

1. Criminal law

Rough sleeping is a criminal offence under section 4 of the [Vagrancy Act 1824](#) (as amended), subject to certain conditions. Rough sleeping or 'sleeping out' is defined as 'wandering abroad and lodging in any barn or outhouse, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or wagon, and not giving a good account of himself or herself'. Individuals can only be charged with rough sleeping if alternative shelter is available to them (this condition was introduced by the [Vagrancy Act 1935](#)).

There is also an offence of "being in enclosed premises for an unlawful purpose", which is used, for example, when dealing with people suspected of burglary. According to homelessness organisations, it is also sometimes used to challenge people who are sleeping rough.³ In 2014 three homeless people were charged under the 1824 Act after being discovered outside an Iceland store ('an enclosed premises') taking discarded food from waste bins. The case was widely criticised, and the Crown Prosecution Service decided not to prosecute.⁴

¹ Ministry of Housing, Communities and Local Government, [Rough sleeping snapshot in England: autumn 2020](#), 25 February 2021

² Department for Communities and Local Government, [Evidence review of the costs of homelessness](#), August 2012

³ Crisis, [Scrap the Act: The case for repealing the Vagrancy Act \(1824\)](#), 19 June 2019, p3

⁴ ['Prosecutors drop case against men caught taking food from Iceland bins'](#), *The Guardian*, 29 January 2014

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The number of prosecutions and convictions under section 4 of the 1824 Act has declined in recent years. In 2019, there were 183 prosecutions and 140 convictions, with only 4 convictions for the specific offence of 'sleeping out'. The number was highest, in recent years, in 2011 when 1,050 prosecutions and 810 convictions were made for offences under section 4.

Begging is a criminal offence under section 3 of the *Vagrancy Act 1824* (as amended). The maximum sentence is a fine at level 3 on the standard scale (currently £1,000). In 2019, there were 926 prosecutions and 742 convictions for begging. There has been a decline in the number of prosecutions in each year since the recent peak of 2,219 prosecutions and 1,727 convictions in 2014.⁵

Prosecutions and convictions for selected offences under the Vagrancy Act 1824

England and Wales

	Offences under Section 4:			Offences under
	Sleeping out	Being on enclosed premises for an unlawful purpose	Total	Section 3: Begging
Prosecutions				
2010	50	940	990	1,776
2011	29	1,021	1,050	1,296
2012	21	779	800	1,229
2013	30	581	611	2,097
2014	23	520	543	2,219
2015	23	350	373	1,827
2016	30	255	285	1,461
2017	8	207	215	1,025
2018	11	165	176	1,144
2019	6	177	183	926
Convictions				
2010	28	752	780	1,518
2011	16	794	810	1,080
2012	19	593	612	1,010
2013	22	445	467	1,727
2014	16	401	417	1,857
2015	19	252	271	1,484
2016	15	197	212	1,242
2017	7	151	158	867
2018	8	137	145	966
2019	4	136	140	742

Source: Ministry of Justice, [Criminal justice statistics quarterly December 2019](#), Outcomes by offence data tool.

Notes: These relate to defendants for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

⁵ Ministry of Justice, [Criminal justice statistics quarterly December 2019](#), Outcomes by offence data tool.

Most convictions for these offences result in a fine or a conditional discharge, however offenders are sometimes sentenced to custody. In 2019, one person received a custodial sentence for begging, while 16 people received a custodial sentence for being in enclosed premises for an unlawful purpose.

Although the number of prosecutions and convictions under the 1824 Act has declined, homelessness organisations assert that the Act is used informally to move individuals on or challenge behaviour without formal caution or arrest.⁶

There are other statutes that criminalise certain types of anti-social behaviour:

- ‘Wilfully blocking free passage along a highway’ is an offence contrary to section 137 of the *Highways Act 1980* (as amended), punishable by a level 3 fine.
- Using threatening or abusive words or behaviour is an offence under section 5 of the *Public Order Act 1986*, which also carries a level 3 fine.

2. Civil measures

Public bodies have a range of powers under the [Anti-Social Behaviour, Crime and Policing Act 2014](#) to tackle anti-social behaviour:

Civil injunctions

Various agencies⁷ may apply for the Injunction to Prevent Nuisance and Annoyance (IPNA) to tackle people repetitively engaging in low level anti-social behaviour. An IPNA can both prohibit an individual from engaging in certain behaviour and/or impose requirements to engage in a particular activity to address the underlying causes of their anti-social behaviour. For example, an IPNA can require someone to attend alcohol awareness classes for an alcohol related incident. Breach of an injunction is treated as civil contempt of court and is not a criminal offence. The maximum penalty for breach of an injunction is two years in prison and/or an unlimited fine.

Criminal Behaviour Orders

The Criminal Behaviour Order (CBO) can be issued by any criminal court when a person is convicted of a criminal offence, alongside any sentence or conditional discharge. The prosecution can apply to the court for a CBO to be issued. The anti-social behaviour which the offender has been involved in need not be part of the offence for which they were convicted.

In deciding whether to issue a CBO, the court must be satisfied beyond all reasonable doubt that the accused has engaged in behaviour which has caused, or is likely to cause harassment, alarm or distress to any person and consider that making such an order will help prevent future anti-social behaviour occurring. Like an IPNA, a CBO can impose requirements as well as prohibit certain activities. Breach of a CBO is a criminal offence and carries a maximum penalty of five years in prison and/or a fine for an adult; or a two-year detention and training order if the offender is under 18.

⁶ Crisis, [Scrap the Act: The case for repealing the Vagrancy Act \(1824\)](#), 19 June 2019, Executive Summary

⁷ Those empowered to apply for IPNAs are: local authorities; the Chief Officer of Police for the local area; the Chief of the British Transport Police; a housing provider; Transport for London; the Environment Agency and the Natural Resources Body Wales; and NHS Protect and NHS Protect (Wales).

Community Protection Notice

The Community Protection Notice (CPN) can be issued if the behaviour of an individual or organisation is: detrimental to the quality of life of local community; unreasonable; and persistent.

A CPN can direct a person or organisation to stop a behaviour, or require them to take specific action to prevent the problem from reoccurring.

Before issuing a CPN, the police, social landlord or council must give a written warning to the person committing the unreasonable behaviour. The warning must explain that should the behaviour continue, a CPN will be issued. Failing to comply with a CPN is a criminal offence which may result in the issue of a Fixed Penalty Notice.

Dispersal powers

Section 35 of the Act allows a police officer to disperse individuals or groups causing or likely to cause anti-social behaviour in public places or common areas of private land (such as shopping centres or parks), directing them to leave a specified area and not return for up to 48 hours. It is a criminal offence for someone to fail to comply with a direction made under section 35 for which the maximum penalty is a level 4 fine (currently £2,500) or three months' imprisonment. An example of its use is a dispersal order issued in July 2020 in response to a group of individuals begging, drug-taking and street drinking in central Swindon.⁸

Public Spaces Protection Order

Local councils, following consultation with the police, may issue a Public Spaces Protection Order (PSPO) to place restrictions or impose conditions on activities that people may carry out in a designated area. They are designed to deal with issues identified in problem areas which have a detrimental impact on the quality of life in a community. It is a criminal offence for a person to breach the terms of a PSPO for which an enforcement officer (police constable, police community support officer, council officer or other authorised person) may issue a Fixed Penalty Notice.

Home Office guidance

The Home Office published [statutory guidance for frontline professionals](#) in July 2014 to support the effective use of the anti-social behaviour powers. Under pressure from homelessness and civil liberties organisations, the Home Office revised the guidance in 2017 to make it clear that PSPOs should not be used to target people based solely on the fact that they are homeless or rough sleeping.

The guidance (last updated January 2021) emphasises "the importance of ensuring that the powers are used appropriately to provide a proportionate response to the specific behaviour that is causing harm or nuisance without impacting adversely on behaviour that is neither unlawful nor anti-social".⁹

The guidance makes clear that councils may receive complaints about rough sleepers but that rough sleeping itself is not behaviour likely to have an "unreasonably detrimental effect on the community's quality of life which justifies imposing restrictions using a PSPO."

⁸ ['Police issue dispersal order after spike in begging, drug-taking and drinking'](#), *Swindon Advertiser*, 31 July 2020

⁹ Home Office, [Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers - Statutory guidance for frontline professionals](#), 28 January 2021, p1

To ensure that rough sleepers are not unduly targeted, the guidance advises that activity or behaviour listed in an Order is defined precisely and should be limited to “specific behaviour that is causing a detrimental effect on the community’s quality of life which is within the control of the person concerned.”

The guidance suggests that local authorities consult with homelessness charities when considering any restriction or requirement which may impact on rough sleepers. Where a PSPO would impact rough sleepers, local authorities are encouraged to focus on measures to tackle the root cause of anti-social behaviour rather than using an Order.¹⁰

Local authority use of anti-social behaviour powers

The Government does not collate and publish statistics on the use of anti-social behaviour powers. Without robust data, it is difficult to assess how these powers are being used and what impact they are having. Data can be gathered through Freedom of Information requests, although the quality of such data can be variable.¹¹

The Government has asserted that appropriate safeguards are in place to ensure that PSPOs are used appropriately, specifically, local authorities must consult with the police and relevant community representatives before making a PSPO and publish the draft order before it is made.¹² Other measures, such as Community Protection Notices and dispersal powers, carry no such obligations.

Advocates of PSPOs, and other enforcement measures, regard them as a useful tool to address localised problems with anti-social behaviour and to safe-guard the wider community and public spaces. It is argued that it is the anti-social behaviours that can be associated with rough sleeping (aggressive begging, street drinking, leaving personal belongings in doorways etc.) that are targeted and not the rough sleepers themselves. This approach is in line with the Government guidance on the use of anti-social behaviour powers.

However, a survey of local authorities in England and Wales by the homelessness charity Crisis in 2016 found that 36% (29 out of 81) of respondents had specifically targeted rough sleeping with enforcement measures.¹³ This was reported to be a response to increasing levels of rough sleeping alongside reported rises in anti-social behaviour, such as begging and street drinking.

In March 2019, the Guardian reported that at least 60 local authorities had PSPOs in place prohibiting people from putting up tents, begging, loitering and other behaviour associated with rough sleeping, up from 54 authorities the previous year.¹⁴

PSPOs can be particularly controversial attracting strong opinions both for and against. In some cases the use of PSPOs by local authorities to prohibit begging and other street activities has attracted considerable public and media attention, forcing authorities to deny they have sought to target rough sleepers.¹⁵

¹⁰ Ibid., p65

¹¹ [Action against rough sleepers shrouded in mystery](#), *Centre for Crime and Justice Studies*, 27 September 2017

¹² [PO 52388 \[Sleeping Rough\]](#), 15 November 2016

¹³ [‘Rough sleepers being targeted by legal powers designed for antisocial behaviour’](#), *Crisis*, 2 April 2017

¹⁴ [‘Rising number of councils issuing fines for rough sleeping’](#), *The Guardian*, 7 March 2019

¹⁵ See, for example: [‘Hackney council in east London drops threat to fine rough sleepers’](#), *The Guardian*, 5 June 2015; [‘Another fine mess’ as Liverpool council shelves controversial street drinking ban](#), *Liverpool Echo*, 5 November 2015; [‘New powers ‘not targeting rough sleepers’, council claims’](#), *Shoreham Herald*, 16 April 2016; [‘Windsor council drops plans to fine rough sleepers after outcry’](#), *The Guardian*, 14 February 2018; and [‘English council rejects Tory plan to fine people for sleeping in doorways’](#), *The Guardian*, 9 September 2020

The human rights organisation Liberty has engaged directly with individual local authorities, urging them to reconsider using such Orders. In December 2020, Liberty dropped legal action against Bournemouth, Christchurch and Poole (BCP) Council after it agreed to remove provisions targeting rough sleeping and begging from its PSPO.¹⁶

3. Criminalising rough sleeping?

Voluntary sector organisations are concerned that the use of enforcement measures against rough sleepers criminalises homelessness and leaves vulnerable people in an even more marginalised position.¹⁷

According to Liberty, the use of such measures is counterproductive and cruel:

Anyone can see that slapping people with fines they can't possibly afford is not an appropriate response to homelessness. All it can do is plunge them into ever more debt and potentially fast-track them into the criminal justice system.¹⁸

There is also concern that enforcement activity in one area simply displaces street activity to another geographical area and may mean that rough sleepers are forced to move away from vital support services. In some cases, enforcement may lead to escalation, e.g. from begging into acquisitive crime.¹⁹ Moreover, it does not address the underlying causes of rough sleeping.

Crisis has called on local authorities to use enforcement measures against rough sleepers as a last resort, and to ensure they are integrated with tailored support and accommodation. Crisis Chief Executive, Jon Sparkes, said:

We understand that councils and the police have to strike a balance between the concerns of local residents and the needs of rough sleepers, and where there's genuine antisocial activity, it's only right that they should intervene. Yet people shouldn't be targeted simply for sleeping on the street. In fact, homeless people are far more likely to be victims of crime than perpetrators, and rough sleepers are 17 times more likely to be victims of violence compared to the general public. They deserve better than to be treated as criminals simply because they have nowhere to live.

There is a time and place for enforcement, and as a last resort it can play an important role in helping people off the street. However, if it is used against a rough sleeper for genuinely antisocial behaviour then councils and police must make sure it is accompanied by accessible, meaningful support and accommodation to help that person escape the streets and rebuild their life. Without that support, they risk further marginalising rough sleepers and making it even harder for them to get help.²⁰

Homelessness organisations have proposed that enforcement action should be used rarely, and that instead:

- i) support and outreach services should be expanded to rapidly link people who are rough sleeping and/or begging into suitable accommodation and support; and

¹⁶ ['Poverty no longer penalised in landmark liberty legal action'](#), *Liberty*, 15 December 2020

¹⁷ ['Charities warn councils against criminalising rough sleepers'](#), *The Guardian*, 22 May 2015; ['Councils should help rough sleepers, not fine them'](#), *The Guardian*, 3 June 2015

¹⁸ ['If the Government is serious about ending homelessness, it needs to scrap Public Space Protection Orders'](#), *Liberty*, 23 August 2018

¹⁹ Joseph Rowntree Foundation, [The impact of enforcement on street users in England](#), 11 July 2007

²⁰ ['Rough sleepers being targeted by legal powers designed for antisocial behaviour'](#), *Crisis*, 2 April 2017

- ii) police and criminal justice services should adopt more trauma-informed approaches that take into account the experiences of those who are homeless and sleeping rough.²¹

A survey Commissioned by Crisis of more than 3,000 people in 2020 found that 71% of the public think arresting people for rough sleeping is a waste of time, while 52% said rough sleeping should not be considered a criminal offence.²²

4. Calls to repeal the Vagrancy Act 1824

Use of the *Vagrancy Act 1824* (as amended) in relation to rough sleepers is particularly contentious; there have been widespread calls to repeal the legislation:

- [An online petition](#) to 'Repeal the Vagrancy Act 1824' gained 20,549 signatures before closing in May 2018.²³
- The Labour Party announced in December 2018 that it would repeal the 1824 Act.²⁴
- In March 2019, more than 240 Labour MPs signed an open letter, which called for "an end to the Vagrancy Act, and for councils and police forces to cease using all measures which ban begging and rough sleeping or target those experiencing homelessness".²⁵
- A Private Members' Bill sponsored by Layla Moran - the [Vagrancy \(Repeal\) Bill 2019-21](#) - would repeal the 1824 Act. The Bill received its First Reading in the House of Commons on 18 March 2020, a date has not yet been set for Second Reading.²⁶
- Homelessness organisations - Crisis, Centrepont, Cymorth Cymru, Homeless Link, Shelter Cymru, St Mungo's and The Wallich - have launched a [Scrap the Act campaign](#). Their [campaign report](#) sets out the case for repealing the 1824 Act.²⁷

The cross-Government Rough Sleeping Strategy, published in August 2018, committed to reviewing homelessness and rough sleeping legislation, including the *Vagrancy Act 1824*.²⁸ The Government has confirmed that its review of the 1824 Act is considering a range of options, including retention, repeal, replacement or amendment:

The Government is clear that no-one should be criminalised simply for having nowhere to live and we are committed to reviewing the Vagrancy Act.

This is a complex issue and we know from our engagement with stakeholders that there are diverging views about the necessity and relevance of the Vagrancy Act. That is why the Government believes that a review, rather than wholesale immediate repeal, is the right course of action and we are looking at all options including retention, repeal, replacement or amendment.

²¹ Crisis, [Scrap the Act: The case for repealing the Vagrancy Act \(1824\)](#), 19 June 2019, Executive Summary

²² ['More than two-thirds of people say arresting rough sleepers is a waste of police time, figures reveal'](#), *Inside Housing*, 23 January 2020 [subscription required]

²³ [Petition 205388: Repeal the Vagrancy Act 1824](#) [Accessed 8 April 2021]

²⁴ ['Labour promises to repeal nineteenth-century Vagrancy Act'](#), *LocalGov*, 24 December 2018

²⁵ Labour Homelessness Campaign, [Open Letter - End the criminalisation of homelessness](#), March 2019 and ['Don't make criminals of homeless people'](#), *The Guardian*, 18 March 2019

²⁶ <https://bills.parliament.uk/bills/2733>

²⁷ Crisis, [Scrap the Act: The case for repealing the Vagrancy Act \(1824\)](#), 19 June 2019

²⁸ Ministry of Housing, Communities and Local Government, [Rough Sleeping Strategy](#), 13 August 2018, paras 69-70

At the heart of the review will be the experiences and perceptions of a range of relevant stakeholders including the homelessness sector, the police, local authorities, business representatives, community groups and individuals with lived experience.²⁹

The review was initially expected to report by March 2020. In February 2021, during a debate on Rough Sleeping in the House of Commons, the Secretary of State for Housing, Communities and Local Government, Robert Jenrick, said the 1824 Act had been reviewed and, in his opinion, should be repealed. He labelled it “an antiquated piece of legislation whose time has been and gone”.³⁰ The Government intends to report its review findings in due course.³¹

5. Other deterrent measures

In addition to the criminal and civil measures outlined in Sections 1 and 2 of the paper, a range of other less formal measures may be used by businesses, security companies and planners to deter rough sleeping, including:

Physical deterrents (sometimes referred to as ‘defensive architecture’): street furniture and the urban environment may include features such as spikes, curved or segregated benches, and gated doorways, to deter rough sleeping;³²

‘Wetting down’: – spraying and hosing down doorways/alleyways with water or cleaning products to stop rough sleepers using the space;

Noise pollution: sounds, such as loud music, are projected through speakers to deter rough sleepers;

Moving-on: security guards/enforcement agencies tell rough sleepers to move out of an area;

Diverted giving schemes: local authority sanctioned schemes that promote and advertise in begging hotspots asking members of the public to reconsider giving money to beggars and give to local charities instead.³³

These measures do not incur legal penalties or sanctions but their use is controversial.³⁴

Crisis has identified widespread use of such deterrent measures. A Crisis survey in summer 2016 of more than 450 rough sleepers in England and Wales found:

- 73% of rough sleepers had experienced some form of enforcement in relation to sleeping rough in the previous 12 months. Of these enforcement experiences, 70% were informal measures.
- 56% had been moved on by the police or an enforcement agent within the previous 12 months.
- 35% had found it difficult to find anywhere to sleep or rest in the previous 12 months because of defensive architecture.

²⁹ [PQ 20469 \[Sleeping Rough\], 2 March 2020](#)

³⁰ [HC Deb 25 February 2021 c1138](#)

³¹ [PO 160834 \[The Vagrancy Act 1824\], 09 March 2021](#)

³² For some photographic examples see [hostile design.org](#).

³³ B. Sanders and F. Albanese, *An examination of the scale and impact of enforcement interventions on street homeless people in England and Wales*, Crisis, April 2017, p5

³⁴ See for example: Johnsen, S., Fitzpatrick, S., & Watts, B. (2018). [Homelessness and social control: a typology](#), *Housing Studies*, 33(7), 1106-1126; [‘Bournemouth’s ‘anti-homeless’ bench bars to be removed’](#), *BBC News*, 5 February 2018; [“‘Anti-homelessness’ benches, sprinklers and bike racks latest in ‘hostile architecture’”](#), *The Telegraph*, 31 January 2018 and [‘Anti-homeless spikes: ‘Sleeping rough opened my eyes to the city’s barbed cruelty’](#), *The Guardian*, 18 February 2015.

- 20% had experienced noise pollution in the previous 12 months affecting their ability to sleep and rest.
- 21% had experienced street cleansing or 'wetting down' of sleeping areas in the previous 12 months.
- 63% had seen an increase in security guards and wardens patrolling public spaces in the previous two years.³⁵

Commenting on these findings the Chief Executive, Jon Sparkes, said:

The rise of anti-homeless spikes, noise pollution and other hostile measures is a sad indictment of how we treat the most vulnerable people in our society. Rough sleeping is devastating enough without homeless people having to endure such hostility from their surroundings.

We can all be guilty of adopting an out of sight, out of mind attitude when it comes to homelessness. Instead we need to acknowledge that it is rising and that we need to work together to end it. Councils, developers, businesses and other proponents of hostile architecture need to think again about the obvious harm these insidious measures are causing. People who are forced to sleep rough need access to the appropriate help, not to be regarded as a problem to be swept under the carpet...³⁶

6. Further information

The following Commons Library briefing papers may be of interest:

[Rough sleeping \(England\)](#) (SN02007) provides background information on the problem of rough sleeping and outlines Government policy on this issue.

[Rough sleepers: access to services and support \(England\)](#) (CBP07698) provides an overview of the support and services - including accommodation, health, welfare, training, employment and voter registration - available for rough sleepers in England, and the challenges rough sleepers can face in accessing them.

[Tackling anti-social behaviour](#) (CBP07270) explains what anti-social behaviour is and how local public services in England and Wales tackle it.

[A short guide to anti-social behaviour complaints](#) (CBP09125) provides information to assist MPs and their staff in dealing with casework involving anti-social behaviour.

³⁵ Crisis, [An examination of the scale and impact of enforcement interventions on street homeless people in England and Wales](#), Sanders and F. Albanese, April 2017, p20, para 2.3

³⁶ ['New research from Crisis uncovers dehumanising effects of defensive architecture'](#), *Crisis*, 12 December 2016