



Policy briefing

Rough Sleeping Immigration Rules: risks and mitigations for local homelessness systems

In this briefing, we outline what is known about the new rough sleeping Immigration Rules, their worrying implications and make recommendations for homelessness services, local and national government.

[Changes to the Immigration Rules](#) published on 22 October 2020 made rough sleeping grounds for refusing or cancelling a person's leave to remain in the UK and [new guidance published](#) on 20 April 2021 clarified how they should be applied. The Rules were developed without consultation with the homelessness sector.

Homeless Link, along with the wider homelessness sector, has [expressed grave concerns](#) about the impact of the new Rules on homelessness services and people that need their support. We are calling for the Rules to be scrapped. Until then, [we are campaigning](#) for their impact to be mitigated at the local level.

What are the Rules?

The Rules give Home Office officials new powers to refuse or cancel a person's leave to remain in the UK (i.e. their visa), a decision which may lead to removal from the country. These powers can be used if a person has been rough sleeping **and** has refused **repeated** offers of **suitable** support **and** engaged in **persistent** anti-social behaviour.

The guidance gives examples of "support", which include help to apply for a voluntary return and support offered by non-commissioned services. Support offered should be "commensurate with need" and over "a period of at least 3 months". Decision-makers should also consider how vulnerabilities, like mental or physical health issues, have prevented engagement with support in making their assessment.

Importantly, where a person has not been offered support or exhausted their support options because of restrictions to their eligibility, for example if they have No Recourse to Public Funds (NRPF), the Guidance clarifies that the Rule should not be applied (pages 6-7).

These decisions are carried out by Immigration Enforcement's National Command and Control Unit, following referrals from either the police, local authorities or immigration enforcement officers themselves. If the Home Office receive a referral from police and the anti-social behaviour threshold is reached, they will make enquiries to the Local Authority about the support offered to the individual.

The guidance also refers to the Home Office's Rough Sleeping Support Service (RSSS) as a route to support people looking to resolve their immigration status. However, it should be noted that there has been [widespread concerns about use of the RSSS](#) for this purpose, and poor transparency about how data shared with it is used. It is important that individuals have

access to independent immigration advice to resolve their immigration status and ensure that their information is shared with truly informed consent.

Who do they affect?

The rules will affect a wide range of people, including people who have the right to live here and victims of modern slavery. They may affect people on work, visitor or student visas; UK ancestry visas; EU citizens who have arrived after 31 December 2020 and; some victims of modern slavery.

We are particularly concerned with the impact on **victims of modern slavery**. Many victims of modern slavery have complex immigration issues through no fault of their own and end up on the streets. The Rules will make it easier for traffickers to exploit them and more difficult for them to reach out for help, for fear that they will not be viewed as victims of crime, but as criminals.

The Rules do not apply to: applicants or people eligible to apply to the EUSS; most refugees and asylum seekers; anyone granted leave under another protection route; people with indefinite leave to remain; and former members of the UK Armed Forces and their family members.

However, despite these exclusions we know that they will have **knock-on effects** on wider groups of non-UK nationals. Information about the nuanced categories of those affected is unlikely to be understood by many on the ground, and uncertainty and distrust in services spread quickly. We learned this lesson in 2017 when the Home Office designated rough sleeping as an abuse of EU free movement rights. This was [ruled illegal](#) by the High Court later that year, but frontline workers have told us how the fear created by this policy continued for a long time, and affected their work not just with EU nationals, but all migrant groups.

Impact

While the guidance has clarified more limited circumstances in which the Rules should be applied, it has not allayed our concerns.

Nobody should be punished for experiencing homelessness and trust in homelessness services must be preserved. This policy fundamentally undermines these principles and will hamper efforts to end rough sleeping. By sowing fear and distrust, they directly undermine the work of the homelessness sector when we are still managing the fall-out of a global pandemic.

The limitations placed on the application of the Rules remain far too broad and open to interpretation. It is unlikely to be straightforward to assess whether an appropriate or adequate support offer was made in the first place, as well as the interrelated complex reasons - often related to past discrimination, trauma and mental health issues - that many people do not engage with support. At its core, the policy goes against decades of learning on the trauma-informed approaches that work to support people who are sleeping rough, especially those who struggle to engage with services.

Recommendations

Local government

Participation by Local Authorities with this policy remains entirely optional, however in some circumstances it may be helpful to the individual concerned to provide information that shows the support offer threshold has not been reached. Regardless, in order to mitigate harm to individuals and services in their area, Local Authorities should **never make proactive referrals under the new Immigration Rules** and should communicate this commitment clearly.

More broadly, Local Authorities **should develop clear, well-communicated policies to govern their data-sharing** with the Home Office - including services like the RSSS - that prioritise service user confidentiality and informed consent with the support of independent immigration advice.

Homelessness services

The guidance offers little clarity about how and if commissioned and non-commissioned homelessness services will be expected to participate under the Rules. Like Local Authorities, they may be offered opportunities to intervene in Home Office decisions in favour of their clients. With this in mind, services should **exercise caution** and seek to prioritise the wellbeing and wishes of their clients at all times. They should use arguments from this briefing to **proactively engage with commissioners** to discuss local approaches and ways to mitigate harm.

More broadly, homelessness services **should develop clear, well-communicated policies to govern their data-sharing** with the Home Office, including services like the RSSS. They should never share clients' personal information with the Home Office without the client's fully informed consent, unless they are legally obliged to do so.

National government

We need a joined-up approach across Government to achieve our goal of ending rough sleeping by 2024 that is not compromised by immigration enforcement. We urge Government to continue the successful approach taken with Everyone In, to prioritise public health and support-led, trauma-informed measures.

Government should scrap these damaging new Rules immediately.

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