

The use of enforcement in tackling rough sleeping – Mayor’s Rough Sleeping Group, 19 August 2015

1. Summary

1.1 The issue of enforcement is on the 2015 workplan of the Mayor’s Rough Sleeping Group (MRSG) because it is one that several members and partners of the group suggested could fruitfully form the focus of one of the group’s meetings. It frequently emerges at the MRSG and the Local Authority Rough Sleeping Leads’ Group in discussions of both aids and barriers to tackling rough sleeping. Joint work with the Police and/or Immigration Compliance and Enforcement (ICE) is identified as key to effective results and its absence detrimental to them.

1.2 As discussed at May’s MRSG meeting, a small group of members or their representatives met to explore how enforcement is and could further be used effectively to tackle rough sleeping (see Appendix 1). The group focussed on the following questions:

- What do we mean by “enforcement” in the context of tackling rough sleeping? And what’s its place in doing so?
- Where is enforcement working well and where is it working less well – and why?
- What might help ensure enforcement works more effectively, consistently and sustainably?

1.3 The MRSG are asked to focus on the following recommendations that emerged from this group’s deliberations, set out in more detail at section four below:

- resourcing ICE to facilitate additional joint shifts with outreach teams;
- developing and disseminating resources for Police and Magistrates;
- better identifying and tackling illegal employment; and
- developing the role played by the Cross Border Enforcement Group (CBEG) in information-sharing.

The group are also asked to consider whether there are other recommendations they might want to add to these.

1.4 Please note that this paper does not consider in any detail joint working between outreach and other rough sleeping services and ICE teams. This will be covered in wider good practice guidance on working with non-UK nationals currently being developed by St Mungo’s Broadway and Providence Row and to be considered separately at this meeting.

2. The nature and role of enforcement in tackling rough sleeping

2.1 Enforcement can target both anti-social and criminal behaviour, and breaches of migration law. It is underpinned by the statutory powers of the Police in relation to the former and ICE in relation to the latter, but it arguably spans a spectrum wider than these, including disrupting rough sleepers or gathering evidence around street activity.

2.2 Using the statutory measures at the furthest end of the spectrum is – rightly – a last resort, where other approaches to tackling rough sleeping have failed. For example, ICE may remove an EU national at the point where they have refused both support with securing employment and voluntary reconnection. However, “softer”, early enforcement measures can have a key role in preparing rough sleepers to accept support. Moreover, when support is offered, it can be helpful to make clear that, if it is refused, enforcement will be used – for example, when offering reconnection to EU nationals not exercising treaty rights. So, there is not necessarily the sort of stark disjunction between support

and enforcement that might initially be assumed.

- 2.3 The Police and ICE are not the only agents of enforcement and it is important that different agencies support enforcement work along a spectrum of activity. Outreach workers, as well as Safer Neighbourhood Teams and Community Safety Officers, have an important part to play. Examples include Tower Hamlets Council’s Enforcement Officers (THEOs), responsible for youth gangs, vice and rough sleeping; comparable officers in Hackney, Newham, Southwark and Kensington and Chelsea; and City Inspectors and Neighbourhood Problem Solving Coordinators, who are in the course of being trained in Westminster. Tower Hamlets’ THEOs gather evidence for enforcement agencies, while Newham’s Community Safety Officers use Anti-social Behaviour Notices as part of “leg work” for ICE. The City of London tend to deploy their outreach workers to do these types of work, through often use team managers for interactions that might undermine support work outreach workers have done with rough sleepers. The Fire Brigade can also function as a key enforcement agent – for example, in closing down squats and other sites that are used for rough sleeping, including some of those along the A406.
- 2.4 Agencies find enforcement can be helpful in demonstrating responsiveness to public concern, although those not immediately affected by rough sleeping may be wary about its use - as illustrated by the recent reaction to attempts to use Public Space Protection Orders (PSPOs) to tackle rough sleeping in Hackney and Oxford.

3. Aids and barriers to the effective use of enforcement in tackling rough sleeping

- 3.1 A number of key themes emerged in the course of discussing where and why enforcement does and does not make an effective contribution to tackling rough sleeping. These are outlined below.
- 3.2 **Clear and robust legislative or regulatory provision appropriate to particular situations:** Participants highlighted the value of clear, specific legislative or regulatory provision that is readily applicable to particular circumstances. Positive examples cited included the following:
- Legislation on trespass can be used by private landowners whose property is being occupied by rough sleepers.
 - Dispersal orders, which are useful in responding to large groups of rough sleepers.
 - PSPOs are of value in dealing with encampments.
 - Provision, from January 2014, for a 12 month bar on the re-entry to the UK of EU nationals removed for not exercising treaty rights, is considered to have reduced the “revolving door” element of reconnecting EU nationals who are sleeping rough.
 - Anti-Social/Criminal Behaviour Orders (ASBOs/CBOs) have been/are of use for those who persistently behave anti-socially and can sometimes prompt persistent rough sleepers to consider entering accommodation.
- 3.3 Conversely, participants highlighted how using the Vagrancy Act 1824 often proved difficult. The Crown Prosecution Service does not generally pursue prosecutions under this legislation. Where the Act has been used, individuals who accept the accommodation that must be offered at the point of arrest frequently move out of it straight away. Similarly, participants were somewhat cautious about PSPOs, commenting that, although useful in some settings, their specific geographical scope could generate displacement.
- 3.4 **Availability of appropriate resources:** Participants identified how the commitment of resources from all agencies – for example, Police and ICE officers regularly supporting outreach service shifts – is vital to effective enforcement. They reported instances of

inadequate or reduced resources undermining established approaches. Similarly, they highlighted the increasingly limited results delivered through joint outreach and ICE shifts as the number of CEE nationals sleeping rough has grown.

- 3.5 Resources need not only to be in place, but also to be suitable for the task and amenable to flexible deployment. Participants contrasted the effectiveness, when working with non-UK nationals, of outreach workers who have thorough knowledge of migration law and the language skills to engage readily with them, compared to those who do not. Those without this knowledge and skill may avoid approaching non-UK nationals sleeping rough. Similarly, they reported that frontline immigration officers were not always confident to use the full range of options available to them, including powers of arrest, with some relying on Police officers accompanying them. They also highlighted the need for all agencies involved to be clear about the rationale for and scope of their role in tackling rough sleeping. Flexible deployment is demonstrated where services will operate in situ – for example, mental health professionals conducting Mental Health or Capacity Assessments on the streets, or Community Safety Officers issuing Acceptable Behaviour Orders there.
- 3.6 **Partnership working, including information sharing:** There was consensus among participants that partnership working, above and beyond the commitment of resources, is essential to effective use of enforcement. Information-sharing was identified as being of particular importance. The need for partnership working reflects the range of issues with which rough sleepers may present (e.g., migration status, anti-social behaviour, offending, substance misuse), the iterative process through which enforcement approaches become appropriate, and the dependence of sanctions implemented by both the Police and ICE.
- 3.7 Where partnership working is in place, rough sleepers are more likely to receive consistent messages about the options open to them and the point at which enforcement will be used. Participants did comment that partnership working could often be heavily dependent on particular individuals, especially within agencies – notably the Police and the Judiciary – for which rough sleeping per se is not a primary organisational priority. (They noted that Police support was sometimes difficult to secure and attributed this to rough sleeping not being among MOPAC’s seven priorities. They also reported that, for magistrates, limited understanding of rough sleeping and/or pressure to minimise use of custody can drive decisions to, for example, bail rough sleepers to the addresses of hostels at which they are not actually resident.) These individuals can deliver some powerful results: for example, magistrates in the City of London have facilitated the Corporation’s use of the Vagrancy Act. However, relationships that depend on them are necessarily somewhat precarious.
- 3.8 Examples of information-sharing mentioned included the following:
- Having information on convictions outside the UK can help determine whether an EU national who is sleeping rough can and should be removed from the UK within the confines of the European Council Directive 2004/38/EC. Both the Police, though the specialist Nexus unit, and ICE are able to check relevant records, but not all frontline staff are aware of this and may therefore fail to use of this facility.
 - Services observe concentrations of CEE nationals sleeping rough in particular areas, close to sources of casual employment (usually via small firms or individuals), where coaches drop them. The mapped CHAIN data that GLA has arranged for the Home Office to start receiving on a monthly basis should help to ensure that ICE can focus on these areas in the future.

- In the course of the work Homeless Link and Thames Reach have coordinated around rough sleeping at sites along the A406, it has become apparent that the Police hold a good deal of information on the availability of casual employment close to these sites. Routinely sharing this with local authorities or outreach services could assist them in tackling rough sleeping in these areas.
- A key concern is that, where boroughs use enforcement measures unilaterally, this can simply generate displacement, for which neighbouring boroughs are not prepared. Participants suggested that the existing CBEG might usefully serve as a forum for sharing plans, with a view to ensuring more sustainable results, and that greater Police involvement in the CBEG would be of value.

3.9 **Persistence and comprehensiveness of approach, including prevention and accommodating particular needs:** Participants commented that enforcement works well where there are individuals or agencies that will operate at every point of spectrum, from evidence-gathering and disruption through to use of statutory measures, as outlined at 2.3 above. Things work less smoothly where there are gaps or where, sometimes as a result of such gaps, outreach services tend to defer to the Police and ICE prematurely, rather than reserving the limited resources they can offer for tasks that genuinely require them.

3.10 The sort of comprehensive approach that supports effective use of enforcement tends to involve prevention and accommodate particular support needs. Prevention approaches typically relate to the availability of casual employment that sustains many CEE nationals who sleep rough in London. Both Hammersmith and Fulham and Brent are currently adopting PSPOs intended to deter those offering casual employment at particular locations. Participants also flagged the importance of offering specialist support with substance misuse and mental health as part of enforcement – and mentioned that links with mental health services could sometimes be a weakness in enforcement.

3.11 Persistence is also important, particularly in relation to entrenched rough sleepers, to whose presence outreach services may sometimes become accustomed.

3.12 **Public and political support:** As highlighted at 2.4 above, the public can be ambivalent in their attitudes towards the use of enforcement to tackle rough sleeping. Partly in view of this, participants highlighted the value of political and/or public support in supporting the use of enforcement. The City mentioned that its local businesses and members are concerned to tackle rough sleeping and members have played a valuable role in securing resources to do so. Businesses whose custom has declined because potential customers find large groups of rough sleepers seeking work intimidating have been supportive of Thames Reach and Homeless Link's work to coordinate efforts to tackle rough sleeping along the A406. Brent described how local residents have made a high volume of complaints about the state of parks used by rough sleepers – something that has helped sanction the PSPO prohibiting rough sleeping in its parks that the Council is currently putting in place.

4 **Recommended steps for improving effective use of enforcement in tackling rough sleeping**

4.1 The following recommendations emerged from the group's discussion of how enforcement could more effectively be used to tackle rough sleeping:

- more immediately, resourcing ICE to facilitate additional joint shifts with outreach teams;
- developing and disseminating resources for Police and Magistrates;

- better identifying and tackling illegal employment; and
- developing the role played by the CBEG in information-sharing.

4.2 These recommendations are not intended to be exhaustive or to capture the breadth of best practice in using enforcement to tackle rough sleeping, but they are areas where participants suggested that some intervention may yield worthwhile returns in the short to medium term. More detail on what each might entail is outlined in the table below.

4.3 It is worth noting that the group were strongly supportive of amending the UK's Immigration (European Economic Area) Regulations, which define how the UK interprets the European Council Directive 2004/38/EC's stipulation that "EU citizens or members of their family may be expelled from the host country on grounds of public policy, public security or public health...", provided the member state applies a principle of "proportionality" and ensures that conduct that merits expulsion "represent[s] a genuine, sufficiently serious and present threat which affects the fundamental interests of society." They wanted to see the regulations changed, so that the ASB often associated with rough sleeping becomes legitimate grounds for removing EU nationals from the UK before they (can be shown to) have spent three months in the country would enable a more robust approach to ensuring those sleeping rough are helped off the streets quickly, rather than needing to wait for an extended period of time, during which the individual is at risk and communities are disrupted. While the Mayor and Rough Sleeping Group members may choose to lobby on this issue, there is no guarantee that doing so will yield change. And any such change would anyway be likely to take some time.

4.4 Some participants also suggested offering short-term, low cost accommodation for EU nationals either looking for work (potentially with support to find employment as part of the provision), or already working but without the resources for a deposit for private rented accommodation, would help add to the limited options services can offer to this cohort – and thus strengthen the rationale for using enforcement with those who refuse offers. However, there was some concern about the feasibility of this work, because of the following:

- a) The cohort have often refused offers of low cost accommodation where small-scale accommodation projects have been run, preferring to maximise income that they can return home by sleeping rough, so it is likely that accommodation would need to be free.
- b) It would be difficult to ensure that residents neither overstayed the period for which accommodation was available nor returned to the streets when it was terminated.

Therefore intervention in this area is not recommended at this stage.

Recommendation	Detail	Action required
<p>1. resourcing ICE to facilitate additional joint shifts with outreach teams</p>	<p>The group suggested that ICE could helpfully offer a minimum number of joint shifts with each outreach shift, with additional shifts as and when numbers of non-UK nationals sleeping rough in an area increase – as has happened in several areas where ICE’s current coverage of outreach shifts is insufficient to accommodate increased numbers of non-UK nationals sleeping rough. Any additional provision agreed could be set out through the good practice guidance on working with non-UK that St Mungo’s Broadway and Providence Row are seeking to develop for rough sleeping services, with input from other partners across the rough sleeping sector, including the MRSG, and from ICE.</p>	<p>Funding for the additional ICE resources would be needed. DCLG and the Home Office are asked to consider what they might offer.</p> <p>If additional provision was made available. St Mungo’s Broadway and Providence Row could outline this in good practice guidance.</p>
<p>2. developing and disseminating resources for Police and Magistrates:</p>	<p>Since it is critical that both Police and Magistrates understand rough sleeping and their particular contributions to tackling it, working to provide some (improved) guidance for them, in the form of training sessions and/or resources, would make sense. Some work has already been done with magistrates by both the City of London Corporation and Lambeth Council and the aide memoire for Police officers developed by Westminster Council has been praised as a valuable tool, which some boroughs, including Westminster and Lambeth, are replicating for their area. The Police representative who took part in preparing this paper suggested an “enforcement matrix” might prove a valuable resource for the Police.</p>	<p>Designated members of the MRSG could work with</p> <p>a) the Police representative on the group to develop to develop a simple, low cost tool to help Police understand their role in tackling rough sleeping,; and</p> <p>b) the Judicial College and the Magistrates’ Association to explore scope for offering a resource or training to magistrates, looking to identify some individual magistrates who already have a good grasp of rough sleeping to champion this among peers.</p>
<p>3. better identifying and tackling illegal employment:</p>	<p>Illegal employment seems to be playing a key role in attracting EU nationals who sleep rough to the UK and in sustaining them here. The MRSG’s initial efforts to identify and tackle sources of it, by asking boroughs to work with their outreach teams to report examples to DCLG and the Home Office via GLA, have so far generated minimal response. It seems that the request has not necessarily been cascaded by borough leads to outreach workers, that some of those who have received it have been uncertain whether the limited information they hold would be adequate, and that there are other partners – notably Neighbourhood Policing Teams and Safer London – who may hold valuable intelligence around this issue. Given this, there could be value in sharpening the request from DCLG and Home Office, including making clearer how the DCLG and Home Office will respond to intelligence, and disseminating it more widely, including to the Police. A clearer request and process could then be incorporated into good practice guidance on working with non-UK nationals.</p>	<p>DCLG and Home Office could work with GLA to sharpen the existing request for information. Police and other MRSG partners could help disseminate the request. St Mungo’s Broadway and Providence Row could also incorporate it into good practice guidance on working with non-UK nationals.</p>
<p>4. developing the role played by the CBEG in information-sharing</p>	<p>A number of participants commented on the scope for reviewing and clarifying the role of the CBEG, including governance arrangements. (The City mentioned that it had, in the past, been chaired by a member of the Police with particular responsibility for rough sleeping and that this worked well.) Comments on the role of the group frequently highlighted that it was a valuable forum for the sort of exchange of information that can help minimise the risk of displacement, but was not necessarily being used in this way at present.</p>	<p>CBEG to review its ToR, with input from the MRSG.</p>

Appendix 1: Members of the working group that shaped this paper

Individual	Organisation represented
Jude Cross	Thames Reach
Sam Cunningham	MOPAC
Kath Dane	LB Tower Hamlets
Deborah Halling	GLA
David Johnson,	LB Newham
Davina Lilley	City of London Corporation
Mark Montgomery	City of London Police
Louise Puddefoot	Metropolitan Police
Jonathan Qureshi	GLA
Petra Salva,	St Mungo's Broadway
Becca Taber,	DCLG
Robert White	Westminster CC