



BRIEFING PAPER

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Rough Sleepers and Anti-Social Behaviour (England)

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The number of people sleeping rough in England has more than doubled from 1,768 in 2010 to 4,751 in 2017.¹ 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, voluntary sector organisations have voiced concerns that an increase in the use of these powers is criminalising homelessness and not addressing the root cause of the problem.

1. Powers to tackle anti-social behaviour

1.1 Criminal law

Begging is an offence under section 3 of the *Vagrancy Act 1824* (as amended). It is a recordable offence. The maximum sentence is a fine at level 3 on the standard scale (currently £1000). Other provisions also criminalise begging 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.

In response to a Freedom of Information request, the Crown Prosecution Service in July 2016 released figures showing the number of prosecutions under the *Vagrancy Act 1824* in each of the last 10 years.³ The figures in **Table 1** overleaf show the number of prosecutions under section 3 of the *Vagrancy Act 1824* increased from 1510 in 2006-07 to 2365 in 2015-16.

¹ DCLG, [Rough Sleeping in England: Autumn 2017](#), 25 January 2018

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

³ This response to the Freedom of Information request is published online at https://www.whatdotheyknow.com/request/being_an_incorrigible_rogue [accessed 27/02/18]

Table 1: The number of offences charged and reaching a first hearing at Magistrates' court under section 3 of the Vagrancy Act 1824

2006-2007	2007-2008	2008-2009	2009-2010	2010-2011
1510	1465	1763	1825	1889
2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
1573	1626	2771	3071	2365

Source: Crown Prosecution Service, Freedom of Information Release, 6 July 2016

1.2 Civil measures

Following its introduction by the *Crime and Disorder Act 1998*, the Anti-Social Behaviour Order (ASBO) was used extensively by local authorities attempting to address problems associated with begging.

The [Anti-Social Behaviour, Crime and Policing Act 2014](#) replaced the ASBO, and other disparate powers developed to tackle a range of anti-social behaviour, with six new and much broader powers designed to be faster and more efficient to use. They include the following powers which may be used to deter anti-social behaviour:

Civil injunctions

Various agencies⁴ may apply for the Injunction to Prevent Nuisance and Annoyance (IPNA) to tackle people repetitively engaging in low level anti-social behaviour. Unlike an ASBO which was entirely prohibitive, an IPNA can both prohibit the individual from engaging in certain behaviour and/or impose requirements to engage in a particular activity in order 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 not a criminal offence and is treated as civil contempt of court. 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, and is given alongside any sentence or conditional discharge. The anti-social behaviour which the offender has been involved in need not be part of the offence for which they were convicted. The prosecution can apply to the court for a CBO to be issued

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 prohibitions. Breach of a CBO is a criminal offence and carries a maximum penalty of five years in prison and/or a fine for adults, and a two-year detention and training order if the offender is under 18.

⁴ 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 make requirements of them to take specified actions to prevent the problem from reoccurring.

Before they can issue a CPN, the police, social landlord or council must give a written warning to the person committing the unreasonable behaviour, explaining that should the behaviour continue a CPN will be issued. Failing to comply with a CPN is an offence which may result in a Fixed Penalty Notice being issued.

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 an 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 in response to begging is the February 2016 order to force beggars out of Middlesbrough city centre.⁵

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 are having a detrimental impact on the quality of life in a community. It is an 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.

1.3 Home Office guidance on anti-social behaviour powers

The Home Office published statutory guidance for frontline professionals in July 2014 to support the effective use of the new powers to tackle anti-social behaviour that were introduced through the *Anti-Social Behaviour, Crime and Policing Act 2014*. The guidance was updated in December 2017 in the light of experience since the new powers were introduced.⁶

The updated guidance 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”.⁷ The guidance makes it clear that local authorities should not use Public Spaces Protection Orders (PSPOs) to target rough sleepers:

⁵ [‘Was begging dispersal order in Middlesbrough town centre necessary?’](#), *Gazette Live*, 17 February 2016

⁶ Home Office, [Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory guidance for frontline professionals](#), updated 24 December 2017

⁷ Home Office, [Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory guidance for frontline professionals](#), updated 24 December 2017, p1

Public Spaces Protection Orders should not be used to target people based solely on the fact that someone is homeless or rough sleeping, as this in itself is unlikely to mean that such behaviour is having an unreasonably detrimental effect on the community's quality of life which justifies the restrictions imposed. Councils may receive complaints about homeless people, but they should consider whether the use of a Public Spaces Protection Order is the appropriate response. These Orders should be used only to address any specific behaviour that is causing a detrimental effect on the community's quality of life which is beyond the control of the person concerned.

Councils should therefore consider carefully the nature of any potential Public Spaces Protection Order that may impact on homeless people and rough sleepers. It is recommended that any Order defines precisely the specific activity or behaviour that is having the detrimental impact on the community. Councils should also consider measures that tackle the root causes of the behaviour, such as the provision of public toilets.

The voluntary sector welcomed the updated guidance.⁸

2. Local authority use of anti-social behaviour powers

Advocates of PSPOs, and other enforcement measures, regard them as a useful tool to address localised problems with anti-social behaviour and ensure the safe-guarding of 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 with PSPOs and not the rough sleepers themselves. The Government has asserted that the right safeguards are in place to ensure that PSPOs are used appropriately:

We do not collect national level data on the use of Public Space Protection Orders by local authorities in relation to anti-social behaviour associated with rough sleeping.

Public Space Protection Orders (PSPOs) are designed to deal with anti-social behaviour in public places where this is having a detrimental effect on the quality of life in our communities, and not to criminalise rough sleeping. It is right that local authorities, who know their area best, should have the powers they need to solve the anti-social behaviour problems they experience locally. The right safeguards are in place to ensure that PSPOs are used appropriately – councils must consult with the police and relevant community representatives before making the order and publish the draft order before it is made.⁹

However, a survey of local authorities in England and Wales by the national homelessness charity Crisis in 2016 found that 36% (29 out of 81) of respondents had specifically targeted rough sleeping with enforcement measures.¹⁰ 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 some cases the use of PSPOs by local authorities to prohibit begging and other street activities has caused controversy, forcing authorities to deny they have sought to target rough sleepers.¹¹

⁸ ['Home Office updates Public Spaces Protection Orders \(PSPO\) guidance'](#), *Homeless Link*, 17 January 2018

⁹ [PQ 52388 \[on Sleeping Rough\] 15 November 2016](#)

¹⁰ ['Rough sleepers being targeted by legal powers designed for antisocial behaviour'](#), *Crisis Press Release*, 2 April 2017

¹¹ 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; 'PSPO UPDATE: Controversial power to strip Exeter homeless of tents could be dropped from order', *Express & Echo*, 4 March 2016; ['New powers 'not targeting rough sleepers', council](#)

A letter from the Leader of the Royal Borough of Windsor and Maidenhead to the Police and Crime Commissioner of Thames Valley Police¹² urging the police to take action to address "anti-social behaviour, including aggressive begging and intimidation" in Windsor ahead of the Royal wedding in May 2018 has also focused national media attention on this issue.¹³

3. Criminalising rough sleeping?

Voluntary sector organisations have voiced concerns that the use of anti-social behaviour powers to tackle rough sleeping is criminalising homelessness and leaving vulnerable people in an even more marginalised position.¹⁴ According to Liberty, a Human Rights organisation, "PSPOs don't alleviate hardship on any level. They are blunt instruments which fast-track so-called "offenders" into the criminal justice system"¹⁵. Liberty has urged the Government to rethink these powers: "handing hefty fines to homeless people ... is obviously absurd, counterproductive and downright cruel".¹⁶

There is also a concern that enforcement activity in one area simply displaces street activity to another geographical area, and can sometimes lead to the displacement of activity (e.g. from begging into acquisitive crime).¹⁷ Moreover, it does not address the underlying causes of rough sleeping:

Mark McPherson, of Homeless Link – an umbrella charity for groups working with homeless people around England, said the use of PSPOs did little to tackle the root causes of rough sleeping.

"Those who sleep on the streets are extremely vulnerable and often do not know where to turn for help. These individuals need additional support to leave homelessness behind, and any move to criminalise sleeping rough could simply create additional problems to be overcome," he said.

"If local authorities are concerned about people sleeping on their streets we would urge them to work with local homelessness charities and authorities to connect people with the structured help they need to get off the streets for good."¹⁸

The national homelessness charity Crisis has called on councils to use enforcement measures against rough sleepers as a last resort, and to ensure that they are integrated with tailored support and accommodation. The Chief Executive of Crisis, 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.

[claims](#)', *Shoreham Herald*, 16 April 2016; and ['Windsor council drops plans to fine rough sleepers after outcry'](#), *The Guardian*, 14 February 2018

¹² [Cllr Simon Dudley letter to Anthony Stansfeld: 2 January 2018](#)

¹³ For example: ['Royal wedding: Theresa May joins Windsor begging row debate'](#), *BBC News*, 4 January 2018; ['Theresa May opposes Windsor council leader over homeless people'](#), *The Guardian*, 4 January 2018; and ['Clear beggars from streets of Windsor ahead of royal wedding, says local council leader'](#), *The Telegraph*, 4 January 2018.

¹⁴ ['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

¹⁵ ['The curious incident of the PSPOs in the night-time'](#), *Liberty*, 27 June 2016

¹⁶ ['Revealed: More than One in Ten Local Councils Are Moving to Criminalise Homelessness'](#), *Vice Magazine*, 29 February 2016

¹⁷ Joseph Rowntree Foundation, [The impact of enforcement on street users in England](#), 11 July 2007

¹⁸ ['Charities warn councils against criminalising rough sleepers'](#), *The Guardian*, 22 May 2015

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.¹⁹

4. Other deterrent measures

In addition to the criminal and civil measures outlined in Section 1 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;²⁰

'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.²¹

These measures do not incur legal penalties or sanctions, but use of such measures is also controversial.²²

The national homelessness charity 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 that:

- 73% of rough sleepers had experienced some form of enforcement in relation to their 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.
- 20% had experienced noise pollution in the previous 12 months effecting their ability to sleep and rest.

¹⁹ ['Rough sleepers being targeted by legal powers designed for antisocial behaviour'](#), Crisis Press Release, 2 April 2017

²⁰ For some photographic examples see [hostile design.org](#)

²¹ 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

²² See for example: ['Reducing heat and shedding light in debates about homelessness and 'social control'](#), Heriot Watt University blog, 7 February 2018; ['Bournemouth's 'anti-homeless' bench bars to be removed'](#), BBC News, 5 February 2018; and ['Anti-homeless spikes: 'Sleeping rough opened my eyes to the city's barbed cruelty'](#), *The Guardian*, 18 February 2015

- 21% had experienced the 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.²³

Commenting on these findings the Chief Executive of Crisis, 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...²⁴

5. 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 - that are available for rough sleepers in England, and the challenges rough sleepers can face in accessing them.

[Anti-social behaviour- new provisions](#) (SN06950) gives an overview of the powers stemming from the anti-social Behaviour Crime and Policing Act 2014.

[Constituency Casework: Anti-Social Behaviour](#) (CBP07270) provides information to assist MPs and their staff in dealing with enquiries from constituents regarding anti-social behaviour.

²³ 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, p20, para 2.3

²⁴ [New research from Crisis uncovers dehumanising effects of defensive architecture](#), Crisis, 12 December 2016