

29 November 2021



PPR Response to the Joint [Call for Input](#) on

Decriminalization of homelessness and extreme poverty

from the Special Rapporteurs on the Right to Adequate Housing and on
Extreme Poverty and Human Rights

This [call for input](#) is for information on "laws and regulations at national, federal state or local level that may still prohibit or sanction begging, staying, sleeping, eating or undertaking any other life sustaining activities in public spaces".

The UK government's [response](#) to the call for input, accessible via the call for input webpage, states, "the United Kingdom Government firmly believes that no one should be criminalised for sleeping rough, living in destitution or simply for having nowhere to live".

Yet the UK Home Office has, during the span of the Covid-19 pandemic, adopted and issued implementation guidelines for new provisions for the deportation of non-nationals found to be sleeping rough in the country. The UK response to the call for input makes no mention of this policy.

The UK response stipulates that "all information in this response relates only to England". The policy of deporting non-national rough sleepers was introduced as an amendment to the country's Immigration Rules -- immigration being a reserved matter, under the remit of the Home Office throughout the UK. The policy immediately drew sharp criticism domestically, not least from the devolved administrations in Wales, Scotland and Northern Ireland -- all of whom have since stated categorically that their officials will play no part in implementing the policy in their jurisdictions.

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On 22 October 2020, the Home Office presented Parliament with a Statement of Changes to the national immigration rules. Under the new rules, the act of sleeping rough would be considered grounds for annulling or refusing a non-national's right to be in the UK. The text defines rough sleeping as follows:

“**Rough sleeping**” means sleeping, or bedding down, in the open air (for example on the street or in doorways) or in buildings or other places not designed for habitation (for example sheds, car parks or stations).¹

The measure is described below:

Section 4: Additional grounds for refusal of permission to stay
Rough sleeping in the UK

9.21.1. Permission to stay may be refused where the decision maker is satisfied that a person has been rough sleeping in the UK.

9.21.2. Where the decision maker is satisfied that a person has been rough sleeping in the UK any permission held by the person may be cancelled.²

The House of Commons Library explained that the Home Office's Statement of Changes was not subject to parliamentary scrutiny:

the Immigration Rules have a similar status to secondary legislation, and their approval process is similar to the negative procedure. This means they do not need active approval by Parliament³.

However, in response to a parliamentary question, on 26 November 2020 a Home Office spokesperson gave more detail on the measure:

The new Immigration Rules make provision for the refusal or cancellation of permission to stay in the UK on the basis of rough sleeping. The new rule will apply *on a discretionary basis* to non-EEA nationals from 1 December 2020 and to newly arriving EEA nationals from 1 January 2021. The provision will be used *sparingly* and only where individuals have *repeatedly refused support offers*, such as accommodation, and are engaged in *persistent anti-social behaviour*. Guidance will be provided for decision-makers to make clear the circumstances in which permission may be cancelled or refused, and this will also be available on GOV.UK when the new provision comes into force.⁴ (italics added)

Campaigners called these new rules making rough sleeping a deportable offence completely unreasonable, [pointing out](#) that in many cases it is the government's designation of 'No Recourse to Public Funds' that forces non-nationals onto the street in the first place.

Others drew attention to the 2017 High Court ruling that a previous iteration of this policy -- introduced in 2016 and challenged by the Public Interest Law Centre on behalf of three individuals affected -- was discriminatory and violated freedom of movement. At that time the judge reportedly [said](#) that "rough sleeping, even accompanied by low level offending

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928751/CCS001_CCS1020373376-001_Statement_of_changes_in_Immigration_Rules_-_HC_813__PRINT_.pdf p. 22.

² *Ibid.*, p. 42.

³ <https://commonslibrary.parliament.uk/rough-sleeping-immigration-rule-who-does-it-affect-and-how/>

⁴ <https://questions-statements.parliament.uk/written-questions/detail/2020-11-13/92027>

such as begging, drinking in a public place and other street nuisances, would not be grounds for removal".

The Good Law Project and local law centres [warned](#) that the measures could be used against people made unemployed and destitute due to Covid-19, as well as, potentially, people escaping trafficking, domestic violence or exploitation. A letter to the Home Office, signed by 78 organisations, [argued](#)

those legally in the UK with no access to state support, and for whom employment is not possible during the pandemic, risk being pushed into exploitative work and potentially modern slavery to avoid sleeping rough and putting themselves at risk of deportation.

[London mayor Sadiq Khan](#) wrote separately that the policy set a "[dangerous precedent](#)". By December 2020, local authorities including [Haringey Council](#) and the [Greater London Authority](#) said that they would not cooperate with enforcing the Home Office rule. [Oxford City Council](#) issued a press release stating that its homelessness services "will not cooperate with the Home Office over immigration enforcement" as it "believes that the new rules are in direct conflict with its promise to be a city of sanctuary for all of Oxford's migrant communities." MPs joined calls for the policy to be [scrapped](#).

Even the Home Office's own equality impact assessment reportedly [found](#) that its policy potentially discriminates on the grounds of race and against groups like survivors of domestic violence, and may disproportionately impact others, like disabled people.

Nonetheless, on 20 April 2021 the government published [guidance](#) on how to enforce the new rules.

The [Public Interest Law Centre](#) (PILC) launched a legal challenge against the Home Office.

EU sources and the Home Office's own newly-created Domestic Abuse Commissioner for England and Wales all [criticised](#) the move. So did a [group of 60 homelessness and human rights organisations](#), in a [joint letter](#) that concluded,

We urge the UK Government to scrap these damaging new rules immediately to ensure everyone can access homelessness support without fear. We urge authorities to retain their focus on supporting people out of homelessness.

Governments across England, Scotland and Wales have shown they can take [bold action to tackle homelessness](#). Building on this progress, we urgently need to see a clear, national strategy from the UK Government to end rough sleeping and homelessness for all.

The Home Office did not change course. By August, more than 110 charities and local authorities -- including [London's](#) -- joined together in a **Support don't Deport** campaign and [vowed not to implement](#) the Home Office policy.

In a welcome development, NI's Communities Minister [joined](#) officials elsewhere in the UK in saying that she would not direct her department or bodies under it to implement a Home Office directive around deporting foreigners found sleeping rough. She [told](#) the Northern Ireland Assembly,

I made a decision recently and have communicated it to all housing providers that we should not assist in that policy direction. I do not feel that, if you provide homeless services, you should be doing the work of the [British Home Office](#), particularly given its regressive approach to refugees and asylum seekers. I have put out my opinion that we should not adhere to this, and I know that, again, my Scottish and Welsh counterparts have done the same.

In this way, authorities in devolved administrations are actively instructing officials not to implement a central government policy on human rights grounds.

It is hoped that this precedent indicates a new willingness to counter punitive policies, that may be extended into other areas affecting particularly vulnerable groups such as refugees, asylum seekers and other foreign nationals.