



Guidance for the use of tools and powers from the Anti-Social Behaviour, Crime and Policing Act (2014) with people experiencing street homelessness

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Background

In 2020, researchers from Sheffield Hallam University were awarded an Oak Foundation grant to assess the impact of the tools and powers contained in the Anti-Social Behaviour, Crime and Policing Act (2014) on people experiencing street homelessness. Their work spanned ten case study areas in England and Wales and involved speaking to 52 people experiencing street homelessness, interviews with 16 homelessness professionals, and an online survey of 108 frontline homelessness practitioners. The full research report can be found [here](#). The contents of this guidance document are derived from this research evidence.

Purpose of the guidance

- To ensure that powers from the Anti-Social Behaviour, Crime and Policing Act (2014) are not used disproportionately against people experiencing street homelessness.
- To encourage cross partner agreement on the most productive and least harmful approach to responding to anti-social behaviour associated with street homelessness.

Guiding principles

Based on the concept of legal literacy (Braye and Preston-Shoot, 2016), this guidance document promotes:

1. Doing things right and in the spirit of the law
2. Doing the right things in terms of professional ethics
3. Rights thinking, which respects human rights and social justice

Adopting this approach will ensure that:

- Supporting and signposting people experiencing street homelessness are prioritised over enforcement
- Due process is followed
- There is proportionality in any enforcement taken
- Procedural safeguards are in place and utilised
- Data on enforcement is collected for monitoring purposes

Public Spaces Protection Orders

- Prior to the consultation, local authorities should undertake an equality impact assessment as a standard safeguarding procedure.
- Local authorities must make greater efforts to engage frontline homelessness practitioners and people experiencing street homelessness with the consultation stage of a PSPO if it is likely to impact their lives.
- PSPOs should not contain prohibitions that criminalise rough sleeping.
- PSPOs should not contain requirements to 'disperse from an area if...'. The Section 34 authorisation required by a police inspector to sanction a Dispersal Order is a procedural safeguard because restricting an individual's freedom of movement is a serious matter. It must not be circumvented by a PSPO.
- The prohibitions/requirements within PSPOs must be made explicit to everyone using the area, especially people experiencing street homelessness who should be informed of the consequences for non-compliance. This could be achieved by improving the quality and quantity of signage (dependent on the geographic area in question) and having an easy-read leaflet available for distribution by the policing bodies that outlines the powers and potential sanctions.
- PSPO prohibitions should not inadvertently exclude street sleeping homeless people from accessing support (e.g. food or prescribed medication).
- Fixed penalty notices should not be issued to people experiencing street homelessness in a similar way to other policy parallels that mark them out as a vulnerable group. For example, Ministry of Justice (2014) guidance details how Penalty Notices for Disorder are not appropriate for people sleeping rough. Instead, individuals

should be signposted towards local support services. During the process of issuing a fixed penalty notice, the issuing officer should clarify any doubts about whether someone is experiencing homelessness, and if they do not have a home, then this guidance is clear that the fixed penalty notice should not be issued.

Dispersal Orders

- Must only be used in conjunction with a valid Section 34 authorisation for a period of 48 hours.
- Section 34 authorisations should be recorded in writing and stored in an accessible electronic format.
- Prior to a Section 34 authorisation, consideration should be given to an equally intensive alternative to a Dispersal Order delivered by partners. For example, 48 hours targeted outreach and/or multi-agency meetings where individual support plans can be developed.
- Dispersal Orders should not be used repeatedly in the same area as a long-term tactic to disperse or manage the behaviours associated with people experiencing street homelessness.
- Being in a 'position to beg', which is commonly understood as just being sat on the ground, does not constitute a reason to issue a Section 35 direction to leave notice because sitting down is not in itself, anti-social behaviour.
- When a Section 35 direction to leave notice is issued, the protection of vulnerable recipients must be considered, specifically:
 - The defined dispersal area should not prevent people experiencing street homelessness from accessing food, support organisations, prescribed medications, or overnight accommodation.
 - The risk of displacement must be assessed with reference to the above.
- Section 35 direction to leave notices should only be issued if accompanying support can be offered to mitigate the risk of the individual's vulnerability and displacement. For example, provision of food/shelter outside of the defined area.
- The appeals process for Section 35 direction to leave notices should be made more accessible for people experiencing street homelessness. The grounds for appeal should be made clear (and accessible) on the paperwork issued, including contact information.

Community Protection Warning/Notices

- Greater clarity is required about the detrimental effect test if CPWs and CPNs are considered the correct tool to prevent anti-social begging. There must be *evidence* that the begging in question is having a detrimental effect on the quality of life of those in the community and should not be used to target begging *per se*.
- When writing a CPW or CPN for an individual, consideration should be given to the impact of the CPW/CPN on the recipient specifically in relation to the availability of local services to support the individual. Conditions should not inadvertently exclude people experiencing street homelessness from accessing support. Ideally, the process of consideration should involve the relevant support agencies.
- CPWs and CPNs should be signed-off by a senior officer within the issuing body as a means of quality control to ensure due process has been followed, the requirements are proportionate to the behaviour in question, and all procedural safeguards (such as equality and/or safeguarding assessments) have been applied.
- CPWs and CPNs should be recorded in writing and stored in an accessible electronic format.

Informal policing interactions

- Every local area is different. The guidance contained in this section offers a range of suggestions to improve frontline practice where the policing bodies interact with people experiencing street homelessness. We define 'informal policing interactions' as those that do not involve a legal sanction.

- Our suggestions can be adapted to suit local arrangements regarding funding, resources, and personnel. The central tenet is to promote engagement and signposting, over displacement and enforcement.
- Each local area should have a named individual that 'owns' or 'leads' the strategic approach towards informal policing interactions with people experiencing street homelessness. The purpose of this role is to understand and co-ordinate the way that informal policing interactions are undertaken locally, to drive the quality and consistency of engagements with local people experiencing street homelessness.
- The individual undertaking this role could be from the police or local authority. Preferably, they will already be engaged within a multi-agency partnership setting. The title of the role is not important, and it can be tailored to reflect local personnel and priorities.
- The nature and scope of the role could be modelled on other local specialist roles, for example those that tackle drug use or domestic violence.
- It is important that the 'owner' or 'leader' of the informal approach locally should:
 - Have knowledge of the local street homelessness landscape
 - Know names and understand the stories of people experiencing street homelessness
 - Have time allocated in their role for this work
 - Work on the frontline
 - Be contactable to give advice to others as part of a local partnership arrangement
 - Be responsible for updating, disseminating, and promoting a set of local signposting resources to frontline officers that consider language and literacy requirements relevant to the local area.
 - Have training in trauma informed practice
 - Be passionate about making a difference in this role

In addition to the above individual role, the following approaches should be undertaken:

- Where possible, informal interactions with people experiencing street homelessness should not be led by the police. Homelessness teams or specialist outreach services should lead the response (Williams, 2021).
- If it is not appropriate for an individual to be in a particular area and they must be moved on informally, it should be explained to them *why* they are being asked to move on with reference to the specific legislation and they should be signposted towards *where* they should move to.
- Specialist homelessness training for frontline officers should be provided, which reflects the local context. This training should be trauma informed.
- There are multiple examples of good practice available. The NPCC and Crisis (Williams, 2021) have provided a range of case studies that can be adapted in this document: [From enforcement to ending homelessness: How police forces, local authorities and the voluntary sector can best work together](#). On pages 16, 17 and 18 it includes details of over thirty 'positive interventions' related to:
 1. Police and local authority enforcement officers paired with outreach teams to identify and engage rough sleepers into support

2. Rough sleepers referred to support workers and housing options for a comprehensive assessment of needs
3. Immediate access to housing, and support for mental health and drug or alcohol-related addictions, alongside employment and training services.
4. Permanent accommodation with ongoing holistic support to maintain a tenancy.

References

Braye, S. and Preston-Shoot, M. (2021). *Practice Tool - Legal Literacy*. Research in practice for adults. Available at: https://www.local.gov.uk/sites/default/files/documents/Practice_Tool_19%20Braye%20%26%20Preston-Shoot%20RiPfA%20Legal%20literacy%20practice%20tool%20WEB.pdf (accessed, July 2022).

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