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Citation for published version:

Johnsen, S & Fitzpatrick, S 2008, 'The use of enforcement to combat begging and street drinking in England: a high risk strategy?', *European Journal of Homelessness*, vol. 2, pp. 191-204.

Link:

[Link to publication record in Heriot-Watt Research Portal](#)

Document Version:

Publisher's PDF, also known as Version of record

Published In:

European Journal of Homelessness

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The Use of Enforcement to Combat Begging and Street Drinking in England : A High Risk Strategy ?

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› **Abstract_** *The use of 'enforcement' measures to remove homeless people from public spaces and/or to deter them from engaging in 'street activities', such as begging and street drinking, has become an increasingly high profile and controversial issue in many countries. This paper summarises the key findings of a study which sought to evaluate the impact of enforcement interventions on the welfare of people engaged in street activities in England. It argues that careful appraisal of the way in which enforcement is actually implemented 'on the ground' revealed that the situation is rather more complex and less punitive than it may at first appear. It demonstrates that the use of enforcement measures, when accompanied by appropriate support can, in fact, lead to beneficial outcomes for some individuals involved in begging or street drinking in some situations. The outcomes for other members of the street population can, however, be very negative and are highly unpredictable, such that the use of enforcement, even when accompanied by intensive support, is always a high risk strategy.*

› **Key Words_** *street homelessness; begging; street drinking; enforcement; Anti-Social Behaviour Orders (ASBOs); revanchism*

Introduction

The use of enforcement to remove homeless people from public spaces and/or to deter them from engaging in 'street culture activities', such as begging and street drinking, has become an increasingly high profile issue in many countries (Tosi, 2007; Doherty *et al.*, 2008). According to FEANTSA (2007, p.1), there is a "... growing trend towards repressive and coercive approaches to people who are homeless and their activities in public space". The 'criminalisation' of homelessness and the 'eradication' of homeless people from public space has been most extensively documented in the United States, where it has often been attributed to the vengeful actions of 'revanchist' city administrations intent on protecting the interests of privileged groups and increasing the city's marketability in a competitive global economy (Smith, 1996; Mitchell, 1997, 2001; MacLeod, 2002; DeVerteuil, 2006).

Punitive responses to homelessness in the United States have included increasing surveillance and the redesign of public spaces to exclude homeless people, as well as the overt use of legislation to target and criminalise their day-to-day activities (Davis, 1992; Mitchell, 1997, 2001; Amster, 2003). Such strategies – which Mitchell (2001, p.63) claims "make it impossible for homeless and other street people to *live* (at least without breaking any laws)" – have been widely condemned, with practitioners calling for more constructive responses to homelessness and other aspects of street culture (National Coalition for the Homeless and National Law Center on Homelessness and Poverty, 2004, 2006).

Approaches intended to address homelessness have reportedly been, on balance, less punitive and less pervasive in Europe than in the United States (Tosi, 2007; Doherty *et al.*, 2008). Importantly, homeless people tend not to be the explicit targets of measures used to control public space – but do nonetheless feel their effect disproportionately because of their reliance on such space to conduct their daily activities (Tosi, 2007; Doherty *et al.*, 2008). Many European cities have apparently been reluctant to adopt the hard-line, zero-tolerance police methods employed in larger American cities (Wacquant, 1999; Jones & Newburn, 2002). Moreover, some countries – including Belgium, France, Norway and Ireland – have repealed earlier legislation in order to de-criminalise the former offences of vagrancy and/or begging (Doherty *et al.*, 2008).

Doherty *et al.* (2008) nevertheless note that homeless people 'squeezed' out of public space in European cities are rarely provided with systematic compensatory support – and indeed are often forced into inadequate sheltered accommodation where harsh disciplinary routines and fear of theft and harassment are common. Such an outcome, Doherty *et al.* (2008) argue, exacerbates rather than alleviates the plight of those affected. Similarly, Tosi (2007) argues that regulatory measures in Europe have led to the social reconstruction of homelessness, reducing the issue

to a principle of 'order', such that it is no longer regarded as a social welfare policy issue. This, he contends, represents an attempt "to eliminate homelessness literally by directing effort towards making homeless people invisible, rather than meeting their needs" (Tosi, 2007, p.229).

Policy responses to street homelessness in England are in many ways unique within Europe. Street homelessness has been a policy priority in England since 1990 (Fitzpatrick *et al.*, 2000; May *et al.*, 2005), and subsequent years saw a substantial decline in levels of rough sleeping as a result of the work of the *Rough Sleepers Initiative* and then the *Homelessness Action Programme* (Randall & Brown, 2002). Significant resources have been devoted to addressing the accommodation and support needs of rough sleepers, with additional outreach services, hostel places, permanent housing association homes and resettlement projects all funded under targeted programmes.

However, as the number of people on the streets fell, concern mounted about the street culture activities – particularly begging and street drinking – that were engaged in by the 'hard core' who remained. In 2003, the Home Office's *Anti-Social Behaviour Unit* took up the issue of 'problem street culture', as part of a wider agenda aimed at eradicating anti-social behaviour; broadly defined as actions that cause or are likely to cause harassment, alarm or distress to other members of the public (Home Office, 2003)¹.

In particular, begging became a target for a range of enforcement interventions (Davies & Waite, 2004) – the most powerful and controversial of which were 'Anti-Social Behaviour Orders' (ASBOs), introduced by the Crime and Disorder Act (1998). These civil orders can contain conditions prohibiting an offender from specific anti-social acts ('behavioural' conditions) and/or from entering defined areas ('geographical' conditions). Penalties for breaching ASBO conditions can be severe and include prison sentences of up to five years. When first implemented, ASBOs were widely condemned as a costly and unworkable approach to addressing symptoms of deprivation, with the potential to exacerbate the problems of already vulnerable people (Ghosh, 2003; Leeds Simon Community, 2004). The anxiety surrounding ASBOs was compounded by the poor drafting of many early Orders, which often contained excessively wide or unclear prohibitions.

¹ The Home Office 'Respect' agenda and 'Together' Action Plan targeted a whole range of anti-social activities, including: misuse of public space (e.g. begging, street drinking, kerb crawling, inconvenient car parking); disregard for community/personal wellbeing (e.g. noisy neighbours, hooliganism, public urination); acts directed at people (e.g. verbal abuse, threats); and environmental damage (e.g. graffiti, dumping rubbish) (Harradine *et al.*, 2004).

Given the concern shared by *The Big Issue in the North Trust*² and ourselves, that enforcement measures were being implemented in cities across the country in the absence of any evidence of their impact on the 'street users' involved, we jointly sought funding from the *Joseph Rowntree Foundation* to conduct a qualitative evaluation of these initiatives. This paper summarises some of the key findings of that evaluation (see Johnsen & Fitzpatrick (2007) for the full report). It argues that whilst enforcement strategies in England seem to represent an attempt to, at best, render the street population 'invisible' and, at worst, criminalise vulnerable people for their involvement in street activities, careful appraisal of how enforcement is actually implemented 'on the ground' revealed that the situation is rather more complex, and less punitive, than it may at first appear. It demonstrates that the use of enforcement measures, when accompanied by appropriate support can, in fact, lead to beneficial outcomes for *some* individuals involved in begging or street drinking in *some* situations. However, the outcomes for other members of the street population can be very negative and are highly unpredictable, such that the use of enforcement is always a *high risk* strategy.

The paper begins by describing the evaluative approach and methods used in the study. It then provides an overview of the factors 'driving' the use of enforcement at the local level, and the specific tools employed to tackle street culture activities in the areas studied. The remainder of the paper presents evidence on the impact of enforcement on the welfare of street drinkers and people who beg in England.

Evaluating the Impact of Enforcement

The primary aim of the research was to evaluate the impact of enforcement interventions on the welfare of street users in England, particularly those engaged in begging or street drinking, with a view to identifying circumstances associated with any particular positive or negative outcomes. The study also sought to assess the impact of enforcement measures on other stakeholders in the community – residents and businesses in particular.

The research team started from the premise that involvement in street culture activities such as begging and street drinking is problematic because of the strong evidence that it is highly damaging to those involved. Numerous studies in the UK demonstrate the humiliation, violence, abuse and poor health endured by people who participate in such activities (Pleace & Quilgars, 1996; Ballintyne, 1999; Fitzpatrick & Kennedy, 2000). Moreover, the findings of previous research support Government claims that proceeds from begging in the UK are typically spent on

² The Big Issue in the North Trust, based in Manchester, is a charitable body associated with a street paper sold by homeless people in Northern England.

alcohol and/or drugs (Danczuk, 2000; Fitzpatrick & Kennedy, 2000; Jowett *et al.*, 2001; Vision 21, 2000), indicating that there is a strong correlation between the amount of money earned and levels of drug use, such that higher earnings lead to greater consumption and associated damage to a user's health (Fitzpatrick & Kennedy, 2000).

The research team took the view that social justice demands that any interventions designed to minimise or eradicate street activities should, on balance at least, be beneficial rather than damaging to this vulnerable group (see also Fitzpatrick & Jones, 2005). At the same time, the impact of these activities on other members of the community must be given due regard in assessing the overall appropriateness and justice of interventions.

The research comprised an in-depth evaluation of the impact of enforcement interventions in five case study areas in England: Birmingham, Leeds, Brighton, and the London Boroughs of Westminster and Southwark. Across these areas, a total of 66 (former or current) street users who had personal experience of enforcement initiatives, participated in the research: thirty-seven in in-depth interviews and a further twenty-nine in focus groups. In addition, eighty-two 'support providers' (e.g. managers and frontline staff from street outreach teams, hostels, day centres etc.) and 'enforcement agents' (e.g. police officers, magistrates, anti-social behaviour officers and other local authority representatives) were interviewed, as were twenty-seven local residents and business proprietors.

The broad profile and characteristics of the thirty-seven in-depth interviewees matched what would be expected from previous research among the street population in the UK (e.g. Shimwell, 1999; Danczuk, 2000; Fitzpatrick & Kennedy, 2000; Jowett *et al.*, 2001; Randall & Brown, 2006). A large majority of the sample was male, and all were 'White British'. They were a highly vulnerable group: almost all had substance misuse problems, many had mental health problems, and the great majority had suffered a traumatic childhood. Given the controversy in the UK on this issue, it is worth emphasising that all had a history of homelessness³ and three-quarters were homeless at the point of interview. Many of the in-depth interviewees had criminal records, usually for repeated minor offences. Of the thirty-seven, twelve had received ASBOs for street culture activities, while eighteen had been arrested for begging. Experience of the 'softer' forms of enforcement, such as police cautions or having their alcohol confiscated in controlled drinking zones (see below), was widespread.

³ The term 'homeless' was taken to describe an individual sleeping rough or otherwise lacking settled accommodation – including those in temporary or insecure forms of accommodation such as hostels, night shelters, bed and breakfast hotels, squats, or staying temporarily with family or friends.

Local 'Drivers' and Types of Enforcement

It was found that, while Central Government had provided the 'tools' to enable enforcement action to address street culture, it was local rather than national pressures that led to the use of these measures in the case study areas. In particular, concern was founded on the number of people begging and street drinking in city centres, and on the behaviour of many of those involved – especially displays of aggression within large congregations of people drinking outdoors and/or incidents of 'aggressive' begging:

“The square was taken over by street drinkers... It became very unpleasant to live around here, effectively... They were totally anti-social. I mean they drink, litter, urinate and worse in public... Something had to be done about it because it was just unbearable... You were looking over your shoulder when you were coming in and out because they're there all the time, they're watching you. You're worried about your kids, people coming over.” (Resident)

Whilst the top priority of the members of the public interviewed was a reduction in the negative impact of street culture on their daily lives, they were keenest on strategies which not only deterred individuals from anti-social street activities but also incorporated substantial supportive interventions. Similarly, enforcement agents rarely, if ever, displayed unsympathetic punitive intent, but often believed that enforcement had an important role to play in helping street users to make positive changes in their lives:

“Another driver in Leeds was the number of drug-related deaths. And beggars and rough sleepers were a significant proportion of that number. So, some people think it's heavy enforcement for the sake of it, but it's actually rooted in concern for the individuals themselves.” (Local authority representative)

A number of enforcement interventions were employed in the case study areas – ranging from 'harder' (more forceful or coercive) to 'softer' measures. They included:

- *ASBOs*: as noted above, these are civil rather than criminal orders, but punishment for a breach can include prison sentences of up to five years. *ASBOs* are sometimes preceded by 'warning stages' which are not legally enforceable, such as *Acceptable Behaviour Contracts* ('*ABCs*').

- *Vagrancy Act 1824*: specifies that begging is an arrestable offence, but is not imprisonable; the maximum penalty upon conviction is a fine. Begging has been a 'recordable' offence since 2003, such that the details of people convicted are recorded on the Police National Computer.
- *Controlled drinking zones*: restrictions on the consumption of alcohol in designated areas by the use of byelaws or *Designated Public Places Orders* (DPPOs). While it is not an offence to consume alcohol within a designated area, the police can require a person to stop drinking, and can confiscate the alcohol of anyone who is either drinking in the designated area or whom they believe intends to do so. Individuals failing to comply can be arrested and fined.
- *'Designing out'*: manipulation of the built environment to make 'hotspots' of street activity less habitable for street users (e.g. by removing seating or 'gating off' areas).

The degree to which supportive interventions accompanied these measures varied greatly across the case study areas. In some, carefully coordinated and individually tailored support packages (ensuring recipients were offered appropriate accommodation and/or treatment for substance misuse or mental health problems, for example) were integral to enforcement initiatives. In other areas, enforcement and supportive interventions operated virtually independently of one another, with blanket enforcement policies affecting all those engaged in a particular activity.

In practice, the 'harder' forms of enforcement – which were much more likely to be accompanied by support packages than were the 'softer' approaches – were usually targeted at those individuals who engaged in street activities most persistently and/or aggressively, having the greatest negative impact on the wider community (other members of the street population included).

The enforcement measures led to a dramatic reduction in the visibility of begging and street drinking in targeted localities in all five case studies and were thus regarded almost unanimously as 'effective' by enforcement agents and wider community representatives.

The Impact of Enforcement on the Welfare of Street Drinkers and People who Beg

'Harder' forms of enforcement – particularly ASBOs – were central to the reduction of problematic street activities in all of the targeted areas. This is hardly surprising, given the powerful deterrent posed by the potential of lengthy prison sentences being imposed for breaches. However, what did come as more of a surprise to the research team was that, when preceded by warning stages (such as ABCs) and integrated with intensive supportive interventions, it was evident that 'harder' measures could bring about *positive benefits* for some street users themselves, as well as to the general public. Enforcement in these instances acted as a 'crisis point', prompting reflection and change, encouraging engagement with support services, such as alcohol and drug treatment:

"As I say, this ASBO, in a kind of weird way, has done me a favour because I've faced my demons... I've chilled out, I've slowed down, you know what I mean."
(Street user)

Street user: "I'm eating three meals a day, I'm, I'm feeling, you know, positive... I want to change my criminality, I want to change who I am and who, and who I've become, you know. I want a better life for myself really and that's why I'm here [rehabilitation centre] because there comes a time where you just get sick of it..."

Interviewer: "Where would you be now, do you think, if you hadn't had your ASBO?"

Street user: "Dead or in jail on a life sentence or something."

"We find crisis is one of the best times to offer support. And that can be the death of a friend through an overdose; it can be a near death experience that they had themselves; it could be a new health issue... Enforcement can be the crisis... It does sometimes work. It's crude but effective." (Support provider)

Enforcement was also said potentially to act as a tool to break up large street drinking 'schools' that can enmesh newcomers in a street-based lifestyle, and/or undermine the influence of a group's more exploitative members:

"Street drinking groups are often used as camouflage for other activities. So there's a core group of street drinkers who I would define as vulnerable, non-threatening, not a risk to society generally... If you take out the core group the peripherals... the pimps, the street robbers, the small time drug dealers... don't have the cover... So no doubt they carried on with their low-level criminality... but they weren't able to use the street drinking group as cover and they weren't able to prey on the street drinking group." (Support provider)

In contrast, 'softer' forms of enforcement, such as controlled drinking zones and 'designing out', rarely if ever had discernable positive impacts on the lives of street users. Many street users were suspicious of what they considered to be the 'aesthetic' motives behind such approaches and this strengthened their resolve to 'fight the system':

"What are the authorities actually after? Is it a vanity, a cosmetic, exercise? Do they think we should be out of the way of the visitors?... Personally it strengthens my resolve to stay where I am." (Street user)

In addition, it was clear that both 'hard' and 'soft' enforcement initiatives could have *very negative* consequences for *some* street users. In particular, there was widespread evidence that enforcement led to *geographical displacement*, whereby street activity was 'pushed' into areas that were policed less heavily. This sometimes caused street users to frequent more 'hidden' (and potentially dangerous) spaces and/or distanced vulnerable individuals from support services:

"It doesn't cure anything, it just moves you to somewhere else... I just moved out of that zone." (Street user)

There was also evidence of *activity displacement*, whereby people who had begged turned to shoplifting or, less commonly, sex work, during 'begging clampdowns' in order to fund drug and/or alcohol dependencies. For example, one individual reflected the experiences of many others when stating that frequent arrests for begging:

"... pushed me to do a little bit of shoplifting, petty shoplifting, which I wasn't happy about, but I had no choice." (Street user)

It was evident that 'positive' responses to enforcement (i.e. desistance from begging/street drinking and engagement with support services) were most likely where enforcement measures were integrated with intensive support and where there was genuine 'interagency working' between the police, local authorities and support providers. Dedicated interagency forums proved very effective in facilitating this process – ensuring that all relevant supportive options had been offered before 'harder' forms of enforcement were considered, and that all stakeholder agencies were held to account for their roles in providing support to specific individuals.

Also crucial were the personal circumstances of an individual street user. The street users least likely to respond positively to enforcement were those who had a very long history of street living and/or substance misuse; had inadequately treated mental health problems; already had an extensive criminal record; or considered themselves to be 'hopeless cases':

“For a lot of our clients, they’ve been through that much crap in their lives that the ‘stick’ isn’t that hard compared to some of the other stuff that they’ve been through. And that’s why the stick doesn’t make much difference.” (Support provider)

“They kept asking me if I wanted treatment and it was like ‘I’ve been there and done that and it don’t work, not for me’... I’d resigned myself to the fact that I was going to be found dead in a car park somewhere.” (Street user)

Conversely, the street users who appeared most likely to respond positively to enforcement included those who had had some experience of stability in life; had something positive to aspire to (such as reunion with estranged children, for example); and/or had recent experience of other crisis points (such as an overdose scare or the death of a friend) which had prompted them to contemplate their lifestyle and future:

“Clients who’ve had busy, successful lives that fell apart because of drug misuse becoming out of control are relatively easy to get back on track.” (Support provider)

“Before, when I first started taking drugs and drinking and everything I didn’t feel no self-worth, I didn’t think I was worth it. But now I think to myself ‘I’ve got a little girl... so I can’t go out there and kill myself or inject and drink myself to death like because I’ve got to be a role model to her’.” (Street user)

All that said, responses to enforcement, particularly the ‘harder’ forms, were ultimately unpredictable. Support providers and the police alike were often surprised by, and found it difficult to explain, the divergent responses witnessed. Given the unpredictability of outcomes and the potential for very negative impacts on some street users – especially diversion into more dangerous activities or spaces and the possibility of lengthy prison sentences – enforcement clearly represents a *high risk* strategy with regard to the welfare of street users. However, given the desperate (indeed life-threatening) circumstances of some of the most chaotic street users, many frontline support workers and enforcement agents took the view that the use of enforcement was sometimes a risk worth taking, as a last resort:

“I’m happy to go down the enforcement route when we’ve tried everything else and the person is still gradually killing themselves and we’re getting nowhere... We’ve seen it happen [*displacement from begging into sex work*], and I guess the trade off is – what can I say – from our point of view it has been worth it. Things are better now, despite the fact of all this.” (Support provider)

Conclusion

The controversy surrounding the use of enforcement with street users appears to have abated in England over the past few years. Some important concerns remain, but there does appear to be an emerging acceptance within the homelessness sector that enforcement can benefit *some* street users, in *some* circumstances. It is still too early to predict whether the positive outcomes reported might be sustained in the long term for any individual street user, but many support providers in England are now of the view that there is a place for 'hard' enforcement, if only as a last resort when all offers of (appropriate and accessible) supportive interventions have been refused and where those targeted pose a 'genuine' threat to other people (including other street users). This accorded with street users' views, in that they too agreed that 'harder' forms of enforcement such as ASBOs were justified with 'agro' street drinkers and people who beg aggressively.

However, both groups did call for a degree of tolerance from the public regarding street users who do not 'harm' anyone, allied to a concern that anti-social behaviour should not be defined by the most 'easily offended' members of society (as also advocated by Millie *et al.*, 2005). Importantly, there was a consensus amongst interviewees that 'hard' forms of enforcement should never be employed with very vulnerable individuals, such as those with severe mental health problems.

From the evidence collated, it appears that although street activities *have* been explicit targets of enforcement action in England, attempts to regulate the actions of members of the street population *have not* been divorced from broader social welfare policy, as it has been suggested is the case in other European countries (see Tosi, 2007; Doherty *et al.*, 2008). On the contrary, in many (though not all) parts of England, when enforcement actions are undertaken, they are tightly integrated with intensive supportive interventions in keeping with the 'activist state' ethic that has underpinned much of homelessness policy under New Labour (Pawson & Davidson, 2007).

Careful appraisal of how enforcement is actually implemented in England has thus revealed that the situation is rather more complex and less punitive than the dominant academic discourse would suggest. That said, it must be emphasised that the outcomes of enforcement for any individual street user remain highly unpredictable and can be very negative, even when accompanied by intensive support, such that the use of enforcement with this group is always a *high risk* strategy.

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