



Review of the Vagrancy Act: consultation on effective replacement

Department for Levelling Up, Housing and Communities

Submission

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Introduction

1. JUSTICE is an all-party law reform and human rights organisation working to strengthen the justice system. It is the UK section of the International Commission of Jurists. Our vision is of fair, accessible and efficient legal processes in which the individual's rights are protected and which reflect the country's international reputation for upholding and promoting the rule of law.
2. This submission sets out JUSTICE's response to the Department for Levelling Up, Housing and Communities' *Review of the Vagrancy Act: consultation on effective replacement*.¹ In responding to the consultation, we draw upon existing JUSTICE Working Party reports, including *Mental Health and Fair Trial* (2017),² *Solving Housing Disputes* (2020),³ *Tackling Racial Injustice: Children and the Youth Justice System* (2021).⁴
3. JUSTICE is also due to launch a Working Party looking at the operation and function of 'hybrid orders' – orders that are obtained via a civil process and that have criminal consequences if breached. As part of that work, JUSTICE will explore the use of Public Space Protection Orders (“**PSPOs**”) and Community Protection Notices (“**CPNs**”). CPNs have been issued to homeless persons and them and PSPOs often contain conditions which prohibit begging and other behaviours that are associated with homelessness. Where relevant, our response will therefore refer to research conducted for the purpose of that working party.
4. In summary, JUSTICE welcomes the repeal of the Vagrancy Act 1824 (the “**Vagrancy Act**”), which has a detrimental impact on homeless and socioeconomically disadvantaged people. In particular, the language used within the Act (rogues and vagabonds’;⁵ ‘lunatic vagrants’⁶) and the general approach taken by it, are woefully outdated and have no place in British law and society.
5. At the same time, we are deeply concerned by the Government's proposal to replace the Vagrancy Act with a range of new offences. This is because poverty and homelessness

¹ Department for Levelling Up, Housing and Communities, Home Office, and Ministry of Justice, [‘Review of the Vagrancy Act: consultation on an effective replacement’](#) (Gov.uk, 7 April 2022).

² JUSTICE, [‘Mental Health and Fair Trial’](#) (2017).

³ JUSTICE, [‘Solving Housing Disputes’](#) (2020).

⁴ JUSTICE, [‘Tackling Racial Injustice: Children and the Youth Justice System’](#) (JUSTICE, 2021).

⁵ The Vagrancy Act 1824, s 4.

⁶ The Vagrancy Act 1824, s 22.

cannot be solved through criminalisation. Rather, the Government should attend to the underlying drivers, and refrain from introducing new measures which would undoubtedly further marginalise individuals with complex needs for whom sustainable solutions lie outside of the criminal justice system.

Q1. Do you agree that the government should introduce new offences to prevent specific forms of begging that may be harmful to individuals or detrimental to communities?

6. We do not agree that the Government should introduce new offences to criminalise begging for two reasons. First, there is no necessity to do so. Indeed, as the Government acknowledges, “*begging in and of itself, and without accompanying behaviour... does not amount to anti-social behaviour*”.⁷ It is therefore unclear what purpose any new offence would serve to achieve, other than by creating a new offence for anti-social behaviour – an issue already addressed in law.

7. If the Government is concerned with anti-social behaviours that are often associated with those who beg, they already have at their disposal a wide range of tools that were specifically introduced to tackle such conduct.⁸ This includes tools that can be used to prohibit begging and provide for criminal penalties if breached.⁹ For example, PSPOs and CPNs were designed to prevent anti-social behaviour and can be used to prohibit public drinking, littering, leafleting and noise amongst any other conduct deemed by those issuing the orders to cause a *‘detrimental effect on the quality of life of those in the locality as well as begging*’.¹⁰ Therefore, and as stated by former police officer, Lord Paddick and by Baroness Thornhill in the House of Lords, there will be no loss of powers on repeal of the Vagrancy Act.¹¹ The Metropolitan Police and City of London Police also confirmed that

⁷ Department for Levelling Up, Housing and Communities, Home Office, and Ministry of Justice, [‘Review of the Vagrancy Act: consultation on an effective replacement’](#) (Gov.uk, 7 April 2022), para18.

⁸ For example:

- Highways Act 1980, s.137 – offence of wilfully obstructing free passage on a highway;
- Public Order Act 1986, s.5 – offence to use threatening or abusive words or behaviour or disorderly behaviour, within the hearing or sight of a person likely to be caused harassment, alarm or distress; and
- Common law assault – offence of causing another person by words or conduct to apprehend the infliction of immediate unlawful force.

⁹ For example, the Anti-social Behaviour, Crime and Policing Act 2014 introduced a range of quasi civil-criminal behaviour orders such as Public Space Protection Orders, Community Protection Notices, Criminal Behaviour Orders, Anti-Social Behaviour Injunctions.

¹⁰ Anti-social Behaviour, Crime and Policing Act 2014.

¹¹ HL Deb 24 November 2021, vol 816.

they have adequate alternative powers,¹² and even former Secretary of State Robert Jenrick MP, in the debate considering the repeal of the Vagrancy Act, noted that he did not hear any “*convincing arguments*” to support the contention that some powers in the Vagrancy Act need retaining or replacing.¹³ It is therefore unclear why further offences should be required given the variety of ways in which begging is already targeted via the existing law.

8. Far from being ‘tools without teeth’, research indicates that the orders arising out of the Anti-Social Behaviour, Crime and Policing Act 2014 are widely used.¹⁴ Not only that, but such orders are often enforced in ways which attract serious criticism and cause for concern.¹⁵ For example, there is substantial argument that such orders are disproportionately and discriminately targeting and impacting upon, persons experiencing homelessness, despite Government Guidance to the contrary,^{16,17} Indeed, the unfair use of PSPOs and CPNs against the homeless community was recently acknowledged by the House of Lords, in respect of the Police, Crime, Sentencing and Courts Bill¹⁸. Rather than inventing new offences, JUSTICE considers that there is a serious need to review existing measures and in particular, the impact they have upon homeless persons.
9. Second, the Government claims that “*police forces have continued to derive benefit from use of Section 3 of the Vagrancy Act to intervene constructively to help support vulnerable people into engagement with services, as well as tackle any associated criminal behaviour*”.¹⁹ This purported utility to police is not supported by the facts. The number of prosecutions recorded under the Vagrancy Act has continued to fall,²⁰ and in 2019, only one custodial sentence was given for begging under section 3.²¹ The view that persons who are in vulnerable circumstances and in need of help are best served via criminalisation

¹² Nicky Aitken, Commons, 28th Feb 2022.

¹³ Robert Jenrick, Commons, 28th Feb 2022.

¹⁴ For example, JUSTICE understand that around 9,000 Community Protection Notices are issued annually.

¹⁵ See for example, [CPNs: the crime of crying in your own home](#), The Manifesto Club, 2016.

¹⁶ Home Office, ‘Anti-Social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory guidance for frontline professionals’ (2021), p.65.

¹⁷ Brown, K. J. (2017). The Hyper Regulation of Public Space: The Use and Abuse of Public Spaces Protection Orders in England and Wales. *Legal Studies*, 37(3), 543-568, 557.

¹⁸ See Amendment 89 in Lords’ Amendments to the Bill, p.27.

¹⁹ Department for Levelling Up, Housing and Communities, Home Office, and Ministry of Justice, [‘Review of the Vagrancy Act: consultation on an effective replacement’](#) (Gov.uk, 7 April 2022), para 18.

²⁰ [HL Deb. Vol. 816, col 865, 24 November 2021](#)

²¹ *ibid*

is misguided at best and immoral at worst. Criminalisation is a punishment and not a prescription for complex social and economic problems.²² Criminalisation disproportionately targets, alienates, and damages the lives of those who already suffer severe levels of economic deprivation, discrimination, and poor life opportunities (especially those from racialised and minoritized communities).²³ It is at odds with the concept of human dignity and treating citizens with respect.

10. Not only that, but throughout the course of JUSTICE's research on hybrid orders, we have heard numerous accounts that resource is not available to support people to access services. For example, many hybrid orders impose positive conditions that recipients partake in programmes or access treatment.²⁴ The idea behind this is that it rehabilitates the recipient and reduces the likelihood of their undesirable behaviour recurring. However, for positive conditions to achieve their rehabilitative objective, they require funding; organisers must develop, pilot and implement programmes and courses nationwide to ensure that positive conditions are effective. But in the context of Anti-Social Behaviour Injunctions, the Civil Justice Council has noted that the availability of programmes and courses is a 'postcode lottery' due to inadequate resources.²⁵ These concerns have been raised elsewhere and in relation to other types of hybrid orders (including those that prohibit begging), by practitioners, academics, third sector organisations and by members of the police force. From an economic point of view, JUSTICE also questions the rationale of 'criminalising first, accessing services second'. We understand that considerable cost is involved in prosecuting offences and days spent in court.²⁶ Rather than creating new offences to prosecute, JUSTICE strongly advocates for investment in support services out with the criminal justice system. By investing in services that seek to address the underlying causes of homelessness and begging – of which there are many²⁷ – we consider that more sustainable solutions will be achieved. In the context of our report looking at the treatment of those with mental health challenges within the criminal justice

²² "The greater prevalence of mental ill health and learning disabilities of those in contact with the criminal justice system points to a failing to appropriately address their concerns by the public sector at large. Ultimately it suggests that vulnerable people are being criminalised rather than given the support and treatment that they need" – JUSTICE, '[Mental Health and Fair Trial](#)', (2017), p.13.

²³ JUSTICE, '[Tackling Racial Injustice: Children and the Youth Justice System](#)' (2021); ICP Alliance, '[Is it a crime to be poor?](#)' (January 2021).

²⁴ See for example, Anti-Social Behaviour Injunctions

²⁵ Civil Justice Council, '[Anti-Social Behaviour and the Civil Courts](#)' (2020), para 26

²⁶ Law Society, '[Cost of a day in court – new analysis by the Law Society](#)' (2018).

²⁷ Shelter Scotland, '[New Research reveals the hardships of those begging in Edinburgh](#)', 6 March 2019

system, we found that increased NHS resources would result not only in more sustainable outcomes but in major savings for the Police, courts and prisons.²⁸

11. We are concerned that government proposals far exceed the remaining provisions of the Vagrancy Act. The Government suggests replacement legislation could prohibit:

a. Instances of begging involving the exploitation, forcing or coercing of others to beg, where this is not already covered in the Modern Slavery Act 2015.

- We consider that the Government must first establish an evidence base to demonstrate that the Modern Slavery Act 2015 is deficient in this respect. If this should be the case, then the Government should undertake revision of that Act, as opposed to the creation of a new ad hoc offence in the context of begging more generally. In doing so they must ensure that victims of exploitation do not face further criminalisation.

b. Instances of begging where an individual is participating with others to beg in an organised or systematic manner.

- We are concerned that this proposal could target and criminalise people grouping together on the streets for safety, especially given that homeless people are particularly vulnerable and are seventeen times more likely to be victims of crime.²⁹ It is unclear why this behaviour should be criminalised, and how the police will differentiate between those committing an offence and groups of friends.

c. Instances of begging in locations, such as transport hubs, entrances to business premises and cash points, or approaching stopped cars in traffic, where there is likely to be an adverse or detrimental effect on the quality of life for those in the locality, but where this does not involve any other anti-social behaviour.

- This would create a very broad offence, aiming to criminalise begging in any place of social utility. It is a misguided prohibition on homeless people using town centres or other socially significant places, and may have the effect of driving homeless and destitute people out of busier business areas and into residential areas. This would further marginalise and alienate an

²⁸ JUSTICE, [Mental Health and Fair Trial](#), 2017

²⁹ Crisis, ['About Homelessness'](#) (Crisis).

already heavily disadvantaged group, reducing their access to opportunities for support. Criminalising “*detrimental effect on quality of life*” is ambiguous and would require a highly subjective assessment on the part of the police for enforcement, with no examples of what this would constitute. Moreover, further uncertainty is incorporated with “*likely to*” which means there is no requirement that the behaviour actually cause any such detrimental effect.

d. Instances of begging that are persistent, or where an individual has refused offers of support, or whilst in receipt of welfare.

- This proposal could result in individuals being prosecuted for not accepting support. A person should not be forced to accept support, lest they be prosecuted. Instead, it should be incumbent on the State to encourage and positively incentivise individuals to receive the help and support that they might need. Indeed, in certain circumstances there may also exist reasons for individuals to be mistrustful or reluctant to engage with the State. For example, the vast majority of homeless women have experienced physical or sexual abuse, therefore they are reluctant to be accommodated in mixed-sex homeless-hostels, where they may experience further trauma.³⁰ Criminalisation is likely to make an individual who needs support more hostile to the state and less likely to accept intervention. Crisis research found that prosecution under the Vagrancy Act prevented homeless people from accessing support services, and that it did nothing to deter people from begging.³¹ Furthermore, the vast majority of people were moved on, banned from areas or threatened with arrest under current provisions, they were not offered help or support.³² If the intention is to provide support for homeless people to leave the streets, this would be better achieved by

³⁰ See for example, research gathered by York University in relation to [‘Women’s Homelessness’](#) as part of the ‘Marylebone Project’

³¹ Crisis, [‘Vagrancy Act criminalises homeless people, sadly its harm goes deeper’](#) (Crisis, 2019).

- *‘[being prosecuted under the Vagrancy Act] didn’t deter me from begging. I was straight back out again... I was just trying to survive without being a criminal. It’s either that (begging) or go and rob because you’re desperate. I nearly died on the streets six months after that’.*
- *‘You felt like a criminal, so you end up shutting down and just relying on the homeless community instead. I tried my best to stay out of sight...little places to hide away like garages, air vents and parks.’*
- *‘Half the homeless in town have been given Vagrancy Act papers now, and most of them have been fined £100 and then given a banning order from the town centre...but that means all those people can’t get into town to use the few local services there are for rough sleepers.’*

³² Crisis, [‘Vagrancy Act criminalises homeless people, sadly its harm goes deeper’](#) (Crisis, 2019).

increased funding for support services and local authorities, alongside an increase in their housing duty beyond the current ‘priority need’ limitations. The provision of safe, secure, and affordable permanent accommodation should be the goal. The criminalisation of those in receipt of welfare benefits would be damaging to the most vulnerable in society. Many people in receipt of welfare benefits continue to struggle and cannot afford to buy basic necessities. Evidence shows that many people beg to pay for basic necessities such as food, accommodation, heating and children’s clothing.³³ The law should not criminalise people who cannot afford to live without begging, especially during a cost-of-living crisis.

e. Instances of begging which are purposefully fraudulent in nature, for example where someone is feigning injury.

- We question how the police propose to investigate someone’s private medical affairs, to determine whether they are injured and acting in a “*purposefully fraudulent manner*”. This may lead people facing threats of and actual prosecution unless they can prove they are sufficiently injured or unwell. We note the difficulties the Department of Work and Pensions has in correctly assessing disability and illness, and the extraordinarily high rate of incorrect decisions made.³⁴ The disclosure of private medical information also raises issues under Article 8 of the European Convention on Human Rights, which set out the individual’s right to respect for private and family life.³⁵

f. Any other instances of begging which causes harm to individuals or detriment to communities and public spaces.³⁶

- This appears to be a catch-all offence, which like the others, is unjustifiably vague and proposes imposing criminality on behaviours where there is and

³³ Shelter, [‘New Research reveals the hardships of those begging in Edinburgh’](#) (Shelter, March 2019).

³⁴ “The proportion of successful appeals... remains high. In 2020/21, 75 per cent of PIP and ESA appeals and 61 per cent of UC appeals were successful”. JUSTICE, [‘Reforming Benefits Decision-Making’](#) (JUSTICE, 2021), p.14.

³⁵ “The Court firstly reiterates that the protection of personal data, not least medical data, is of fundamental importance to a person’s enjoyment of his or her right to respect for private and family life as guaranteed by Article 8 of the Convention, bearing in mind that respect for the confidentiality of health data is a vital principle in the legal systems of all the Contracting Parties to the Convention. Consequently, domestic law must therefore afford appropriate safeguards to prevent any communication or disclosure of personal health data as may be inconsistent with the guarantees in Article 8 of the Convention”. See L.L. v. France [2006] (App. No. 7508/02) at [41].

³⁶ Department for Levelling Up, Housing and Communities, Home Office, and Ministry of Justice, [‘Review of the Vagrancy Act: consultation on an effective replacement’](#) (Gov.uk, 7 April 2022), para 19.

should be none. We are concerned by specific remarks regarding the criminalisation of children who are begging. The Government states that “[T]here are also instances of begging where intervention may be necessary to safeguard the welfare of an individual, for example in instances where children are begging”.³⁷ It is unclear how criminalisation is supposed to help safeguard the welfare of children. Instead, the Government should adopt a child-first approach which seeks to address the underlying causes and drivers which have led children into such a scenario.³⁸

12. Repealing the Vagrancy Act only to replace it with an extremely broad range of new offences would undermine the very purpose of its removal from the statute book. We therefore oppose all of the Government’s proposals. All forms of begging that should be criminalised are amply covered by other, existing legislation. A criminal record, term of imprisonment, or a fine, will only serve as a further hindrance to the impoverished and homeless, making it harder for them to improve their circumstances. It is a poor use of public resources and police time, which could be better spent on providing support to reduce homelessness and poverty. The police³⁹ and courts⁴⁰ are already being stretched beyond their present capacity. New offences would do little to improve the lives of those targeted. Instead, diversionary approaches that look to solve individual’s underlying issues, led by social services and mental health professionals, would represent a more appropriate solution.

Q2. Do you agree that begging is harmful to individuals and detrimental to communities? What forms of begging cause greatest harm to individuals and/or detriment to communities? Are there any forms, in addition to those listed above, that cause particular concern?

13. We refer to our response to question 1. Evidence shows that homelessness and begging are symptoms of complex socio-economic and health-related issues. As highlighted in research conducted by Shelter Scotland, those who take part in begging do so for the

³⁷ Department for Levelling Up, Housing and Communities, Home Office, and Ministry of Justice, [‘Review of the Vagrancy Act: consultation on an effective replacement’](#) (Gov.uk, 7 April 2022), para 21.

³⁸ JUSTICE, [‘Tackling Racial Injustice’](#) (2021).

³⁹ [‘I’m a police officer in London, here is why we have lost control of the streets’](#), The Guardian, 2019

⁴⁰ For example, the National Audit Office reported that by the end of June 2021, there were around 61,000 cases received and not yet completed in the Crown Court, and more than 364,000 cases received and not yet completed in the magistrates’ courts. The Crown Court backlog increased by 48% between 31 March 2020 and 30 June 2021.

purpose of sourcing food, heat, accommodation, and other essential items. Criminalising the symptoms will thus not address the cause. Any attempts to prevent begging must be based upon a comprehensive evidence-based understanding of the issues that lead to it, whilst the appropriate response will be one that is holistic and is capable of addressing the individual, clustered issues at stake. The further criminalisation of begging would do nothing to address the underlying causes and drivers, such as homelessness, poverty, discrimination, and social exclusion. The Vagrancy Act should be repealed without the creation of replacement offences. Instead, the Government should adopt programmes that seek to divert individuals away from the criminal justice system and towards solutions that will address these unmet needs.

Q4. What types of offences and associated powers, requirements and penalties are most appropriate to incentivise individuals to engage with support? We would welcome any views about the current options available to the police, local authorities and courts as outlined above.

14. We refer to our response to question 1 above, where we make clear that further criminalisation of homeless individuals is an inappropriate solution that will not address their underlying needs. For this reason, we agree with comments made by former Metropolitan Police Commissioner, Lord Hogan-Howe, that begging and homelessness are not primarily issues for the police but that what is required is “multi-agency support and the employment of frontline outreach services”⁴¹. Implicit in this recognition of the need for multi-agency support, is the acknowledgement that begging is not merely a “criminal issue” but reflects broader, clustered social, economic and health related problems.

15. Indeed, at present, the police are “*stretched beyond their capabilities*” by issues that should be dealt with by social services and mental health professionals.⁴² The Government’s own consultation also recognises the detrimental impact of criminalisation on homeless individual, noting that fines were “*often inappropriate to supporting individuals into services... fines are ineffective deterrents, and can be counterproductive in steering individuals away from treatment*”.⁴³

⁴¹ [HL, Vol. 814, Col. 1329, 14 September 2021](#)

⁴² [‘I’m a police officer in London, here is why we have lost control of the streets’](#), The Guardian, 2019

⁴³ Department for Levelling Up, Housing and Communities, Home Office, and Ministry of Justice, [‘Review of the Vagrancy Act: consultation on an effective replacement’](#) (Gov.uk, 7 April 2022), para 23.

16. We also note comments made at paragraph 28 of this consultation in relation to the potential for creating new civil orders to tackle begging. Again, we refer to our response provided at question 1, setting out the variety of measures that currently exist and are used specifically to target begging alongside the Vagrancy Act. In particular, we draw attention to quasi civil-criminal orders such as PSPOs and CPNs. As stated above, the breadth of behaviours covered by such orders and the frequency by which they are issued and enforced has drawn significant criticism from practitioners, academics and frontline organisations.⁴⁴ JUSTICE has grave concerns about the introduction of any new measures to target begging, without first conducting a robust review of the operation, function and effectiveness of existing orders. Introducing any new orders whilst failing to review and consolidate existing orders, will only lead to further confusion and unfair results.⁴⁵ As stated above, for any new civil order to be effective, especially in terms of obligating recipients to access services, it must be accompanied with an investment in resources that allow such services to be delivered.

17. We also refer to our response to question 9, which sets out how new offences would disproportionately target and affect minoritised and disadvantaged groups.

Q5. What more could be done to make sure any new offences for begging support the right environment to deliver services and engage with vulnerable people?

18. We refer to our response to question 1. There is no need for any further offences, and criminalisation will undermine support and engagement. Furthermore, research shows that the majority of homeless people are not offered support but are instead dehumanised and degraded as they are moved on, banned from certain locations, and threatened with arrest.⁴⁶ Via experts that we have spoken to as part of our wider project on hybrid orders, we understand that not enough resource is currently being provided to enable recipients of hybrid orders to comply with the positive obligations imposed by them. For example, we understand that many quasi civil-criminal orders include requirements for individuals to engage with certain treatment or services. However, JUSTICE understands from

⁴⁴ See Brown, K. J. (2020). The Banishment of the Poor From Public Space: Promoting and Contesting Neo-Liberalisation at the Municipal Level. *Social and Legal Studies*, 29(4), 574-595, 585; [‘CPNs and PSPOs: the use of ‘busybody’ powers in 2019’](#), The Manifesto Club, 2020

⁴⁵ Via evidence gathered by JUSTICE as part of its project looking at Hybrid Orders more broadly, JUSTICE has learnt from those responsible for issuing and enforcing orders, that considerable confusion results from the fact that many orders target the same behaviours – making it unclear which order to use in any given scenario and leading to unfair and inconsistent enforcement.

⁴⁶ Crisis, [‘Scale and impact of enforcement on people experiencing homelessness’](#) (Crisis, 2017).

conversations had with enforcement bodies that there are not enough resources to ensure that such resources exist or are accessible. We have also heard evidence that such conditions are often unrealistic, given that they impose requirements and commitments upon persons who may, by reason of disability, mental health problem or drug dependency, be unable to fulfil them. In this manner, homeless persons are being set up to fail and it only serves to push homeless people further away from the help that they need. Finally, evidence collected from experts in Scotland, suggest that such positive requirements are unlikely to lead to participation if the only motivating factor is compulsion rather than willingness on part of the recipient. Again, the focus of any service designed to support homeless people to move away from unwanted conduct such as begging should be focussed on empowerment and active engagement, rather than fear and compulsion. Only the former is likely to lead to positive and sustainable outcomes.

Q6. What changes should be considered to better equip the police, local authorities and other agencies with the tools to engage those sleeping rough and support them away from the streets? What is the best approach if individuals refuse support or where harmful behaviour is involved?

19. Provision for emergency housing England and Wales is insufficient. Local authorities are struggling to discharge their homelessness duties and provide enough housing as they are faced with “*an influx of need with diminished resources*”.⁴⁷ In our report, *Solving Housing Disputes* (2020), we found that faced with such resource pressures, “*some [local authorities] have adopted gatekeeping practices that turn people at risk of homelessness away*”.⁴⁸ Discretionary assistance given to destitute people through local welfare funds has dropped sharply due to reductions in local authority funds.⁴⁹ The criteria for triggering the local authority housing duty is strict and requires a person to have priority need as well as be homeless and eligible for assistance.⁵⁰ Clearly this is not a wide enough net to offer

⁴⁷ JUSTICE, [‘Solving Housing Disputes’](#) (2020), p. 5.

⁴⁸ *Ibid.*

⁴⁹ P. Alston, [‘Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights’](#) (2018)

⁵⁰ Housing Act 1996, ss 188-189. Priority need is defined as:

- (a) a pregnant woman or person with whom she resides or might reasonably be expected to reside;
- (b) a person with whom dependent children reside or might reasonably be expected to reside;
- (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
- (d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster;
- (e) a person who is homeless as a result of that person being a victim of domestic abuse

accommodation to those in need, and it is questionable that the test is being correctly applied given the number of homeless individuals reporting mental and physical health conditions.⁵¹

20. In our report, we recommend a number of changes that should be made to support homeless people and reduce homelessness:

- a. Individuals at risk of, or experiencing, homelessness should be able to contact local authorities, and access their support and advice services, across multiple channels rather than via a digital by default / online portal only. This is to ensure that help and advice is accessible to all and will not isolate those who are otherwise digitally excluded;⁵²
- b. Local authority homelessness portals should be accessible (including on mobile devices) and feature prominent signposting to independent advice and information;⁵³
- c. The time limit for appealing a local authority internal review decision on homelessness to a Circuit Judge pursuant to section 204 of the Housing Act 1996 ought to be extended from 21 to at least 28 days, to give appellants more time to access legal aid;⁵⁴
- d. When local authorities provide their written decision on an internal review to a person seeking homelessness assistance, they should offer that person access to their full case file from which the decision was made;⁵⁵
- e. The provision of legal aid for homelessness and notices seeking possession should be made financially viable for practitioners by ensuring that the fees firms earn from advising on the County Court duty desk cover costs;⁵⁶

⁵¹ See for example, Local Government Association, '[The impact of Homelessness on Health](#)' 2017 which found that 45% of the homeless population experienced diagnosed mental health conditions and 41% had physical long-term health conditions.

⁵² JUSTICE, '[Solving Housing Disputes](#)' (2020), p.118.

⁵³ *Ibid.*

⁵⁴ *Ibid*, p.119.

⁵⁵ *Ibid.*

⁵⁶ *Ibid*, p.138.

- f. Reviews of adverse homelessness decisions under s.202 Housing Act 1996 should be considered by an independent body rather than by the authority itself, acting in a quasi-judicial capacity in its own cause. Authorities already have power to contract out reviews, although when they do so currently, it is to private review services. Reviews should go to an independent body;⁵⁷
- g. Reinstating early legal advice and intervention to address housing problems, homelessness and associated or underlying issues (such as benefits, family or mental health issues) to restore the housing advice sector and remedy problems before they lead to homelessness and destitution;⁵⁸
- h. Improve landlords and tenants understanding of their legal rights and obligations, and improve enforcement mechanisms;⁵⁹
- i. Tackle landlords refusing to rent to those claiming benefits;⁶⁰
- j. Implement proposals such as the *Strengthening Consumer Redress in the Housing Market* consultation, by the former Ministry of Housing, Communities and Local Government which aims to create universal coverage for housing complaints, and the establishment of the Regulation of Property Agents Working Group in England.⁶¹

21. Building trust and offering multi-faceted support is key to supporting homeless and impoverished people and reducing rough sleeping and begging. Criminalisation will have the opposite effect and increase the circumstances in which the police are encouraged to unduly target those who are suffering from homelessness and poverty, when it is a housing and social care matter. Good quality, affordable housing and effective support services are essential. Therefore, resources should be channelled towards support for homeless people and the provision of safe, secure and affordable accommodation.⁶²

Q7. What other changes should be considered to better equip police, local authorities and other agencies to engage with people who are

⁵⁷ *Ibid*, p.141.

⁵⁸ *Ibid*, p.6.

⁵⁹ *Ibid*, p.4.

⁶⁰ *Ibid*, p. 5.

⁶¹ *Ibid*, p.7.

⁶² Crisis, [‘Vagrancy Act criminalises homeless people, sadly its harm goes deeper’](#) (Crisis, 2019).

rough sleeping including in tents or trespassing on private property?

22. See our response to question 6 above.

Q8. Are there any other issues that would emerge from repeal of the Vagrancy Act that you think should be considered in bringing forward replacement legislation?

23. See our response to question 1 above.

Q9. What do you consider to be the equalities impact on individuals with protected characteristics of any of the proposed options for replacement legislation? Please give reasons and any evidence that you consider relevant.

24. Certain groups of people are more likely to experience poverty and homelessness, including those with disabilities, women and those who are racially minoritised.⁶³ The proposed new offences would therefore disproportionately criminalise such groups.

Disability

25. Shelter found that 80% of people begging reported mental health issues including anxiety, depression and PTSD, whilst 62% had physical health issues. More than half suffered from both.⁶⁴ Homeless people are over nine times more likely to take their own life than the general population.⁶⁵ The average age of death for people experiencing homelessness is 45 for men and 43 for women.⁶⁶

26. People with mental health conditions and learning disabilities are overrepresented in the criminal justice system,⁶⁷ and there is a strong link between mental health issues and poverty.⁶⁸ “Around 60% of children and young people with learning disabilities live in poverty”.⁶⁹

⁶³ P. Alston, '[Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights](#)' (2018), p.18

⁶⁴ E Dore and D. Gray, '[Street Begging in Edinburgh: A comprehensive evaluation of data available November 2016 to October 2018](#)' (*Shelter*, 2019).

⁶⁵ Crisis, '[About Homelessness](#)' (*Crisis*).

⁶⁶ Crisis, '[About Homelessness](#)' (*Crisis*).

⁶⁷ JUSTICE, '[Mental Health and Fair Trial](#)' (2017), p.6.

⁶⁸ L. Knifton and G. Inglis '[Poverty and mental health: policy practice and research implications](#)', *BJPsych Bull.* 2020 Oct; 44(5): 193–196.

⁶⁹ Public Health England, '[Learning disabilities: applying All Our Health](#)' (2018)

27. As the United Nations Special Rapporteur on extreme poverty and human rights, Professor Philip Alston noted in his report on the United Kingdom, “[p]eople with disabilities are more likely to be in poverty, and are more likely to be unemployed, in insecure employment, or economically inactive”.⁷⁰ Almost half of those who live in poverty are from families where someone has a disability.⁷¹

Women

28. A large proportion of homeless women have escaped a violent or abusive relationship.⁷² Researchers at York University working with homeless project ‘Fulfilling Lives’ found that “[D]omestic abuse and other forms of gender-based violence are near universal experiences for women who experience homelessness”.⁷³ They also found that lone adult homelessness was just as likely for women as men, but that systems do not accurately count homeless women as they are less visible and often survive without access to services.⁷⁴

29. Rising pension poverty, and changes to support for single parents, disproportionately affect women, who make up 90% of single parents and the majority of pensioners.⁷⁵

Children and care leavers

30. Child poverty is rising, and almost a third of children in the UK live in poverty.⁷⁶ Vulnerable children are a risk because of cuts to frontline social and child protection services.⁷⁷ Statutory services are at risk due to a lack of funding.⁷⁸ Shelter found that a child in Britain

⁷⁰ P. Alston, ‘[Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights](#)’ (2018), p.19

⁷¹ M. Oakley, ‘[Time to think again](#)’ (Social Market Foundation, 2021), p.6

⁷² Crisis, ‘[About Homelessness](#)’ (Crisis).

⁷³ ‘[Women are homeless in greater numbers than has previously been assumed, new research shows](#)’ (University of York, 2021)

⁷⁴ *Ibid.*

⁷⁵ P. Alston, ‘[Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights](#)’ (2018), p.18.

⁷⁶ *Ibid*; see also Resolution Foundation, ‘[Inflation Nation: Putting Spring Statement 2022 in context](#)’ (March 2022), p.23.

⁷⁷ P. Alston, ‘[Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights](#)’ (2018).

⁷⁸ *Ibid.*

becomes homeless every 8 minutes.⁷⁹ 1 in 4 care leavers have experienced homelessness and 14 per cent have slept rough.⁸⁰

Ethnic Minorities

31. Poverty rates in the UK are highest for people in households where the head is from Pakistani or Bangladeshi ethnic groups, and lowest for their White counterparts.⁸¹ The Runnymede Trust and Women’s Budget Group found that “*as a result of changes to taxes, benefits, and public spending through 2010 to 2020, Black and Asian households in the lowest fifth of incomes will experience large set average drops in living standards, about 20%*”.⁸² This financial precarity makes them more likely to join the group of people who become homeless “*because they can no longer afford the rent*”.⁸³
32. In our report, *Tackling Racial Injustice: Children and the Youth Justice System* (2021), we found that at most stages (from arrest to custody) the proportion of ethnic minority children and young adults is higher than the proportion of their White counterparts.⁸⁴ Of those children in custody, 52% come from ethnic minority backgrounds, despite comprising only 18% of the 10–17-year-old population.⁸⁵ Further criminalisation of begging would undoubtedly disproportionately affect those groups.⁸⁶ It is foreseeable that such groups, being more likely to experience homelessness and poverty, will face the brunt of new measures that further criminalise begging.

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⁷⁹ L. Reynolds and A. Dzalto, [Generation Homeless: The numbers behind the story](#), (Shelter, 2019)

⁸⁰ A. Gill, ‘[Six Reasons Why Leaving Care Sometimes Isn’t the Step Forward it Should Be](#)’ (Centre Point, 2017)

⁸¹ B. Francis-Devine, ‘[Poverty in the UK: statistics](#)’, House of Commons Library (April 2022), p.47

⁸² P. Alston, ‘[Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights](#)’ (2018), p.18.

⁸³ Crisis, ‘[Homelessness is devastating, dangerous and isolating](#)’.

⁸⁴ JUSTICE, ‘[Tackling Racial Injustice: Children and the Youth Justice System](#)’ (2021), p.2.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*