



Submission

Consultation on Repeal
of the Vagrancy Act
1824 and the Vagrancy
Act (Ireland) 1847

January 2025

homelessconnect.org

Homeless Connect Response to Consultation on Repeal of the Vagrancy Act 1824 and the Vagrancy Act (Ireland) 1847

Introduction

1. Homeless Connect has been working to prevent and alleviate homelessness in Northern Ireland since 1983. As an umbrella body, we represent over forty organisations working in the independent homelessness sector. We also support people with lived experience of homelessness to have their voices heard. We provide services that directly benefit people and communities, helping to sustain tenancies and diverting surplus nutritious food to charities and other not for profit groups.
2. This response has been informed by the input of our Voices for Change group and our Policy Forum. Eight individuals with lived experience of homelessness participated in a focus group on the repeal proposals and their insights have been incorporated below. We are grateful to them and to our members who have provided us with valuable insights.

Consultation Questions

What are your views on the Department's plans to decriminalise rough sleeping and begging by repealing the relevant provisions in the Vagrancy Act 1824 and the Vagrancy (Ireland) Act 1847?

3. Homeless Connect strongly supports the Departments plan to decriminalise rough sleeping and begging through the repeal of the relevant provisions of the Vagrancy Act 1824 and the Vagrancy Act 1847. We commend the Minister for Justice for bringing forward these proposals. There is nothing wrong per se with old legislation if it is effective and fit for purpose. However, in this case, the legislation currently in place is in our estimation not fit for purpose and is contributing to the stigmatisation of people experiencing chronic homelessness.
4. One element which members of our policy forum wanted to stress was the fact that not everyone who is begging is also sleeping rough. While it is true that some people who sleep rough also beg, the circumstances of those who are begging do vary. Consequently, it is pertinent to consider the two activities criminalised by these acts separately. Firstly, rough sleeping. We want to commend the PSNI for the decision

that they made several years ago not to look to arrest or prosecute individuals who are sleeping rough under these provisions. As the consultation document outlines regarding engagement with people sleeping rough on the part of the PSNI, “officers engage with the person, establish the circumstances and provide supportive assistance, making referrals to the appropriate support agencies.”¹ We have heard testimony from people who have been sleeping rough who were signposted by the PSNI to relevant support agencies. The approach currently adopted by the PSNI is a compassionate one which recognises that rough sleeping is a multi-faceted and complex phenomenon which cannot be resolved through a criminal justice response. We do not take for granted the approach that the PSNI takes in this regard, as we know that in other parts of the UK different police services take a different stance on rough sleeping using provisions such as Public Spaces Protection Orders against individuals who are sleeping rough.

5. If the PSNI are not enforcing this element of the law, the question may be asked as to why legislative time should be utilised to remove the provisions from the statute book when it comes to rough sleeping. In our view, it remains important that these provisions are repealed due to the stigma that is attached to rough sleeping arising from the fact it is criminalised. The law is a teacher and it signals what a society deems to be right and wrong. The maintenance of such a statute sends a signal that rough sleeping is worthy of punishment.
6. Additionally, the fact that the legislation remains on the statute book means that if under a different leadership of the PSNI a decision was made to enforce these provisions against people sleeping rough, there would be nothing to stop them from doing so. This is not in any way to suggest that the current leadership of the PSNI is contemplating such a step, but is a reflection of the fact that the present approach is subject to the current view of the PSNI leadership. Repeal would remove that possibility, however remote it may seem from our current vantage point.
7. People who are sleeping rough are amongst the most marginalised people living in Northern Ireland. The vast majority of people in this situation have experienced significant levels of trauma in their lives. Members of our Voices for Change group stressed the vulnerability of people sleeping rough and outlined that the law should work to protect people in that situation rather than stigmatising them through criminalisation. The emphasis should be on supporting people not criminalising them. Members of the group also indicated that the PSNI have enough to deal with already

and that any effort in the direction of enforcement of the legislation around rough sleeping would be a waste of time and resources.

8. In terms of understanding the number of individuals who are sleeping rough, the consultation document rightly cites the outcome of the rough sleeper count in November 2023. However, this is not the only relevant data point which should be considered. The recently published Street Needs Audit- which was published too late to be included in the excellent consultation paper produced by the Department- provides some indication of the number of people sleeping rough in Northern Ireland.
9. The Street Needs Audit was conducted in three parts of Northern Ireland: Belfast, Derry/Londonderry and Newry. In Belfast and Derry/Londonderry, the audit was conducted over a six week period while in Newry it was conducted over a two week period. As the audit rightly notes, the data captured only considers “visible activity” so it is likely that some forms of street activity have not been captured.² The audit identified 288 unique individuals across the three areas who were engaging in some form of street activity.³ 1,435 engagements were recorded with these individuals (980 in Belfast, 411 in Derry/Londonderry and 44 in Newry). 552 of the engagements related to individuals sleeping rough (502 in Belfast, 33 in Derry/Londonderry and 17 in Newry).⁴ Not every individual recorded in the audit was engaged in rough sleeping. Strikingly, the profile of street activity varied substantially in the three areas, with Belfast recording considerably more rough sleeping proportionally than Derry/Londonderry. We would submit that the Department should consider the findings of the audit in their deliberations on the provisions of the Vagrancy Act.
10. It is sometimes posited that people who are sleeping rough are “choosing” to be homeless. From our experience and the experience of our members and from listening from we strongly disagree with this narrative. There are several understandable reasons as to why people sleeping rough may choose not to accept a placement in temporary accommodation. These can be related to past experiences or perceptions of what accepting a place may mean for them. If a person in this situation turns down an offer of temporary accommodation, it is often not them making a positive choice to sleep rough, but a judgment on their part when it comes to determining what option in their estimation will cause them the least harm.
11. Individuals who become entrenched rough sleepers can also struggle with the move back into housing whether temporary or permanent. This may be because they have found acceptance and community amongst individuals who are sleeping rough or

because they feel unable to manage a tenancy. Our Voices for Change group also highlighted the fact that there needs to be an understanding that this society is in the midst of a housing and homelessness crisis which limits the housing options available to people. If the choice is being offered temporary accommodation far away from any support networks you have (say for a Belfast resident being sent to Enniskillen), it is hardly surprising that some will choose to sleep rough.

12. Each person sleeping rough has a unique story as to how they have found themselves in such a situation. While there may be commonalities in some of the narratives, it has to be recognised that different people need different forms and levels of support if they are to transition out of homelessness in to settled housing. The consultation paper helpfully provides some information on the support available to people sleeping rough in this society including the Complex Lives initiative and the work of voluntary and community sector organisations. A properly funded, trauma informed approach provided collaboratively by a range of organisations is much more likely to generate positive outcomes than a punitive response.
13. What is evident to us is that a criminal justice response to rough sleeping would not only be ineffective, but could in fact be entirely counterproductive, further marginalising people facing major challenges. Members of our policy forum working directly with women coming out of prison highlighted the significant difficulties that criminal records can lead to. While current practice around rough sleeping reflects this, the law should do so as well.
14. Finally, we would also point out that some of the language utilised in the two statutes against individuals sleeping rough (as well as begging which we will come on to) is not appropriate and needs to be removed from the Northern Ireland statute book. The terms “rogues” and “vagabonds” as well as the singling out of people with disabilities (“endeavouring by the exposure of wounds or deformities to obtain or gather alms” in section 4(e) of the 1824 act) is manifestly not appropriate and needs to be repealed. This is another ground on which we believe the Department is taking the right step in seeking to repeal these provisions.
15. Our Voices for Change group outlined the view that the use of this language in statute as disgraceful and unethical. Members indicated that they believe that the use of this language in law contributed to maintaining stereotypes around the kind of people who are experiencing homelessness. They expressed the view that the fact that this remains in law reflects negative attitudes on the part of some lawmakers towards this

marginalised group of people. Repealing these statutes would be a small step towards destigmatizing homelessness. The group strongly outlined their view that the time has come to repeal these laws.

16. Turning to begging, we recognise that this is the more challenging of the two areas under consideration in the consultation document. With that acknowledged, we believe that the approach being adopted by the Department is the right one on this matter as well as on rough sleeping. We agree with the view of the Minister that it is not “appropriate to criminalise people who are simply begging but who are not otherwise behaving in a way that would attract criminal sanction.”⁵ We further agree with the view of the Department that there are currently other offences on the statute book which should be sufficient to address disruptive or criminal behaviours associated with begging.
17. The consultation helpfully outlines the current approach of the PSNI when it comes to begging and how they currently approach the use of the Vagrancy Acts. It is evident that the PSNI in terms of its policy adopts a careful and graduated approach in terms of responding to begging in its current practice. Unlike with rough sleeping, the vagrancy acts are evidently used by the PSNI to prosecute and convict individuals for begging in this society.
18. What is not clear from the statistics provided is firstly whether (a) any of these prosecutions could have been conducted under other statutes and (b) whether conviction had any impact in terms of reducing begging or solving the issues which led an individual to beg in the first place. Regarding point (a), the text of the consultation indicates that the only gap which would be created by repeal would be “an inability to deal with simple begging through an out of court disposal or prosecution.”⁶ This would imply that other offences already exist to deal with what is described as aggressive begging. Questions of definition do arise over the idea of “aggressive begging” as this seems to be a somewhat subjective concept- one person’s aggressive begging may not be the same as another person’s- but nonetheless it seems to us that even with repeal that the PSNI would have the tools it needs to prevent harmful practices which may be associated with some forms of begging.
19. Point (b) however raises the more important point of principle when it comes to the issue of criminalising begging. We do not believe that the use of a criminal sanction is the best way to respond to what is in most cases a social problem. The reality is, as

Mantouvalou notes, “people beg because they are excluded from society, and resort to begging in public spaces in order to survive.”⁷ Criminalising people in poverty- regardless of whether they are sleeping rough- for simply asking for money on the street does not solve the underlying issues which have led them to engaging in that activity. In fact, it may actually further hinder individuals from addressing the issues that have led them to beg in the first place by leading them to have a criminal record and in increasing the stigma they already experience. As noted in paragraphs 12 and 13 above, a properly funded trauma informed, multi-agency approach is far more likely to generate positive outcomes than a punitive one.

20. We would draw the attention of the Department to the 2024 report of the United Nations Special Rapporteur on Extreme Poverty and Human Rights entitled “Breaking the cycle: ending the criminalization of homelessness and poverty”⁸ on this point. Following a consideration of the impacts of criminalisation on individuals experiencing homelessness, the report draws the following conclusions:

Relying on the criminal justice system to address the consequences of poverty and homelessness serves only to penalize individuals for structural inequality, social exclusion and their fundamental denial of rights. Criminalization further entrenches inequality, reinforces social stigma, and undermines the dignity of persons experiencing homelessness or poverty. A punitive or carceral approach that penalizes persons in precarity for begging, sleeping, or working in public spaces also poses a significant economic cost to the State that should be redirected to measures that are effective in preventing and ending homelessness and reducing poverty.

Such a punitive approach leads to a cycle of circular movement of individuals through poverty, homelessness and the criminal justice system and cannot be seen as justifiable. Penalizing the conduct of people who rely on the use of public spaces for their survival will not achieve the objectives of combating homelessness and poverty when the conduct that is prohibited is something the affected person cannot avoid, such as sleeping somewhere or gaining sufficient income for their own survival through informal work or begging...

The report recommends the following steps be taken:

Repeal criminal or administrative provisions in national and local government law that criminalize or sanction persons living, surviving or working in public spaces, for having no means of subsistence, for being a ‘rogue’, ‘vagabond’,

‘idle’, or ‘disorderly’... Repeal laws prohibiting begging in public spaces at the national, regional or local level.⁹

21. It is worth noting that several states within the Council of Europe do not criminalise begging. Mantouvalou notes that nine states within the Council of Europe- Albania, Andorra, Finland, Georgia, Greece, Moldova, Portugal, Slovakia and Ukraine- do not criminalise begging as such. This highlights the fact that taking this step would not be unusual within the Council of Europe. A further six states- Estonia, France, Ireland, Italy, Serbia and Slovenia- criminalise only ‘intrusive’ or ‘aggressive’ forms of begging.¹⁰
22. We note the approach which has been taken in the Republic of Ireland where the law has been reformed to only criminalise “a person who, while begging in any place- (a) harasses, intimidates, assaults or threatens any other person or persons, or (b) obstructs the passage of persons or vehicles is guilty of an offence and is liable, on summary conviction, to a class E fine or imprisonment for a term not exceeding one month or both.”¹¹ Our reading of the law as it stands is that a similar criminal penalty would be unnecessary in Northern Ireland as other criminal statutes already capture the activities which are in view here. The consultation document illustrates that the Department has come to a similar conclusion.
23. The focus group with our Voices for Change group generated a nuanced discussion around the subject of begging. Following a wide-ranging discussion, the group agreed that ‘simple begging’ (for example sitting on the street with a cup or a sign) should not be criminalised. The view was expressed that prosecuting individuals for ‘simple begging’ would be a waste of police resources which only further stigmatised already marginalised people. However, with that acknowledged, there was a belief that it was important that the PSNI retain powers to respond to aggressive begging. Group members held different views on what constituted aggressive begging, with some indicating that verbal abuse for refusing to give money would be enough while others pointed to the need for moves toward physical aggression. This highlights again the definitional challenge which exists around the concept of ‘aggressive begging’. Nonetheless, the group agreed that it would be important to ensure that the PSNI had the legal powers to respond to aggressive begging when necessary.
24. Homeless Connect would submit that if there is a concern about the impact of repeal on begging, that the Department or MLAs may consider the option of requiring a report to be produced on the impact of repeal of the provisions to be conducted after

a suitable period following royal assent. This would allow MLAs to gauge the impact and take any ameliorative action they would deem necessary. It would be our hope that any such review would find that the repeal of the provisions had been a positive change, but it is accepted that some may need reassurance that the repeal of these provisions will not have any unintended consequences.

What, if any, gaps do you consider that this would leave in the criminal law, taking into account the range of other offences available to deal with public order, disorderly behaviour and harassment in public places?

25. As noted in our response to Q1, we do not believe there are any gaps that the repeal of these provisions would leave which require additional criminal sanctions.

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References

¹ Department of Justice, "Consultation on repeal of the Vagrancy Act 1824 and the Vagrancy (Ireland) Act 1847", November 2024, <https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/vagrancy%20consultation%20paper.pdf>

² Northern Ireland Housing Executive, "Street Needs Audit 2023", September 2024, <https://www.nihe.gov.uk/getattachment/c4dcf791-f62a-4b3f-ba71-d352cd3684c6/Street-Needs-Audit-2023.pdf> 8.

³ Northern Ireland Housing Executive, "Street Needs Audit", 8.

⁴ Note that the same individual can be recorded more than once within the methodology of the audit.

⁵ Department of Justice, "Vagrancy Act 1824", 19.

⁶ Department of Justice, "Vagrancy Act 1824", 19.

⁷ Virginia Mantouvalou, "Structural Injustice and Human Rights: The Case of Begging," *UCL Research Paper Series* (No.28/2024) 1.

⁸ United Nations Human Rights Council, "Breaking the cycle: ending the criminalization of homelessness and poverty," *Report of the UN Special Rapporteur on Extreme Poverty and Human Rights*, Professor Olivier De Schutter, 26 June 2024, <https://www.ohchr.org/en/documents/thematic-reports/ahrc5661add3-breaking-cycle-ending-criminalization-homelessness-and>

⁹ UNHRC, "Breaking the cycle" paragraphs 55, 56 and 58.

¹⁰ Mantouvalou, "The Case of Begging", 4.

¹¹ Criminal Justice (Public Order) Act 2011, section 2.



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