

## Criminal Justice Bill: Homeless Link submission of evidence

1. Homeless Link are the national membership charity for frontline homelessness services. With over 800 members across England, we work to improve services and campaign for policy change that will help end homelessness and ensure that everyone has a place to call home and the support they need to keep it.
2. The evidence provided in this submission is collected from existing research from Homeless Link, previous consultation with members on the topics of rough sleeping and begging, our ongoing engagement with members, and analysis from partner agencies.
3. Homeless Link have previously joined with politicians from across the political spectrum and experts from the fields of homelessness, policing and local government to call for the repeal of the Vagrancy Act of 1824. The decision of the Westminster Government to repeal the 'antiquated' Vagrancy Act was made on the basis that 'no one should be criminalised simply for having nowhere to live'.
4. We are therefore gravely concerned by the sections of the Criminal Justice Bill proposing to criminalise 'nuisance begging' and 'nuisance rough sleeping'. We do not believe that rough sleeping should ever be criminalised or that new legislation is necessary to address 'nuisance' behaviours.
5. We recommend that the nuisance begging and nuisance rough sleeping provisions be removed from the Bill entirely. The Bill should therefore be amended to remove Clauses 38 through to 61, and 64. The Bill should also be amended to provide for commencement of the repeal of the Vagrancy Act.

### Alternative legislation

6. We acknowledge that elements the Criminal Justice Bill have been drafted to address problematic and aggressive begging, or rough sleeping where it may cause risk to others. Existing legislation already exists to give police powers to respond to these issues where they do occur and we therefore do not believe that additional legislation is necessary.
7. We support the legal advice previously received by Crisis<sup>1</sup> that sets out existing legislation that gives police powers to deal with harmful types of begging. The relevant legislation include:
  - The Anti-Social Behaviour Act (2014) includes the impact on the wider community in its approach to criminalising harmful behaviour.
  - Highways Act 1980 – obstructive behaviour
  - Serious Crime Act 2007 – begging that involves crime or joint enterprise etc
  - Criminal Justice and Public Order Act 1994 – to remove trespassers from private land
  - Theft Act 1968 addresses burglary
  - Criminal Law Act 1977
  - 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
  - Police and Criminal Evidence Act 1984 – breach of the peace

- Protection from Harassment Act 1997
8. In particular we believe that amendments to the Anti-social Behaviour, Crime and Policing Act (2014) clarifying procedures on rough sleeping and begging would be sufficient to meet those needs. Crisis' substantive research and engagement with police as part of their work on the repeal of the Vagrancy Act sets out a clear mechanism in which to do this.<sup>ii</sup>

### Nuisance rough sleeping

9. Homeless Link do not believe that enforcement of any type is an appropriate response to rough sleeping.
10. As best practice experts in responding to homelessness and rough sleeping, we know that rough sleeping is driven by poverty, insufficient support and, in many cases, complex health needs such as severe mental ill-health or addiction. We refer to the National Police Chief's Council that rough sleeping associated with mental ill health or homelessness 'is clearly not a matter for policing at all'.<sup>iii</sup>
11. The new definition of 'nuisance rough sleeping' as introduced in the Bill is extremely broad and leaves scope for people to be criminalised for how they look or act, regardless of whether they have engaged in genuine anti-social behaviour.
12. As identified by Crisis, 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 face penalties under the legislation. Clause 61 (2) states that the 'nuisance rough sleeping' condition 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 can be met if a nuisance rough sleeping condition is 'likely to be met'. The conditions are therefore highly subjective, with scope for judgments of who 'gives the appearance [of] sleeping rough' to be based on stereotypes and appearances. This in turn means the bill risks reinforcing stigmatising and discriminatory assumptions made about people experiencing homelessness.
13. The Bill is also broad in its definition of 'nuisance'. The definition of nuisance in relation to rough sleeping outlined in Clause 61 (4) 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'. These measures are again highly subjective and stigmatising towards people experiencing homelessness.
14. We share concerns outlined by Crisis that sleeping in doorways or other forms of shelter are deemed 'nuisance' behaviours if they are considered to obstruct entryways. People sleeping rough frequently seek sheltered spaces to avoid severe weather or minimise the risk of violence, abuse and antisocial behaviour from third parties which people visibly sleeping rough can too often be victim to. The proposed legislation will therefore criminalise some of the few means those who are rough sleeping can take to remain safe while on the streets.

### Pressures on the homelessness system

15. The proposed legislation has been introduced at a time of rising rough sleeping and unprecedented pressure on local authorities and the homelessness system. It is

sadly a reality that the current system leaves many with no choice but to sleep rough, with 71% of accommodation projects reporting they have had to turn someone away in 2022 because their service was full.<sup>iv</sup>

16. Homeless Link members also report concerns that there are not sufficient numbers of outreach workers to meet demand meaning people risk being penalised because there is insufficient support available to meet their needs.
17. Homeless Link and our members have worked closely with Government to support their goal to end rough sleeping. However, economic pressures mean that rough sleeping increased by 26% in 2022, the largest year-on-year percentage rise since 2015.<sup>v</sup>
18. Support is essential to end rough sleeping, but long-term underinvestment in the homelessness sector has seen support services shrink across the last ten years. Research from Homeless Link has shown that the total number of bed spaces for homeless adults across England has reduced by 24% since 2010, during which time rough sleeping figures have risen by 74%.<sup>vi</sup>
19. Long-term funding shortfalls have been exacerbated by the rapidly inflating cost of service delivery, pressures which have left 47% of our members at immediate risk of service closure.<sup>vii</sup>
20. Members also report that the high cost of living has impacted the through-flow of residents within their accommodation, as those on low incomes are unable to source affordable tenancies or sustain the costs of running a household. This in turn has reduced the number of beds newly becoming available for those who are rough sleeping, meaning people are forced to remain on the street for longer.
21. Rather than further criminalise people sleeping rough, the Government should focus on measures that increase the range of support options to help people find safe, secure accommodation whilst also addressing their wider network of support needs.

### **Enforcement and support**

22. We and our members feel strongly that there are no types of offences and associated powers, requirements and penalties that are appropriate to incentivise individuals to engage in support.
23. Research by the charity Oasis Community Housing found 94% of people facing homelessness have suffered trauma in their lives.<sup>viii</sup> Many people who sleep rough have been let down by services in the past and have been involved in the criminal justice system, leading to a distrust of figures of authority.
24. Further, we know that many people sleeping rough will decline offers of night shelters or shared accommodation due to previous negative experiences or perceptions of risk. People may, for instance, wish to avoid mixed-gender services, harmful associates, or unpredictable environments in certain hostel settings.
25. There is a wealth of evidence of what works to end rough sleeping, including evidence of the success of Housing First both in England and internationally. Evidence from the Housing First pilots in England shows the programme works to move people with multiple support needs off the street and into their own homes,

showing a 78% tenancy sustainment rate.<sup>ix</sup> Housing First works by embedding trauma-informed, person-centred care with a high level of choice and control for the service user. Crucially, people must be given the option to engage and unconditional support.

26. We acknowledge that local police have an integral role to play amongst the wider homelessness system as they will have an awareness and relationship with people sleeping rough in their area. We recognise that the importance of this. To help ensure that police engage with these individuals in an appropriate and supportive way we recommend training in Trauma Informed Care for relevant police officers. Trauma informed care (TIC) is an approach that creates an environment where someone who has faced trauma feels safe and that they can establish trust with those supporting them. TIC provides for a more compassionate and ultimately more effective means by which providers deliver their services.
27. Building a trusting relationship is key to engagement and Homeless Link members highlighted positive outcomes achieved through dedicated police liaison workers who specialised in supporting people experiencing homelessness or with multiple and complex needs.
28. Local police should also be equipped with the knowledge to signpost individuals sleeping rough to local support services including Local Authority Housing Options, day centres, and other relevant homelessness services that can provide the specialist support and advice needed.
29. It is our view that enforcement, fines and criminal charges for rough sleeping contravene the principles of trauma-informed care, choice and control that we know work when supporting people to leave rough sleeping. Enforcing engagement in support is not a successful means to promote meaningful engagement and instead drives people further away from services and the support they need to end their homelessness.
30. We reflect the concerns raised by Crisis that rough sleeping notices issued under the Bill will be issued by those without expertise in the sector, which could lead to 'entirely unreasonable requirements being placed on an individual to engage in support services unsuited to their needs or with limited chance of success'. Our members reflected on powers similar to those proposed in the Bill being used in the form of Drug Treatment Orders, giving examples of people who had been found in breach of the Order due to inappropriate or inadequate support being offered, for example unrealistic expectations of sobriety or a lack of gender-specific services.
31. Homeless Link's member organisations are therefore adamant that punitive approaches to rough sleeping only serve to ostracise people further, making them less likely to access the support that will help them end their homelessness for good. In this context the proposed measures are therefore counterproductive and risk leading to an increase in entrenched rough sleeping.
32. Government should instead broaden cross-departmental investment in evidence-based responses to end rough sleeping including investment in Housing First from both the Home Office and Ministry of Justice. Ensuring Housing First is available for everyone who needs it would significantly reduce the number of people sleeping rough in England as well as reducing rates of 'nuisance' behaviour both now and over time.

### Nuisance begging

33. Homeless Link members have direct experience of supporting people who currently and historically beg. These individuals are people who experience significant destitution, trauma and health and social care needs, and often, although not exclusively, have concurrent experience of rough sleeping.
34. We recognise that some forms of begging can be harmful, aggressive or anti-social, or that begging may be related to organised crime. However, as outlined, we believe existing legislation is sufficient to tackle these forms of begging and that new legislation is not required.
35. The proposed legislation is broad in scope and would criminalise most instances of begging rather than target enforcement where there is a genuine risk of harm.
36. The definition included in Clause 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 causes, or is likely to cause, harassment, alarm or distress, as further defined in subsection (3).
37. As identified by Crisis, this definition does not require a person to be causing harm, instead criminalising their presence in the broad variety of locations listed, which includes most urban centres.
38. Similarly, 'likely to cause harassment, alarm or distress' is highly subjective and risks being unfairly levied against those with severe mental ill-health or other unmet support needs.
39. While not all individuals who beg experience homelessness, our members have extensive experience supporting people who beg. They tell us that people often turn to begging to meet their basic needs, including those who have had their benefits sanctioned, individuals with no recourse to public funds, and those with addictions such as substance use or gambling.
40. Research from Homeless Link into the impact of Housing First shows that Housing First improves outcomes in criminal justice and in some cases significantly reduces criminal activity. Research shows a 40% drop in offending behaviour across three years of the project and an associated reduction in contact with the justice system, with residents motivated to engage in positive activities and avoid jeopardising their tenancies. The link between offending behaviour, including begging, and meeting basic needs is also reaffirmed.<sup>x</sup>
41. Members highlighted that criminalisation does not deal with the root causes of begging and does not therefore reduce the risk to the individual. We remain concerned that criminalising begging without sufficiently resourcing recovery services, mental health support, or homelessness accommodation may push people into higher-risk forms of income generation such as street sex work, or more disruptive measures such as theft.
42. Homeless Link are concerned about the equalities impact of this Bill. We believe women may be particularly at risk through the proposed legislation as both

criminalisation of begging or other anti-social behaviour can push individuals into less visible and more dangerous spaces, and the loss of associated income can drive them to higher risk activities such as sex work.

43. Homeless Link members also told us of specific examples of people begging as a result of exploitation or coercion including organised crime and modern day slavery. However, enforcement approaches to begging are likely to punish the victims of these crimes rather than the perpetrators, and risk pushing exploited people further from support and reducing the likelihood that they will report their perpetrators for fear of criminalisation.
44. We do acknowledge that some forms of begging and street behaviour can be disruptive and anti-social to local communities. However we believe this should be addressed through amendment to the Anti-social Behaviour, Crime and Policing Act (2014), clarifying aspects in order to make provision for enforcement powers to be used in the occasional circumstances where there is genuine alarm and distress to the community (e.g.) aggressive begging and where there are no other approaches that are reasonably available.

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- <sup>i</sup> Morris, N. (2018). *Scrap the Act: The case for repealing the Vagrancy Act (1824)*. Crisis.
- <sup>ii</sup> Morris, N. (2018). *Scrap the Act: The case for repealing the Vagrancy Act (1824)*. Crisis.
- <sup>iii</sup> Criminal Justice Bill. HC Deb 12<sup>th</sup> Dec 2023. First sitting.
- <sup>iv</sup> Homeless Link (2023). *Support for single homeless people in England: Annual Review 2022*.
- <sup>v</sup> DLUHC (2023). *Rough sleeping snapshot in England: Autumn 2022*. Published 28 Feb 2023.
- <sup>vi</sup> Homeless Link (2023). *Support for single homeless people in England: Annual Review 2022*.
- <sup>vii</sup> Ibid.
- <sup>viii</sup> Irving, A. and Harding, J. (2022). *The prevalence of trauma among people who have experienced homelessness in England*. Oasis Community Housing.
- <sup>ix</sup> DLUHC (2022). *Evaluation of the Housing First Pilots: Third Process Report*. September 2022.
- <sup>x</sup> Abdul Aziz, S and Boobis, S (2024) *Tackling multiple disadvantage: The long-term outcomes of Housing First* [Homeless Link: forthcoming]