

BIRMINGHAM CITY COUNCIL

REPORT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE

10 NOVEMBER 2021
ALL WARDS

COMMUNITY SAFETY TEAM BEGGING AT TRAFFIC LIGHTS REPORT

1. Summary

1.1 The purpose of this report is to provide the Committee with information related to begging within Birmingham and the Community Safety Team and partnership approach.

1.2 Birmingham Community Safety Partnership Team (CSPT) covers a range of statutory functions, held within the Crime & Disorder Act 1998, ASB Act 2014 and Modern Slavery Act 2015 these include distribution and enforcement activities.

2. Recommendation

2.1 That the content of the report be noted.

Contact Officer: Pamela Powis Senior Service Manager – Community Safety
Telephone: 07917172531
E-mail: pamela.a.powis@birmingham.gov.uk

3.0 Background

- 3.1 The 2020 autumn count in England recorded 2,688 people sleeping rough, representing a fall of 37% on 2019 but 52% higher than the number recorded in 2010. The 2020 count coincided with a national lockdown in response to the Covid-19 pandemic, which is likely to have impacted the numbers recorded.
- 3.2 In Birmingham, rough sleeping, as measured on a single night, has more than halved with 17 people recorded as sleeping rough in the 2020 count, compared to 52 in the previous year 2019 and 91 in 2018, a 67% reduction from the previous year. A July 2021 snapshot recorded 26 rough sleeping; but with around 126 known to be begging across Birmingham, of whom 17 were on the rough sleeping list.
- 3.3 Birmingham City Council commissioned outreach service Trident Reach has engaged with 151 individuals, 43 of whom have been engaged while begging at traffic lights. This does not include general interaction made. In July 2021, a single morning sweep of the inner ring-road identified 38 individuals begging at roadsides. This often includes debris and tents and attracting other nuisances including litter and public urination.
- 3.4 The last 18 months, including lockdown periods, had an effect upon the street community moving people out of the city centre and onto roadsides, shopping areas and high streets around Birmingham. This partly reflected the reduction in footfall in the city centre, as well as the greater presence of police, Community Safety Officers, BID staff and other agencies. Several individuals are now on exclusion orders and as a result excluded from the city centre. Overall, there has been some displacement.
- 3.5 Birmingham City Council Community Safety Team officers have completed 2,567 recorded interactions with the street community in the last 12 months: 234 of which have escalated into some form of enforcement action and 172 of which have been referred to support services, 17 of which were engaged in begging at traffic lights.
- 3.6 In the year 2020/21 Streetlink received 1,115 referrals 100% have been followed up. So far within 2021/22 there have been 316 referrals received: April–June 2021 splits out rough sleeping from begging, in summary from the rough sleeper partnership 85 related to people sleeping rough; 62 to people begging, but not sleeping rough.
- 3.7 There is a commitment to ensure that services commissioned to help people who are sleeping rough, maintain a focus on helping homeless people. The identification of and any assistance given to people who are begging but not sleeping rough, is as a result of the initial need to understand a person's circumstances and a view that street begging can be both a route into rough sleeping and a mechanism to trap in a cycle of rough sleeping.
- 3.8 The above information is a snapshot of begging across Birmingham, while noting that the intelligence and resources available for the city centre are greater than for other areas. The Acting Head of Housing Solutions and Support (formerly Strategic lead for Rough Sleepers), is working with the Department for Levelling Up, Housing and Communities and the lead for Community Safety and have now secured funding to increase capacity within Community Safety, introducing 2 new

Intervention Officers that will work outside the city centre. Their role will be to mirror the approach found in the city centre, ensuring that anyone begging is identified, offered support and, if required, enforcement steps are taken. West Midlands Police have acknowledged that they do not have the resources to consistently police begging outside of the city centre, the challenge being made greater by the multiple neighbourhood teams covering the areas in question.

- 3.9 The issues surrounding begging at traffic lights is difficult to enforce, in most cases as soon as officers are seen approaching traffic lights individuals leave the area. That being said, working in partnership, we have been able to identify certain individuals. In a number of cases this involves tracing their address and issuing warnings after the event.

4. Partnership Working

- 4.1 Since October 2020 a Street Tasking Partnership Group (STPG) has been in place which meets fortnightly. Partners include West Midlands Police, Trident Reach, BCC Rough Sleeper lead and BCC Community Safety Team, who also facilitate.

- 4.2 The objective of the partnership is to work together to provide a tiered approach to each individual causing anti-social behaviour (ASB) related to begging:

- Engagement: is the individual fully engaged and working with services.
- Non engagement: individual refusing to engage and causing ASB is referred into the partnership tasking group for support.
- Contact: the individual is contacted by West Midlands Police and/or BCC Community Safety Officer and warned of consequences if ASB continues.
- ASB Continues: A Community Protection Warning (CPW) is issued and is monitored. A Community Protection Notice (CPN) is issued if there is a breach. Breach of a CPN can result in a fine and it not paid possible criminal action.
- ASB Continues: An injunction is issued. Breach of an injunction is a criminal offense and can result in the individual being imprisoned and banned from a location on release.

- 4.3 To date there have been 130 cases escalated to the STPG for enforcement action. Currently there have been 42 Community Protection Warnings (CPW) issued, 18 Community Protection Notices (CPN) and we have assisted West Midlands Police with 3 Injunctions/Criminal Behaviour Orders.

- 4.4 There are currently 61 active cases within the STPG street beggars of which 44 are known to have accommodation but are not necessarily maintaining it. There is a split between the type of accommodation they are living in - Housing First accommodation, council rented properties and hostel accommodation. The remaining 17 have all been offered accommodation on multiple occasions but have refused and are currently listed as having no fixed abode. It's worth noting that this figure can change on a daily basis as people either accept accommodation or fail to maintain it.

- 4.5 Partnership activities:

- Partners have been working together to deliver partnership activity at different locations throughout the city when locations have been identified with increased ASB. Trident Reach have been leading on this process and it has been focused on engagement.
 - To support the re-launch of Change into Action on 3 September 2021, a partnership activity day was arranged with a focus on begging at traffic lights. In attendance was West Midlands Police, BCC Regulation and Enforcement, BCC Community Safety Officers, Trident Reach and DWP. Ten locations were visited, and 19 individuals engaged (a number moved away from locations when officers were seen) 15 agreed to engaged with services.
 - Regular activity days are now being planned; further locations will be city-wide.
- 4.6 Modern Slavery and exploitation risks related to begging of any type is constantly monitored. We work in partnership with WM Anti-Slavery Unit, WM Police, Adult Social Care, Birmingham Children's Trust through EmpowerU and work with the Regional Organised Crime Unit (ROCU) as well as the Birmingham Police Serious Organised Crime Unit. Within the CSPT we have a Modern Slavery Coordinator who coordinates the partnership working. Victims' pathways are in place and anyone identified as a victim of modern slavery is referred into the National Referral Mechanism (NRM) The NRM is a framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support

5. Powers Available

- 5.1 Begging is a criminal offence under section 3 of the Vagrancy Act 1824 (as amended). The maximum sentence is a fine at level 3 on the standard scale (currently £1,000). Nationally in 2019, there were 926 prosecutions and 742 convictions for begging. There has been a decline in the number of prosecutions in each year since the recent peak of 2,219 prosecutions and 1,727 convictions in 2014. Most convictions for these offences result in a fine or a conditional discharge, however offenders are sometimes sentenced to custody. There have been widespread calls to repeal the legislation. A Private Members' Bill sponsored by Layla Moran - the Vagrancy (Repeal) Bill 2019-21 - would repeal the 1824 Act. The Bill received its First Reading in the House of Commons on 18 March 2020, a date has not yet been set for Second Reading.
- 5.2 Section 137 of the Highways Act 1980 states that "if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence". The penalty for this offence is a fine and not imprisonment. The person responsible can receive a £100 Fixed Penalty Notice and be fined up to £1,000 if prosecuted.
- 5.3 Using threatening or abusive words or behaviour is an offence under section 5 of the Public Order Act 1986, which also carries a level 3 fine.

5.4 Birmingham City Council (in the main the Community Safety Team) and West Midlands Police have a range of powers under the Anti-Social Behaviour, Crime and Policing Act 2014 to tackle anti-social behaviour:

- **Civil Injunction:** An Injunction to Prevent Nuisance and Annoyance (IPNA) to tackle people repetitively engaging in low level anti-social behaviour. An IPNA can both prohibit an individual from engaging in certain behaviour and/or impose requirements to engage in a particular activity to address the underlying causes of their anti-social behaviour. For example, an IPNA can require someone to attend alcohol awareness classes for an alcohol-related incident. Breach of an injunction is treated as civil contempt of court and is not a criminal offence. The maximum penalty for breach of an injunction is two years in prison and/or an unlimited fine.
- **Criminal Behaviour Order (CBO):** This can be issued by any criminal court when a person is convicted of a criminal offence, alongside any sentence or conditional discharge. The prosecution can apply to the court for a CBO to be issued. The anti-social behaviour which the offender has been involved in need not be part of the offence for which they were convicted.
- **Community Protection Notice (CPN):** This can be issued if the behaviour of an individual or organisation: detrimental to the quality of life of local community; unreasonable; and persistent. A CPN can direct a person or organisation to stop a behaviour or require them to take specific action to prevent the problem from reoccurring. Before issuing a CPN, a written warning to the person committing the unreasonable behaviour must be issued this is a Community Protection Warning (CPW). The warning must explain that should the behaviour continue, a CPN will be issued. Failing to comply with a CPN is a criminal offence which may result in the issue of a Fixed Penalty Notice.
- **Public Spaces Protection Order (PSPO):** This can be used to place restrictions or impose conditions on activities that people may carry out in a designated area. PSPOs are designed to deal with issues identified in problem areas which have a detrimental impact on the quality of life in a community. It is a criminal offence for a person to breach the terms of a PSPO for which an enforcement officer (police constable, police community support officer or council officer.) may issue a Fixed Penalty Notice. In Birmingham we issue a warning on any first breach.

Home Office guidance on the use of ASB powers makes clear therefore that powers should be used as appropriate and proportionately to ensure that orders do not disproportionately target vulnerable groups such as rough sleepers. The guidance followed feedback from charities and other groups who raised concerns that the orders were being used to disproportionately target certain groups in some areas rather than focusing on behaviour that is genuinely anti-social and causing others distress or alarm. The guidance helps local authorities and frontline workers to focus

on specific and actual problems rather than blanket bans of behaviour which are not in themselves anti-social – such as rough sleeping.

- **Dispersal Powers:** Section 35 of the ASB Act 2014 allows a police officer to disperse individuals or groups causing or likely to cause anti-social behaviour in public places or common areas of private land (such as shopping centres or parks), directing them to leave a specified area and not return for up to 48 hours. It is a criminal offence for someone to fail to comply with a direction made under section 35 for which the maximum penalty is a level 4 fine (currently £2,500) or three months' imprisonment

5.5 Some of the powers referred to above under the Anti-Social Behaviour, Crime and Policing Act 2014 are powers that must be introduced, for example a PSPO.

5.6 The guidance (last updated January 2021) emphasises “the importance of ensuring that the powers are used appropriately to provide a proportionate response to the specific behaviour that is causing harm or nuisance without impacting adversely on behaviour that is neither unlawful nor anti-social”. We must also consult with the police and relevant community representatives before making a PSPO and publish the draft order in the form of a public consultation before it is made. There must clear evidence that supports the introduction.

6. Conclusion

6.1 Within the Community Safety Partnership Team (CSPT) we have seen an increased in reports of ASB/aggressive begging. Within the first two quarters of 2021/22 (April–October 2021), we have engaged with 1,105 individuals who have been causing ASB related begging. In the same period last year 2020, the number of contacts were 872.

6.2 Reports received into the CSPT and to West Midlands Police show that locations for ASB/aggressive begging are changing and we are seeing an increase of reports related to begging at traffic lights, supermarkets and pay and display car parks. Not all these reports are related to ASB incidents and referrals are made to Streetlink to ensure support services are the first contact. We are also receiving increased reports in locations outside the city centre. Between June and July 2021 outreach services reported that they had received 60 referrals that were city centre-based and 22 referrals from north Birmingham (Erdington / Sutton Coldfield area).

6.3 Support services are commissioned with a focus upon, and targets to achieve, around homeless people bedded down as rough sleepers, and not with a focus upon those who beg.

6.4 The approach to resolving these issues must be partnership lead. Currently the CSPT and West Midlands Police are using powers under the ASB Act 2014 in the form of

Community Protection Warnings/Notices and Injunctions, this is resource intensive as each individual needs to be case managed. Currently this work takes place within the fortnightly Partnership Street Tasking Meeting, which is an informal agreement and relays on partnership commitment, and this can be challenged if a organisations priorities change. If we want to resolve a location issue, the powers available to CSPT is a Public Space Protection Order.

- 6.5 Although West Midlands Police have the powers to stop begging under the Vagrancy Act 1824, this is an antiquated piece of legislation. A Bill to repeal the Vagrancy Act 1824 is currently within the House of Commons and has had its Second Reading, as local government officers we need to be lobbying central Government to amend, update and bring in legislation that is more appropriate for modern times. West Midlands Police do recognise that begging at traffic lights is increasing, however it is not a force priority, but they are committed to support partnership working.

7. Public Sector Equality Duty

- 7.1 No further equality issues have been identified, as all enforcement activities are carried in accordance with the adopted enforcement policy, which was the subject of an equalities impact assessment.