

WRITTEN EVIDENCE FROM CRISIS (CJB0012)

Executive Summary

1. Crisis is the national charity for people facing homelessness. We know that homelessness is not inevitable, and we know that together, we can end it. Crisis is dedicated to ending homelessness by delivering life-changing services and campaigning for change. Every year we work directly with thousands of people experiencing homelessness, to help them rebuild their lives and leave homelessness behind for good.
2. For years, Crisis has led a campaign alongside partners to scrap the Vagrancy Act of 1824, with politicians from all parties, people facing homelessness, homelessness and housing organisations, 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of the Vagrancy Act via an amendment to the Police, Crime, Sentencing and Courts Bill in a landmark rejection of the outdated laws that criminalises sleeping rough. However, no commencement date was included so the Vagrancy Act technically remains in force.
3. Replacement legislation for the Vagrancy Act is now being brought forward in the Criminal Justice Bill. Crisis is most concerned with the provisions in the Bill that are related to this replacement legislation, namely measures on nuisance rough sleeping and nuisance begging and as such this submission focuses exclusively on these elements of the Bill.
4. We do not consider that replacement legislation for the draconian Vagrancy Act is required. Through our campaign, we received extensive legal advice on the existing legislation that is available to enforce against genuinely problematic issues such as begging linked to organised crime.
5. We note too, that this legislation will also apply in Wales and the Welsh Government has previously stipulated it does not support the introduction of replacement Vagrancy Act legislation which could undermine the work being done to end homelessness in Wales. In January, the Welsh Government commented directly on the Westminster proposals in a [Legislative Consent Memorandum](#).¹ A Statement of Opinion was tabled by the Chair of the Housing Cross Party group, Mabon ap Gwynfor, expressing clear disapproval of the Criminal Justice Bill's approach to rough sleeping and the Senedd's Legislation, Justice and Constitution Committee has written to the Home Secretary outlining grave concerns of the sector.
6. Last year, the Westminster Government consulted on replacement legislation regarding begging, but there was no mention of rough sleeping. Despite little evidence of support from the consultation on replacement legislation, and no

¹ [LEGISLATIVE CONSENT MEMORANDUM - CRIMINAL JUSTICE BILL \(senedd.wales\)](#)

consultation on the rough sleeping element, the Government has introduced replacement legislation via the Criminal Justice Bill.

- 7. These replacement measures re-introduce the criminalisation of homelessness, including moving people on, imprisoning them and fining them up to £2,500, and many of the provisions go even further than the Vagrancy Act. They will result in worse criminalisation of people experiencing rough sleeping.**
8. This not only reneges on the Government's repeal of the Vagrancy Act, but will breakdown trust in services and push people further into destitution and exploitation, undermining Government's own efforts to end rough sleeping.
9. With regards to Human Rights considerations, the Government has acknowledged that the provisions do potentially interfere with Article 8 rights, principally right to respect for private life, however we do not accept that the justifications given for that interference are sufficient.
10. We recommend that the nuisance rough sleeping and nuisance begging provisions be removed from the Bill entirely.
11. We agree that communities have a right to feel safe. Any instance of issues such as distress, intimidation, abuse and issues with damage or disruption should be dealt with in the appropriate way.
12. However, there fails to be a rationale as to why these behaviours need to be linked to the acts of sleeping rough or begging. Behaviours causing the issues described can be addressed with existing legislation and as such we do not consider the expansion of powers proportionate.
13. When working with police forces and local authorities on repeal of the Vagrancy Act, we were advised that it would be helpful for the Government to update the guidance related to current primary legislation, including provisions made in the 2014 Anti-social Behaviour, Crime and Policing Act to address harmful behaviour. We recommend Government should seek to amend guidance for existing powers to address any gaps identified, such as being able to intervene in cases of severe distress or chronic self-neglect. Changes to guidance could also ensure clear safeguards for homelessness and clarity about the range of enforcement measures and support tools available to the police. We recommend an amendment to achieve this updating of guidance through the Criminal Justice Bill.
14. Rough sleeping is rising in England and many people have no other option but to sleep rough. Many councils across the country do not have enough provision of emergency accommodation or support to meet current need so bringing in punitive measures aimed at people rough sleeping at a time where there is not sufficient short-term accommodation or long-term homes will only exacerbate not solve the problem. We urge Government to focus on proven, evidence-based interventions that end rough sleeping such as providing safe, settled and genuinely affordable

homes with wraparound specialist support services, including through the national roll out of Housing First for people with multiple and complex support needs.

The definition of “Nuisance Rough Sleeping”

15. The concept on “nuisance rough sleeping” has not been raised in all of our years in campaigning against the Vagrancy Act. Only 26% of respondents to Governments internal review of the Vagrancy Act thought legislative changes are needed for rough sleeping and only 25% of respondents to the public consultation on replacement legislation were in favour of introducing new offences in relation to rough sleeping.² This is not sufficient support for this legislation.
16. The new definition of ‘nuisance rough sleeping’ that this Bill introduces is extremely broad and risks people being criminalised simply for how they look, or their behaviour appears.
17. There is no requirement in the Bill as currently drafted for people to have either slept rough or engaged in nuisance behaviour for them to fall foul of the legislation. Clause 61 (2) states that the ‘nuisance rough sleeping’ condition can be met if a person is ‘sleeping rough, **or is intending to sleep rough in a place (or gives the appearance that [the person] is sleeping rough, or intending to sleep rough, in a place).** The enforcement of a nuisance rough sleeping notice (see page 4 of this submission) can be met if a nuisance rough sleeping condition is **‘likely to be met’**.
18. It is impossible to know how people could appear to sleep rough except from their appearance. People who sleep rough are already often subject to stigmatisation and the legislation risks exacerbating this.
19. This is particularly concerning when statistics show that the most common support need amongst people sleeping rough is mental health, and often people who are in need of the most help, and are most likely to sleep rough for prolonged periods of time, have multiple support needs such as mental and physical health and addiction. Robust data on people sleeping rough in London between July to September 2023 shows 49% of people sleeping rough had mental health support needs combined with other support needs. Under this legislation, appearance and behaviour related to genuinely needing support will instead risk a response of enforcement.
20. The broad definition of ‘nuisance’ also captures activity that is extremely subjective and in some cases the language used is dehumanising. Clause 61 (4) defines ‘nuisance’ in relation to rough sleeping and includes ‘causes or does something capable of causing damage, disruption, harassment, or distress’. Clause 61 (5) further defines this as including ‘excessive smells’, and displaying signs or writing that can be considered ‘insulting’. We strongly disagree with these being suitable measures that can be used to define ‘nuisance’ behaviour.

² [Government response to the consultation on replacement legislation for the Vagrancy Act - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/replacement-legislation-for-the-vagrancy-act)

21. We are further concerned that sleeping in doorways and other forms of shelter are deemed 'nuisance' behaviour under this legislation if they are considered 'obstructing' entryways. 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.³ We strongly disagree that the response to seeking some small amount of shelter when faced with the dangers of sleeping rough should be considered 'nuisance' behaviour and are concerned this will risk lives as the threat of moving people on, imprisonment and steep fines can lead to people forced into exploitation and even less engagement with services.

The definition of "Nuisance Begging"

22. We recognise that some forms of begging can be harmful, including aggressive or anti-social begging, and begging which involves organised crime. This can include harassment, coercion and fraud. We acknowledge that these concerns have led to existing legislation to tackle these harmful forms of begging.
23. However, the wide scope of the legislation would target anyone who is begging, disconnected from any real harm. This means that the legislation could target people for passive begging and for their homelessness. 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. Research into 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%).
24. In the Government's Human Rights memorandum, part of the justification for interference with Article 8 rights is that 'systems are in place to materially alleviate any need to beg', such as welfare support and charitable or familial support. Through our frontline services, we know people are forced into homelessness due to the inadequacy of the welfare system, for example delays in Universal Credit payments, the recent freeze on Local Housing Allowance and the level of the benefit cap meaning the cost of rents has been unaffordable, pushing people into destitution. There are also people where conditions attached to their immigration status means they have no recourse to public funds even if they are in a situation of being forced to sleep rough and have no support networks.
25. Further, the homelessness legislation in England requires certain conditions to be met in order to be eligible for homelessness assistance which include having a local connection to the area, being assessed as a priority and not being deemed as intentionally homeless. There is a myriad of reasons why people are not assessed as meeting such criteria even if they are sleeping rough. We have seen examples where someone is being successfully supported, and then has been sent to prison relating to an old criminal charge and therefore lose their accommodation, and is then
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judged to be intentionally homeless on release, so they cannot access any homelessness assistance. We therefore reject this argument.

26. The definition included in 49 (1) of the Bill states that a person engages in “nuisance begging” if they either beg in a certain location, as listed in sub-section (2), **or** beg in a way that caused, or likely to cause, harassment, alarm or distress, as further defined in subsection (3).
27. That either sub-section be engaged means an individual doesn’t need to be causing harm but can simply be found in one of the many listed locations included, which covers essentially anywhere in city centres. We therefore disagree with the Government’s rationale set out in the Human Rights memorandum that the offence is proportionate and necessary as the restriction is not limited to only instances of harm.
28. This risks pushing people into more dangerous places, where people are more vulnerable to abuse or violence. Someone simply existing alongside a cap or a cup could fall foul of this definition. Indeed, people have been served with papers for begging under the Vagrancy Act, simply for sleeping rough or sitting in public, even if they aren’t asking for money, as in the case of Pudsey, a campaigner on the Vagrancy Act: *“Five of those warnings I was even asleep when they gave them to me, so how could that have been for begging? I just woke up to find it on my sleeping bag. ‘Sitting in a public place gathering money for alms,’ they called it.”*⁴
29. Dayne told Crisis about his experiences of street homelessness, which began after family breakdown when he was 15, after which he struggled to navigate the benefits system alone: “I didn’t ever ask people for money. I was young and I didn’t have the confidence. I did sit in heavy traffic areas where people might give you something. I wouldn’t have survived without people’s generosity – I’d have died many times over.” Criminalising passive begging like this means punishing people like Dayne, who had been let down by the systems that should have supported him when things were hard: his school, social services, and the welfare system.
30. 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.
31. People who are homeless and supporting one another by sleeping in a common place for safety, and offering camaraderie and friendship, may give advice to one another about begging or pool any money for purposes of survival. They might also recommend particular locations for high traffic for begging, or co-ordinate spreading out from one another in order to avoid targeting the same people, or to ensure that

⁴ Pudsey's story. 'People need help and housing, not being called a criminal.' <https://www.crisis.org.uk/get-involved/real-life-homeless-stories/bulletins/pudseys-story/>

they are in safe locations. The broad legislative drafting of clause 50 on arranging or facilitating begging for gain risks criminalising any form of organisation or mutual support among people for sleeping rough.

32. We are also concerned that the potential for the wide use of enforcement against 'nuisance' begging, without harm to others being required to proceed against someone, can easily be exploited in damaging ways, and is especially vulnerable to use in a racialised way.
33. Internationally, these types of measures have largely been brought in to target migrants and Roma/traveller communities. This has also made them legally vulnerable. In *Lăcătuș v. Switzerland*, the European Court on Human Rights (ECtHR) ruled that the Swiss ban on begging was violating the right to respect for private and family life. The Court based its argumentation on the vulnerability of the applicant, a young Roma woman. The ruling recognised that without a job, and without access to social security, this was the remaining alternative for an income.
34. *"The Court observed that the applicant, who was illiterate and came from an extremely poor family, had no work and was not in receipt of social benefits. Begging constituted a means of survival for her. Being in a clearly vulnerable situation, the applicant had had the right, inherent in human dignity, to be able to convey her plight and attempt to meet her basic needs by begging. "The Court considered that the penalty imposed on the applicant had not been proportionate either to the aim of combating organised crime or to the aim of protecting the rights of passers-by, residents and shopkeepers. The Court did not subscribe to the Federal Court's argument that less restrictive measures would not have achieved a comparable result. In the Court's view, the penalty imposed had infringed the applicant's human dignity and impaired the very essence of the rights protected by Article 8 of the Convention, and the State had thus overstepped its margin of appreciation in the present case."*
35. This is also applicable in the UK, where many non-UK nationals have no recourse to public funds, meaning that they are left without income if something happens that prevents them from working. Criminalisation of begging would disproportionately criminalise non-UK nationals.
36. Rather than implementing new, wide-ranging legislation, government should consider how rolling out good practice and amending existing guidance could support people in an equitable and proportionate way.

Nuisance Rough Sleeping and Nuisance Begging Directions

37. These powers contained within the Bill, in respect of both nuisance rough sleeping and nuisance begging, re-introduce the power from the Vagrancy Act for people to be moved on if they appear to sleep rough or intending to sleep rough. Under this legislation, if people do not comply with being moved on and not returning for 72 hours, they can be imprisoned or fined up to £2,500.
38. We know that fining and criminalising people sleeping rough does nothing to help them. People who have experienced criminalisation under the Vagrancy Act have told us how they felt dehumanised and targeted simply because they existed. They also told us how they no longer engaged with the police and other services because they weren't listened to and felt harassed, as the first response to them was to move them on or threaten enforcement.
39. The legislation also does not provide a mechanism by which an individual can appeal against these directions if, for example, a judgement has been incorrectly made as a result of the broad definitions.
40. It is our view that this element of the legislation in particular directly re-introduces the powers under the Vagrancy Act, reneging on the Government's repeal of the Act.

Nuisance Rough Sleeping and Nuisance Begging Prevention Notices and Orders

41. Prevention notices place stringent requirements on an individual that can compel them to not engage in certain behaviour, and to positively engage in support services, for up to 3 years. These notices can be made by either local authorities or police with the only test being that they are "satisfied on reasonable grounds" that a nuisance rough sleeping condition has been met or that a person has engaged or is likely to engage in nuisance begging.
42. Under Chapter 1 of the ASBCPA 2014, Police and local authorities can impose Community Protection Notices (CPNs) on an individual if satisfied that the conduct of an individual is having a persistent or continuing detrimental effect on the quality of life of those in the locality, and that conduct is unreasonable. CPNs can already include requirements to stop doing specified things, do specified things and take reasonable steps to achieve specified results. This is already an extremely broad power addressing a potentially wide range of anti-social behaviour, which are already frequently used to target rough sleeping and begging.
43. We note that the drafting of direction, orders and notices has been based on CPNs. The difference that the drafting in the Criminal Justice Bill introduces is that it is specifically targeted at people in the vulnerable situations of rough sleeping and/or begging.
44. We are concerned that non-experts in homelessness and effective support, for example police, may issue such restrictive notices. This risks notices being unlawfully

made or entirely unreasonable requirements being placed 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 housing and may still sleeping on the streets. Where CPNs are applied to people who are rough sleeping, they are often breached because the requirements are unreasonable for the individual, for example by requiring them to no longer return to a place that they may feel safest.

45. Whilst clause 54 provides for an appeal, it must be made within 21 days from the date when the notice is given and after then an individual will be subject to the notice, even if unlawfully made. 21 days is not sufficient time in which to seek 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 CPN appeals.
46. 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.
47. Prevention Orders made by the magistrate's court may subject an individual to such stringent requirements for up to 5 years.
48. 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. However, consultation respondents were only in favour of enforcement when all other routes have been exhausted. The Bill does not allow for such an escalation of approach and instead makes the most stringent options available from the outset, on top of existing powers that can address genuine antisocial, distressing or alarming behaviour.

Existing legislation that supersedes the Vagrancy Act

49. The Vagrancy Act 1824 has already been superseded by more modern legislation in a number of ways (see table below). Public bodies already have a range of powers under the Anti-Social Behaviour, Crime and Policing (ASBCP) Act (2014) to tackle anti-social behaviour in ways that do not necessarily require criminalisation as a first response, including Injunctions to Prevent Nuisance or Annoyance (IPNAs), Community Protection Notices (CPNs) and Public Space Protection Orders (PSPOs).

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)

50. In particular, Community Protection Notices under Chapter 1 of the ASBCPA 2014 allow for an authorised person (police officer or local authority / local authority authorised person) to issue a community protection notice (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”.
51. Section 35 dispersal orders, under the Antisocial Behaviour Crime and Policing Act 2014, already provide police powers to move someone on from a public for 48 hours place if that person has, or is likely to cause harassment, alarm or distress.
52. We are concerned that where the powers introduced by this legislation go wider than existing powers contained in the above legislation, they are also targeted at a much narrower specific group of individuals which represents a disproportionate expansion of powers and does not uphold the principle of proportionality in interfering with Article 8 rights. For example, unlike Section 35 dispersal orders, there is no requirement under a nuisance rough sleeping direction for there to be pre-existing authorisation. Nor is the power limited in time (the pre-existing authorisation under s.34 is limited to 24 hours). It will be available at any time.
53. This expansion of powers also impacts people with limited leave to remain. It is possible that someone convicted under the provisions who has a limited leave to remain which has to be renewed, may have future applications for immigration status refused under Part 9 of the Immigration Rules on the basis of ‘suitability’. This is of great concern given the rising numbers of refugees, who have been granted asylum in the UK, being forced to sleep rough as a result of recent practice changes to the move-on period from asylum accommodation.⁵ This is particularly important to consider in the context of people trafficking and modern slavery, where people who have undergone an extremely traumatic experience may end up seeking refuge in the UK while fleeing from dangerous situations.

Why enforcement is not the right approach to ending rough sleeping

⁵ The British Red Cross have projected 50,000 refugees could be made homeless by the end of the year as a result of these changes - [Refugees could become homeless | British Red Cross](#).

54. The 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 to be made to people sleeping rough or begging, and we further note in the impact assessment that no additional funding for support services will accompany this Bill.
55. The legislation instead enables enforcement as the first response to rough sleeping and begging, akin to the Vagrancy Act. We know from consultation with people sleeping rough and who have been criminalised under the Vagrancy Act, that enforcement has only been detrimental. Enforcement is far more likely to physically displace people to less safe areas and prevent them from accessing vital services that support them to move away from the streets, entrenching the issue in a way that makes it harder to solve. It can also push people into other riskier behaviour to secure an income such as shoplifting or street-based sex work.
56. 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.⁶
57. The proposed criminal offences created by this Bill of imprisonment for up to one month and a fine of £2,500, in respect of Directions, Prevention Notices, Prevention Orders, Nuisance Begging and Facilitating begging for gain, are not proportionate nor will they be effective and could result in increased destitution or risk of harm amongst a specific group
58. Moreover, there was general consensus amongst respondents to the Government consultation that fines are not an effective enforcement mechanism due to the financial circumstances of people experiencing rough sleeping.
59. A few years ago, Shaun, a Vagrancy Act campaigner, wrote about his experience of enforcement and how little he was able to manage it:⁷ *“About eight months ago, I was begging, and the police kept coming over to me and asking me to move. They didn’t tell me anywhere to go and get help. They just moved you. I got moved a couple of times and then they issued me a letter with a court date. I missed the first date because I was still on the streets and not thinking straight. Then I was asleep in a doorway and they came and arrested me at two o’clock in the morning. I was in court the next day.”*
60. The answer to every case of homelessness is always about housing and adequate support, but the journey to get there may be long and complex. It may take months or even years of assertive but trauma-informed outreach. There may be failures along the way, and people do not follow neat patterns of progress, and so local

⁷ [Shaun's story | Crisis UK | Together we will end homelessness](#)

agencies need to acknowledge and plan for these complex challenges. The powers set out in the Bill do not account for the individual and non-linear paths out of rough sleeping.

61. There is also evidence that people feel guilt and shame about begging, and they do so because they have not been offered the right kind of support.⁸ There are many reasons that support might break down, including health or mental health barriers, poorly designed or unsafe services, including hostels or other temporary accommodation where someone is exposed to violence or substance misuse. Enforced engagement with support does not rectify these issues nor increase the chance of success.

Recommended Approach

62. Crisis is urging the Government to remove the provisions on nuisance rough sleeping and nuisance begging from the Criminal Justice Bill, intended to replace the Vagrancy Act. Government should accept NC10, NC11 and amendments 2-27.
63. 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.
64. When working with police forces and local authorities on repeal of the Vagrancy Act, we were advised that it would be helpful for the Government to update the guidance related to current primary legislation, including provisions made in the 2014 Anti-social Behaviour, Crime and Policing Act to address harmful behaviour. Crisis urges the Government to explore this option to tackle specific harmful activities instead of introducing these measures through the Criminal Justice Bill, and work with stakeholders and people with lived experience to update this guidance or amend the existing law.
65. NC11 will allow the UK Government to update guidance so it is clear what existing enforcement powers can to 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.
66. 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.

⁸ Fulfilling Lives (2017), Exploring begging in Newcastle City Centre: Consultation <http://www.fulfillinglivesng.org.uk/wp-content/uploads/2018/01/Exploring-begging-in-Newcastle-EBE-2017.pdf>

67. Crisis and the National Police Chiefs' Council have together produced a practical guide on helping people end their rough sleeping without enforcement. The guide, which has been shared with all 43 police forces in England and Wales, highlights successful collaborations between police forces, local authorities and third sector organisations to tackle the issue. [**From enforcement to ending homelessness**](#) shares practical steps taken by Durham Constabulary, Northampton Police, Devon & Cornwall Police, Police Scotland and Dyfed-Powys Police amongst others. The guides reflect on proven approaches and demonstrate how increased partnership working with public services and the voluntary sector can help people move away from sleeping rough without requiring additional enforcement powers.
68. In addition, we urge Government to focus on proven, 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 for people with multiple and complex support needs.

(May 2024)