

Criminal Justice Bill: Second Reading

Briefing for MPs

November 2023



Crisis operates frontline services across Britain to support thousands of people to leave homelessness behind, as well as campaigning for the changes needed to make homelessness history.

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of the Vagrancy Act via an amendment to the Police, Crime, Sentencing and Courts Bill in a landmark rejection of the outdated laws that criminalises sleeping rough.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 in this amendment so the Vagrancy Act technically remains in force. The Government are now introducing replacement legislation via the Criminal Justice Bill.

Crisis welcomes the clarity from the Westminster Government on providing support for people sleeping rough and we warmly welcome the announcement in the Autumn Statement last week to uplift Local Housing Allowance rates to cover the 30th percentile rent. This will significantly help people currently trapped in homelessness, including rough sleeping, find a home and provide a lifeline to others anxious about rent arrears and homelessness.

However, the replacement Vagrancy Act legislation as drafted in the Criminal Justice Bill does not stand up to Government's aim of providing people with support and only resorting to enforcement where necessary. Instead, the Bill introduces a wide definition of 'nuisance rough sleeping' that we are concerned will criminalise people sleeping rough by the back door and will in practice result in worse criminalisation of people sleeping rough than under the draconian Vagrancy Act. This will severely undermine any effort from people sleeping rough to engage in support services and break down trust, pushing people further into destitution and potential exploitation as the Vagrancy Act did.

We ask that instead of allowing the Vagrancy Act of 1824 to reach its 200th anniversary in 2024 and introducing these replacement measures that will criminalise people sleeping rough and facing homelessness, the Westminster Government:

- **Confirm that they will enact the repeal of the 1824 Vagrancy Act immediately and remove the parts of the Criminal Justice Bill relating to nuisance rough sleeping.**
- **Instead invest in proven interventions that help end rough sleeping, like Housing First, which is shown to work to support people with multiple and complex support needs out of rough sleeping and other forms of homelessness for good.** Our research suggests that while there are currently around 2,000 Housing First places, more than 16,500 are needed across England.
- **Reverse the recent changes to the issuing of 'Notices to Quit' for asylum seekers, which have meant refugees who have been granted settled status being evicted from accommodation within a matter of 7 days, forcing many to sleep rough.**

How the Criminal Justice Bill's definition of 'nuisance rough sleeping' will result in people being criminalised for sleeping rough

What does the Bill say about nuisance rough sleeping?

In the Criminal Justice Bill, 'nuisance rough sleeping' is a condition that is considered met when someone is sleeping rough AND engaged in behaviour defined in the legislation as **causing or is capable of causing** damage, disruption, harassment or distress; creates a health and safety or security risk. This can include sleeping in doorways, or in tents, and using 'insulting' words. Enforcement action also applies to individual or groups, who are **either sleeping rough, give the appearance of sleeping rough or intending to sleep rough.**

The definition and enforcement of nuisance rough sleeping in the Bill means that **anyone who is judged to look as though they are going to sleep rough and is 'capable' of causing a nuisance can fall foul of the legislation.** While the Government has said the legislation aims to tackle nuisance behaviour, as currently drafted the Bill goes much

wider. People who sleep rough are often subject to stigmatisation. People who have experienced rough sleeping have told us that they have been subject to abuse, violence and hatred just for the fact they are homeless. One person said to us:

“I think what it is, it gets to the point where the individual is completely dehumanised, because it’s no longer a person, it’s about a type, so homelessness, well they’re just homeless or this that and the other, it’s literally dehumanising the individual..”.

The Bill’s wide definition of nuisance rough sleeping risks people being criminalised simply for how they look or their behaviour appears. 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. 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. Therefore appearance and behaviour related to genuinely needing support will instead risk a response of enforcement.

Further, we are concerned that sleeping in doorways and other forms of shelter are deemed ‘nuisance’ behaviour under this legislation. 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. 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 new enforcement measures the Criminal Justice Bill introduce in relation to rough sleeping

What does the Bill introduce to tackle ‘nuisance’ rough sleeping?

The Bill introduces three punitive measures for people who are deemed to sleep rough and cause nuisance behaviour, or deemed to look like they might:

- **Nuisance rough sleeping direction:** this can be issued to move someone on from an area and require they do not return in 72 hours. If they do not comply, they can be imprisoned for up to one month or fined up to £2,500. There is no way someone can appeal against this direction.
- **Homelessness prevention notice:** this sets out what someone can’t do and also what they engage with, for up to three years.
- **Nuisance rough sleeping order:** this sets out what someone can’t do and also what they can engage with, for up to five years. Where someone is required to engage in services, this can only be done through a court order and therefore risks increasing a backlog in the courts if applied.

Currently in the Bill, these measures can be used in any particular order. This means that someone who is judged to look like they are sleeping rough and capable of causing a nuisance can be ‘moved on’ or risk being fined or imprisoned, or be subject to conditions which can last between 3 to 5 years. We are therefore concerned that people who require specialist support services, and most importantly of all, a safe home, are being set up to fail particularly as it is unclear what support will be offered and how enforcement will be applied by the police and local authorities.

We know from consultation with people sleeping rough and who have been criminalised under the Vagrancy Act, that enforcement has only been detrimental to their lives. A few years ago, Shaun, a Vagrancy Act campaigner, wrote about his experience of enforcement and how little he was able to manage it:¹

“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

¹ Shaun's story. 'The fine comes out of my benefits. That just makes it even harder.' <https://www.crisis.org.uk/get-involved/real-life-homeless-stories/bulletins/shauns-story/>

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."

The replacement legislation in the Criminal Justice Bill introduces even more punitive measures, in addition to re-introducing the power for people to be simply moved on, as under the Vagrancy Act, if they appear they will sleep rough and judged 'capable' of causing a nuisance.

Crisis is therefore calling for the replacement Vagrancy Act measures in the Criminal Justice Bill to be removed altogether, as the current drafting risks criminalising anyone sleeping rough.

What genuine support can be offered instead to help people out of rough sleeping

The Westminster Government has said it intends to offer support to people sleeping rough, and the replacement Vagrancy Act measures in the Criminal Justice Bill will only be used where people refuse help and engage in nuisance behaviour. However, as drafted, **there is currently nothing in the Bill that requires an offer of support to be made. There is no way for people sleeping rough to know that they could be helped instead of risk enforcement action. Further, the impact assessment for the legislation has stated that there will be no further funding in relation to this Bill.**

We know from supporting thousands of people who are homeless or at risk each year that too often people facing or experiencing the worst forms of homelessness are also unable to access the support services they need. Outreach and homelessness services are under strain having suffered from increased costs of delivering provision during the cost of living crisis, and after years of successive cuts to budgets and capacity. Research by St Mungo's and Homeless Link in 2020 found that £1billion less is being spent per year on homelessness services compared to 2007-08.

This is particularly urgent given the ongoing cost of living crisis and growing cost of private rents which pushes an increasing number of people to the brink of insurmountable financial difficulty. Robust data from London shows that 69% of people newly sleeping rough in the capital had a long-term settled home prior to rough sleeping, most commonly privately renting. While we warmly welcome the recent announcement of investment in Local Housing Allowance rates, we are also concerned that the Bill does not recognise the need for stable, secure housing as a response to rough sleeping. While the investment in Local Housing Allowance rates will make a difference, it will not in and of itself end all rough sleeping, and there is still a need to ensure an offer of housing and support can be made to genuinely support people sleeping rough. As a start, we therefore urge the Government to:

- **Commit to scaling up Housing First in England and provide it for all that need it**

For people with multiple and complex needs, for example, for those with a history of rough sleeping for many years and surviving domestic abuse, existing support services may fall short of what is needed to tackle their homelessness. Instead of a punitive approach, the Government should focus on solutions which prevent homelessness and rough sleeping in the first place, and invest in proven support interventions like Housing First. Housing First is a proven sustainable route out of homelessness that helps people with the most serious needs stay off the streets by giving them safe, secure housing combined with wraparound services. It has become a central response to ending homelessness across the world, including in Finland, the United States, and closer to home in Scotland and Wales. It has been piloted in England with success, but is not yet at the scale that is needed.

- **Reverse the recent changes to the issuing of 'Notices to Quit' for asylum seekers**

A recent Home Office change to the issuing of a 'Notice to Quit' for asylum seekers is continuing to force many refugees into rough sleeping and homelessness, by reducing the number of days they are given notice to leave their Home Office accommodation from 28 to only 7. This additionally pushes refugees away from support and protection and many people are forced to sleep rough. This change is also placing additional pressure on already under strain local authorities to find accommodation and the voluntary sector's housing, homelessness and support services.

Crisis strongly urges the Government to scrap these wide-ranging and punitive new proposals which risk harming thousands of people who are forced to sleep rough this winter. These proposals do nothing to solve homelessness but instead gravely undermine efforts to end rough sleeping and homelessness by pushing people away from support they desperately need. We call on the Government to instead focus on providing support and investing in the proven policy solutions that will tackle rough sleeping and homelessness for good.