

Committee	Dated:
Homelessness and Rough Sleeping Sub Committee	18/02/2019
Subject: Rough sleeping legislation	Public
Report of: Andrew Carter – Director of Community and Children’s Services	For Information
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Summary

This report provides an update on the position of a range of stakeholders with regard to rough sleeping legislation.

Recommendation

Members are asked to:

- note the report.

Main Report

Background

1. At its December 2018 meeting, Members of the Sub Committee discussed the Vagrancy Act and whether the homelessness sector sought further legislative change or addition. Subsequently, officers have reviewed the current position of key stakeholders and met with the homelessness sector’s representative body, Homeless Link, to assess these issues.

Current Position

Government

2. The Government’s *Rough Sleeping Strategy*¹ (published in August 2018) commits to:

“...launch a wider review of homelessness and rough sleeping legislation, which will include the Vagrancy Act. The review will ensure that the structures

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733421/Rough-Sleeping-Strategy_WEB.pdf

are in place to deliver effective services and engage with vulnerable people constructively. We expect the review to report by March 2020.”

3. Scotland and Northern Ireland have already repealed the Vagrancy Act. However, it should be noted that the wider statutory protections from homelessness are significantly different in Scotland, reflecting both a different housing market and homelessness problem.
4. Significant legislative change was enacted and brought into force in April 2018 in the form of the Homelessness Reduction Act 2017. The Act strengthens the duties imposed on local authorities to prevent homelessness and represents a significant reform to homelessness legislation. The Act, a Private Member’s Bill tabled by Conservative backbench MP Bob Blackman, was campaigned for by the homelessness charity Crisis, and supported by the voluntary and charity sectors.
5. Local authorities have statutory duties that determine the circumstances in which they must provide assistance to those who are homeless. Legislation provides a mechanism to prioritise scarce resources (social housing for instance) and ensure that financial costs do not fall disproportionately on local authorities where rough sleeping may manifest, but where there is no clear local connection.

Opposition

6. In February 2018, Liberal Democrat MP Layla Moran sponsored a Bill for the repeal of the Vagrancy Act that received a first reading. The Bill was objected to and is awaiting a second reading. The Liberal Democrats have also pledged to end homelessness and call for Government to invest more in prevention and social housing development.
7. In December 2018, the Labour Party issued a press release announcing that a future Labour Government would repeal the Vagrancy Act. This follows that party’s announcement in January 2018 to “make 8,000 affordable homes available for people with a history of sleeping on the streets – double the number previously promised”. This is described as part of Labour’s plan to end rough sleeping within their first term in office.

Charity sector

8. The voluntary and charitable organisations working in the homelessness sector broadly favour repeal of the Vagrancy Act. Many are motivated by a stance that is against any form of enforcement activity (measures that tackle anti-social behaviour, and so on).
9. A St Mungos survey of outreach services reports that the majority favour repeal. It also noted that several respondents made clear that “law enforcement is required for anti-social behaviour sometimes associated with rough sleeping, particularly for ‘persistent’ or ‘aggressive’ begging, but that the legal mechanisms for this already exist elsewhere”.
10. St Mungos itself calls for the repeal of the Act, but also for local authority “plans for how and when police use their powers against people sleeping rough to be

developed and integrated in local homelessness strategies, with multi-agency support packages planned alongside this”.

11. There is no significant call from the homelessness sector for new legislation. The umbrella organisation representing voluntary and charitable organisation working with rough sleepers – Homeless Link – convenes a Rough Sleeping Advisory Panel that includes Crisis, Shelter, St Basil’s, St Mungo’s and Thames Reach. In response to the publication of the Government’s *Rough Sleeping Strategy*, the panel called for the Government:

“...to build significantly more social housing, to foster greater security for renters, to ensure people have access to benefits and other support they need to help them keep their homes. We also need to see a reversal of policies that leave migrants homeless and destitute, and healthcare, mental health and substance misuse services that are available and truly accessible to those who need it.”

12. The prevailing view of the homelessness sector is to call for reform of existing legislation – most notably welfare reform. This is considered to be more impactful in tackling homelessness.
13. More immediately, the homelessness sector is concerned with the impact of Brexit. The Government has launched the process through which EU nationals can apply for settled status, but it is likely that the required proof of residence will exclude most EU nationals who sleep rough. Even where such status is gained, Homeless Link reports that the Department for Work and Pensions’ advice is that this does not necessarily mean entitlement to benefits. Without benefits, there are very few accommodation options for homeless European nationals from outside the UK.

Local authority stance

14. There is no formal or collective stance from local authorities in relation to the Vagrancy Act or the use of the enforcement. Differing politics, resourcing and levels of rough sleeping inform different approaches and opinions. Enforcement powers are widely used by local authorities to tackle anti-social behaviour. It is reported that some local authorities also use the Vagrancy Act.
15. Local authority advocates of enforcement regard it as part of a wider approach in which the harmful behaviours of rough sleeping can be tackled alongside an offer of service. Some rough sleepers refuse to engage with support services, despite the clear and significant threat to their health and wellbeing caused by rough sleeping. Some local authorities have attempted to use the Vagrancy Act in these circumstances. It is possible that such authorities would support the repeal of the Vagrancy Act, but with the expectation that it was replaced with legislation they might consider more ‘fit for purpose’.
16. Local authorities face pressure from residents and businesses concerned about those who are sleeping rough, any associated anti-social behaviour and the

impact on communities. Where those sleeping rough refuse support, the public perception can be that the local authority is doing nothing.

17. In his strategy to inform future commissioning, the Mayor of London sets out:

“Sometimes, however, despite the persistent and focused efforts of services, people refuse to engage or continually turn down the offers made to them. In these cases, active enforcement coupled with assertive outreach can have a positive impact in assisting a person into accommodation.

Central to the success of this approach is good partnership working between community safety officers, housing officers, health partners, the police, immigration officers, and outreach providers.”

18. A range of legislation governs the approach of local authorities to addressing homelessness and supporting vulnerable adults – including those who sleep rough. These include:

- Housing Act 1996
- Homelessness Act 2002
- Homeless Reduction Act 2017
- Mental Capacity Act 2005
- Care Act 2014.

19. Many local authorities have welcomed the Homelessness Reduction Act, but some are concerned about the cost of the duties it imposes – despite the Government allocation of new burdens funding. Any future call to add to or strengthen legislation, would need to address local authorities’ need for any additional burdens to be fully funded.

Corporate & Strategic Implications

20. There are no implications that arise directly or immediately from this paper.

Conclusion

21. Legislation enables – and in some circumstances requires – a range of interventions in response to rough sleeping. Anti-social behaviour powers may also be used to tackle associated issues, although several stakeholders have called for the repeal of the Vagrancy Act. There is no clear call for additional legislation, although the homelessness sector has called for reforms, including changes in welfare provision.

Appendices

- None

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