



## **The Vagrancy Act 1824 after repeal – what is the impact likely to be on people experiencing homelessness?**

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## Overview

In February 2022, Parliament voted to repeal the Vagrancy Act as part of part of Government's commitment to ending rough sleeping. The Act, that makes it a criminal offence to sleep rough in England and Wales, is to be replaced with a new legislation<sup>1</sup>.

Although the Government recognises that no one should be criminalised simply for having nowhere to live, there is a risk that a replacement, entrusted to the Police, Crime, Sentencing and Courts Act 2022 and the Department for Levelling Up, Housing and Communities, would once again criminalise people who experience homelessness. This would go beyond existing legislation that tackles aggressive begging and anti-social behavior.

Current ongoing discussions are in place for establishing whether a new legislation is needed, and how this would impact people who experience homelessness. As the main concern involves aggressive begging and the criminal gangs behind this activity, campaigners recommend the amendment of the existing Anti-social Behaviour, Crime and Policing Act 2014, instead of penalising beggars who might include rough sleepers.

SJOG and other civil society organisations, urge the Government to genuinely support vulnerable people living on the streets, and to reinforce the importance of local agencies working collaboratively, with local communities, to understand, intervene and resolve the problems that hide behind homelessness.

## About the Vagrancy Act 1824

The law was passed in 1824 and was originally intended to deal with injured ex-serviceman who had become homeless after the Napoleonic Wars and who were begging for alms, endeavouring their exposure to wounds or other deformities<sup>2</sup>.

The Vagrancy Act also aimed to punish "every person wandering abroad and lodging in any barn or outhouse, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or wagon"<sup>3</sup>. At this date, on May 5, 2022, amendments brought to the section 4 of the legislation, still consider some "persons committing certain offences to be deemed rogues and vagabonds", as per below:

*"Every person committing any of the offences herein-before mentioned, after having been convicted as an idle and disorderly person; every person pretending or professing to tell fortunes, or using any subtle craft, means, or device, by palmistry or otherwise, to deceive and impose on any of his Majesty's subjects; every person wandering abroad and lodging in any barn or outhouse, or in any deserted or*

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<sup>1</sup> <https://www.gov.uk/government/news/consultation-launched-on-replacing-the-outdated-vagrancy-act>

<sup>2</sup> <https://www.bigissue.com/news/housing/what-is-the-vagrancy-act/>

<sup>3</sup> <https://www.bigissue.com/news/housing/what-is-the-vagrancy-act/>

*unoccupied building, or in the open air, or under a tent, or in any cart or wagon, not having any visible means of subsistence and not giving a good account of himself or herself; every person willfully exposing to view, in any street, road, highway, or public place, any obscene print, picture, or other indecent exhibition*<sup>4</sup>.

Therefore, the act still represents a threat to all rough sleepers, including Gypsy, Traveller, Roma and other vulnerable communities.

Although both Houses commonly agree that The Vagrancy Act should not criminalise someone for having nowhere to live, the repeal is to come into force when replacement legislation will be in place<sup>5</sup>.

In fact, it is The Department for Levelling Up, Housing and Communities, under the Police Sentencing Courts Act, who will provide for the replacement of the 1824 Act. This includes repealing section 3 of the Act, which currently makes begging an offence, and the above-mentioned section 4 of the Act, which currently creates a range of offences including persons who sleep in an outdoor setting, or in any deserted or unoccupied building<sup>6</sup>.

Additionally, the below offences that fall within the Vagrancy Act 1824 are to be reviewed:

- 10431 – Resisting or obstructing a constable in execution of duty;
- 18200 – Wandering abroad or being in any street to beg or gather alms or causing or procuring any child so to do;
- 18300 – Wandering abroad and lodging in any barn, outhouse, deserted or unoccupied building, etc. or in the open air, etc.;
- 18501 – Being on enclosed premises for an unlawful purpose;
- 18801 – Any petty chapman or peddler trading without a licence;
- 18805 – Collecting alms or endeavouring to procure charitable contributions by fraudulent pretence;<sup>7</sup>

## What next

Earlier in 2022 ministers held a four-week consultation on what should replace the act ended on May 5. Nevertheless, campaigners and some parliamentarians argue that there is no need for a new legislation that would continue penalising vulnerable people affected by homelessness; in fact, amendments to the existing Anti-social Behaviour, Crime and Policing Act 2014, used to deal with a range of behaviours, including aggressive begging, could be updated; additionally, new procedures

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<sup>4</sup> <https://www.legislation.gov.uk/ukpga/Geo4/5/83/section/4>

<sup>5</sup> <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-factsheets/repeal-of-the-vagrancy-act-1824-police-crime-sentencing-and-courts-act-2022-factsheet>

<sup>6</sup> <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-factsheets/repeal-of-the-vagrancy-act-1824-police-crime-sentencing-and-courts-act-2022-factsheet>

<sup>7</sup> James Cartlidge Parliamentary Under Secretary of State, answering to Photo of Liz Saville-RobertsLiz Saville-Roberts Shadow PC Spokesperson (Home Affairs), on Twitter, on June 13, 2022; <https://www.theyworkforyou.com/wrans/?id=2022-06-07.13794.h>

reflecting the appropriate response towards addressing homelessness as a complex health, housing and social challenge, could be considered<sup>8</sup>.

As begging is the most prosecuted offence under the Act, with around 1,000 prosecutions in 2017, police have measures to tackle forms of anti-social behaviour including aggressive begging (although some of them controversial, they include Criminal Behaviour Orders, Community Protection Notices and Public Spaces Protection Orders)<sup>9</sup>.

Following the meeting in May, the Government also recognises the need to provide essential support for vulnerable people, and remains engaged in delivering a “a bold, new rough sleeping strategy which will set out how we will end rough sleeping, building on recent success ensuring rough sleeping is prevented in the first instance and is effectively responded to in the rare cases where it does occur, but also that our police have the ability to intervene where needed and keep The Police, Crime, Sentencing Courts Act provides for the 1824 Act to be repealed in full in England and Wales”<sup>10</sup>.

Homelessness charities such as Crisis, St Mungos, Centrepoin and Homelessness Link, that initiated the campaign #ScraptheAct and convinced MPs to adhere to this initiative, continue to rise awareness about the need to support people and not penalise them<sup>11</sup>.

Additionally, Crisis and the National Police Chiefs Council (NPCC) recently produced guidance for police officers and partners around ending homelessness. The guidance, reinforces the importance of local agencies working collaboratively, with local communities, to understand, intervene and resolve the problems that can damage lives and lead to crime and anti-social behavior and it encourages a more trauma-focused and supportive approach<sup>12</sup>.

## Concerns

Following the Queen’s Speech on 10 May 2022, the UK Government introduced a Levelling Up and Regeneration Bill. This wide-ranging Bill seeks to change the way powers can be devolved to Local Authorities and introduces reforms to the planning system in England<sup>13</sup>. This Bill will also look into the replacement of a new legislation for the Vagrancy Act and will only serve as a “placeholder” which will be replaced before it becomes law.

Activists and campaigners, such as Kiran Ramchandani, Director of Policy and External Affairs at Crisis, called on the government to remove the clause, expressing concerns about the legislation - that will

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<sup>8</sup> <https://www.local.gov.uk/parliament/briefings-and-responses/review-vagrancy-act-government-consultation-effective>

<sup>9</sup> <https://www.bigissue.com/news/housing/what-is-the-vagrancy-act>

<sup>10</sup> <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-factsheets/repeal-of-the-vagrancy-act-1824-police-crime-sentencing-and-courts-act-2022-factsheet>

<sup>11</sup> <https://www.crisis.org.uk/about-us/the-crisis-blog/replacing-the-vagrancy-act-will-not-make-our-streets-safer/>

<sup>12</sup> <https://www.local.gov.uk/parliament/briefings-and-responses/review-vagrancy-act-government-consultation-effective>

<sup>13</sup> Eddie Hughes, in response to Rachel Maskell on June 8, 2022;

<https://www.theyworkforyou.com/wrans/?id=2022-06-08.14539.h&s=Rachael+Maskell>

look into proposing a broader definition of begging - would also target rough sleepers, as there is a considerable overlap between the two categories<sup>14</sup>. Civil society organisations also urge the Government to give up on this initiative and to amend the existing Anti-social Behaviour, Crime and Policing Act 2014, in order to address the causes of aggressive begging and to deliver genuine support to end people's homelessness.

It is, therefore, important to make a distinction between begging linked with rough sleeping and begging that is used by organised criminal gangs to support criminal activity<sup>15</sup>.

## **SJOG - Implications and Recommendations**

SJOG has a proud history in assisting people at risk or affected by homelessness, and we support Government's decision to repeal the outdated act. We endorse our colleagues from other civil society organisations and recommend that people should not be punished for being on the streets, but support them through assisted accommodation and multi-agency collaboration.

As police can already tackle harassment, anti-social behaviour and modern slavery, using existing laws, we encourage the Government to consider the existing gaps created through the repeal of the Vagrancy Act, to address complex issues surrounding homelessness, and to amend existing guidance - such as the Anti-Social Behaviour, Crime and Policing Act 2014 for aggressive begging.

Additionally, we would also like to raise awareness about the potential implications that vulnerable people with previous convictions under the Act, may face when accessing support. In particular, we are concerned about those who might have experienced modern slavery and trafficking, and would not be eligible to the NRM scheme under the new Bill, if they have previous criminal record.

Our thoughts also go to those EU and extra-European citizens with a history of homelessness, who are trying to apply for settlement and temporary/permanent residences. Under these conditions, we urge the Government to take in consideration the history of vulnerability of each individual, and to eliminate the impact of past criminal convictions under the Vagrancy Act on immigration applications.

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<sup>14</sup> <https://www.bigissue.com/news/housing/government-faces-rebellion-over-vagrancy-act-backtrack>

<sup>15</sup> <https://www.local.gov.uk/parliament/briefings-and-responses/review-vagrancy-act-government-consultation-effective>

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