

CIH submission to the call for evidence on the Criminal Justice Bill

Summary

1. The Chartered Institute of Housing (CIH) warmly welcomed the repeal of the Vagrancy Act in 2022 via [section 81](#) of the Police, Crime, Sentencing and Courts Act. This was a landmark rejection of antiquated punitive laws that criminalise people sleeping rough.
2. However, the Vagrancy Act remains in force until section 81 of the 2022 Act is brought into force by a government [commencement order](#). The government indicated this would be actioned once replacement legislation was in force to tackle nuisance begging following a [consultation](#) on their proposals in 2022. These are now being brought forward through [clauses 38 to 64](#) of the Criminal Justice Bill (“the Bill”). Originally [section 4](#) of the Vagrancy Act 1824 (which is used against rough sleepers and still in force in England) also applied in Scotland. But this provision was [repealed in Scotland](#) without any replacement measures in 1982 by Margaret Thatcher’s administration: there have been no known adverse effects there. **CIH believes that the Vagrancy Act can be safely repealed in England without the need for replacement measures which re-introduce the criminalisation of homelessness.**
3. The Bill introduces a wide definition of ‘nuisance’. The language used around nuisance begging and rough sleeping could in practice result in worse criminalisation of people sleeping rough than under the Vagrancy Act. Such an approach will only serve to ostracise people, making them less likely to access support and push them further into destitution and potential exploitation. This is at odds with the government’s commitments to end rough sleeping. **CIH recommends that the provisions on nuisance rough sleeping and begging be removed entirely from the Bill.**
4. With homelessness numbers rising across the country, and a desperate shortage of both emergency and affordable longer-term accommodation, we urge the government to rethink the approach outlined in the Bill. The government’s commitments around ending rough sleeping over recent years have been welcome and **CIH calls on the government to continue to focus on proven interventions such as providing safe, settled affordable homes and a range of support options rather than measures which punish vulnerable people.** It is through measures of support and prevention that we will end rough sleeping.
5. We would be happy to discuss any details of our response and be involved in future work on this topic.

Detail

Nuisance rough sleeping

6. We are very concerned about the new definition of “nuisance rough sleeping” and the language in the Bill around “nuisance” in relation to it. There are significant risks that people will be criminalised for how they look or how their behaviour appears.
7. The wording of the Bill states that someone can fall under this definition if they have slept rough, “appear to have slept rough” or are “intending to sleep rough” and “are likely” to cause a nuisance. **This is stigmatising and subjective.** It is impossible to know how people could “appear to sleep rough” except from their appearance and this leaves the door open for anyone sleeping rough (or apparently “intending to”) to be criminalised based on a judgement from another individual about how they look or act.

Nuisance begging

8. CIH recognises and acknowledges that some forms of begging can be harmful, including aggressive and antisocial begging and begging which involves organised crime (including harassment, coercion and fraud). However, the wide scope of this legislation would target *anyone* who is begging and therefore could encompass and target homeless and destitute people who are passive begging. Again, the wording of “likely to cause” harm, distress or alarm is concerning as it encourages assumptions and stereotypes due to subjective decisions around what could be “likely to cause” harm, distress or alarm. In these situations, begging is a means to survival and should not constitute antisocial behaviour where it is not causing harm, distress or alarm to other people.
9. The expansion of powers is also of concern given the potential impacts on people with limited leave to remain. Someone convicted under the provisions who has leave to remain which has to be renewed may have future applications for immigration status refused under Part 9 of the Immigration Rules based on ‘suitability’. This is particularly worrying given the rising number of refugees granted asylum in the UK who are forced to sleep rough. It is also important to consider in the context of people trafficking and modern slavery.
10. When consulting to repeal the Vagrancy Act 1824, Crisis received extensive legal advice that highlighted the existing legislation that gives the police powers to deal with harmful types of begging. These include:
 - The Anti-Social Behaviour Crime and Policing Act (2014) - the impact on the wider community in its approach to criminalising harmful behaviour, threatening words and harassment.
 - Highways Act (1980) - obstructive behaviour.
 - Serious Crime Act (2007) - begging that involves crime or joint enterprise.
 - Criminal Justice and Public Order Act (1994) - to remove trespassers from private land.

- Theft Act (1968) - addresses burglary.
 - Criminal Law Act (1977) - trespassing.
 - Public Order Act (1986) - threatening words or behaviour or disorderly behaviour likely to cause harassment, alarm or distress.
 - Fraud Act (2006), dishonestly making false representation and intending to do so to make a gain for oneself or to cause loss to another (begging under false pretences of need).
 - Police and Criminal Evidence Act (1984) - breach of the peace.
 - Protection from Harassment Act (1997).
11. Given these extensive existing powers, CIH considers that additional legislation to target specific forms of begging is unnecessary. **Proposals in the Bill go wider than the existing powers, are heavy handed and are targeted at a much narrower specific group of individuals.**
12. If the government does not agree that the existing legislation is sufficient to tackle harmful begging, then we suggest that the phrasing within the Bill is amended to remove “likely to engage” in relation to nuisance begging to avoid unfair targeting.
13. Amendments could also be made to the Bill to clarify aspects of the Antisocial Behaviour, Crime and Policing Act (2014) to make provisions for enforcement powers to be used in the occasional circumstances where there is genuine alarm or distress to the community (e.g., aggressive begging) and where no other reasonable approaches are available.

Why enforcement will not end rough sleeping and our recommendations for change

14. From discussions with colleagues across frontline homelessness services, we know that enforcement measures do not act as a deterrent to rough sleeping as it is not a [lifestyle choice](#). Instead, enforcement measures bring feelings of shame and guilt and further ostracization to members of our society already suffering the greatest social exclusion. The ‘answer’ to homelessness is always found in housing and long-term trauma-informed support, not fining and criminalising people already experiencing destitution.
15. **Repealing the Vagrancy Act presents an opportunity to embed more trauma-informed, support-led, multi-agency approaches across the country and to strengthen our shared aim of ending rough sleeping.** The measures in this Bill risk replacing one set of harmful and punitive legislation with another. Instead of an offence-led approach, CIH would like to see investment in local authorities and public services to address the needs of people who are rough sleeping and prevent homelessness and rough sleeping in the first place (including services such as Housing First which is shown to work to support people with multiple and complex support needs out of rough sleeping for good).
16. **We call on the government to enact the repeal of the 1824 Vagrancy Act immediately and remove the parts of the Criminal Justice Bill relating to nuisance rough sleeping and nuisance begging.**

17. We have set out further detail on homelessness prevention in our manifesto which can be read using this link <https://www.cih.org/news/cih-publishes-its-housing-manifesto>

About CIH

18. The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple - to provide housing professionals and their organisations with the advice, support and knowledge they need. CIH is a registered charity and not-for-profit organisation so the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org.

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