British Journal of Community Justice

ISSN 1475-0279
Vol. 18(1) 4–20
Doi: https://doi.org/10.48411/jp74-nn80

CO-PRODUCTIVE APPROACHES TO HOMELESSNESS IN ENGLAND AND WALES BEYOND THE VAGRANCY ACT 1824 AND PUBLIC SPACES PROTECTION ORDERS

Anton Roberts, Researcher at the Policy Evaluation and Research Unit, Manchester Metropolitan University
Contact details: a.roberts@mmu.ac.uk
Benjamin Archer, Lecturer and researcher at the Department of Law at Sheffield Hallam University
Contact Details: B.Archer@shu.ac.uk

Abstract
Those experiencing homelessness exist in a precarious position in society; these individuals are simultaneously sites of vulnerability and criminogenic risk. For the street-sleeping homeless population, these citizens occupy a position of constant risk, requiring management and consideration of ethical obligations that arise from these environments (Killander, 2019). For as long as this social problem has persisted, politicians, policymakers and those involved in the criminal justice system have struggled to identify the appropriate means to grapple with this problematic dichotomy, which as a result has led to a continued criminalisation instead of other, more holistic approaches to tackling homelessness. This article explores two statutory instruments that have been used to tackle the issue of homeless in England and Wales: The Vagrancy Act 1824 and Public Spaces Protection Orders, introduced through the Anti-Social Behaviour, Crime and Policing Act 2014. These measures, it is argued here, stimulate further the punishment and degradation of homeless people in society. Using co-production as a methodological framework, we argue that concerted efforts can and should be made to include and engage people experiencing homelessness in the utilisation of these measures.

Keywords
Decriminalisation, co-production, homelessness, public space

Introduction

Homelessness continues to be an important issue of social policy, regardless of the political party or affiliation. According to the UK Government's own figures, between the 1st April and 30th of June 2021 over 32,210 households were assessed as being at risk of homelessness in England alone – an 18% increase from the previous year (GOV, 2021). Despite such a high figure, only 9,600 homeless people were accepted as 'entitled' to the most basic statutory assistance by local authorities. For many in society, the presence of those experiencing homelessness in public space represent and are perceived as a threat to the social order (Baker, 2009). This article addresses the contested nature of public space through England and Wales' criminological response to the phenomena of homelessness - it explores how this perceived 'threat' of social disorder i.e., rough sleeping, is criminalised in the community justice setting.

Following this introduction, the next section of the article begins by explaining the context of homelessness, particularly concerning the street-sleeping homeless community. We then establish an analytical framework and methodology for exploring the Vagrancy Act 1824 and Public Spaces Protection Orders (PSPOs), using a lens of co-production. In turn, each of these punitive measures are explored through this framework, highlighting opportunities for experiences of co-production to be utilised. Finally, we conclude by providing policy recommendations for future implementation; highlight the problematic and further punishment of people confronting homelessness arising from the recently-announced repeal of the Vagrancy Act 1824 as substantiated law it's replacement through PSPO.

Understanding homelessness

Whilst there is no globally agreed definition of homelessness, broad categories exist that provide a wider context for academics, practitioners, and the general public (Thom & Aceijas, 2016). For example, one of the largest categories is the insecurely housed, seen as citizens at risk of homelessness for several reasons, such as escaping domestic violence or facing economic difficulties (Watson, Crawley & Kane, 2016). Further categories of homelessness include those deemed as the 'hidden homeless', thought to be individuals who often do not present themselves to local authorities for assistance and often engage in couch-surfing (Crawley et al., 2013). However, previous research has highlighted the difficulty in quantifying this category of homelessness due to the low levels of engagement and poor visibility on census data (Fitzpatrick et al., 2012). The final category of homelessness is the street-sleeping homeless and is the source of this paper's focus (hereafter referred to as 'homeless/rough sleeper'). Stereotypical in their presentation in public spaces and often possessing a high and complex level of need (Cloke, Milbourne & Widdowfield, 2001), this category is exposed to the highest degree of risk and abuse from a variety of sources (Ministry of Housing, 2018). Such exposure includes criminalisation from the Vagrancy Act 1824 and potentially, it is emerging, through the imposition of PSPOs.

The contested nature of public spaces

Alongside these measures, those experiencing homelessness are often stigmatised in almost pathological terms because, as Goffman (1990) suggests, for many individuals, this population represents the spoiling of the landscape through their transgressions of cultural norms. In the field of homelessness research, the stigmatisation and punishment of homelessness represents a form of 'revanchism', the systematic punishment inflicted against those who are deemed poor, undesirable, or marginalised and is particularly present in urbanised areas (DeVerteuil, 2006). A model consistent with hostility, emotive moralising language, and punitive measures has been termed a '... sanitation of public space' (Johnsen & Fitzpatrick, 2010, p. 1). The reason for the recurrence of revanchist-based exclusion of homeless individuals, in particular, is to attract more 'desirable' groups, such as affluent consumers, deemed to be those of a higher social class who better stimulate the economic landscape of public spaces such as high streets i.e., systems of gentrification (Sue-Ching, Clark, & Hsiao-Wei, 2016).

The intersection of homelessness in public spaces envelops several disciplines, such as urban and legal geography, criminology and urban sociology (to mention but a few). All these disciplines address and theorise on the contestation of public spaces and there have been various attempts by numerous parties and policies to encourage regulation of this population. For example, the human geographer Ruddick (1990) presents influential ideas on the notion of placemaking as crucial within any homelessness strategy. They argue that space itself is never neutral, and as such, is in a continual (and at times subversive) negotiation of meaning, demonstrated in the tactical use of this space by citizens experiencing homeless, such as through begging. This challenge could be as simple as converting a public car park into a place of occupation or using a bus stop for activities unrelated to waiting for public transport. Through the actions of those facing homeless, rough sleepers perform micro and macro resistance by inverting behaviours taken for granted within the meanings of public spaces (Amster, 2008). Homeless populations challenge the identity, values, and social norms of various spaces through their mere existence in these public spaces, which always imply a presumed use. This assertion leads to 'violations' of space, where, as Ruddick (1990) suggests, these acts can become inherently political by resisting the assigned societal symbolic meanings of that space.

The contested nature of public spaces is particularly prevalent in commercialised areas, such as town and city centres, dubbed to be the '... privatisation of the public realm' (Doherty et al, 2003, p. 2). Going further, it is suggested that the presence of homelessness within public spaces represents: '... the body of decay, the degenerate body, a body that is constantly rejected by the public as sick, scary, dirty and smelly' (Rainey, 2017, p. 57). An understanding of the contested nature of public space regarding the presence of homeless people would not be possible without reference to the 'Broken Windows' theory of policing (Wilson & Kelling, 1982). This theory suggests that signs of decline within a public space, seen here through the presence of those seen as homeless, act as an accelerator to continued decline and criminality. Further, the rough sleeper 'response' to homelessness in a community justice setting is often referred to as 'quality of life' or 'zero tolerance' policing (Beckett & Godoy, 2010), notions which reflect the lasting impact of the 'Broken Windows theory'(BWT), despite BWT being heavily criticised and questions raised over its predictive and methodological validity (See O'Brien, Farrell & Welsh, 2019; Davis, H. E., 2017). In tackling homelessness, this means that the focus is transposed onto the maintenance of social order and the removal of any behaviours disruptive to this subjective 'ideal' space.

Existing methods of punishment

It is well recognised that policing can be outwardly hostile and discriminatory towards specific groups, particularly ethnic minority communities and other vulnerable populations (Howell, 2016). Further, Howell (2016) comments that such a system privileges wealthier communities and penalises poverty; this disparity is exemplified with the discriminatory use of controversial 'stop and search' powers (Gov, 2021). Throughout time, and regardless of the proven failures of these approaches, these policies continue to propagate in various approaches (Brown, 2020; Robinson, 2019). These notions of community justice have, and still are, being used to justify the punishment of people experiencing homeless for minor criminal infractions, such as vandalism, unauthorised settlements and begging (Young & Petty, 2019).

Johnsen, Fitzpatrick and Watts (2018) establish a framework for understanding the methods used to seek behaviour change in those suffering from homeless (Table 1). Punitive strategies both explicitly and implicitly seek to change the behaviour of perceived homeless individuals; clear examples include legal prohibitions, such as the commonplace imposition of anti-vagrancy and anti-begging laws (Lynch, 2002). This is combined with implicit strategies, such as noise pollution devices to disrupt rough sleepers and the 'wetting down' or archways, rendering these spaces uninhabitable (Whiteford, 2013). These techniques are furthered with the imposition of hostile architecture, which promotes a liquid-modern use of public spaces (Bauman, 2000). The latter is illustrated frequently as, for example, metal spikes introduced under bridges or seemingly intuitive designs that prevent an individual from lying/sleeping on a public bench (Johnsen, Fitzpatrick & Watts, 2018).

Modes of power	Definition	Examples
Force	Remove possibility of non-compliance	Enforced administrative removal Arrest, imprisonment Anti-Social Behaviour Order (ASBO)/Criminal Behaviour Order (CBO) Designated Public Places Order (DPPO) Public Spaces Protection Order (PSPO) Dispersal Order Some forms of 'defensive architecture'
Coercive	Secures behaviour change via the threat of 'deprivations'	Single Service Officer (SSO)
Bargaining	Incentivises behaviour change via the use/promise of an exchange of gains or losses	Personalised budget Conditional welfare assistance
Influencing	Promotes behaviour change via *persuasion* (use of speech of other symbols) or 'nudge' (modification of 'framing' of a decision) to shape beliefs and behaviours	Assertive outreach Motivational interviewing Anti-begging campaign Some forms of 'defensive architecture'
Tolerance	No active/deliberate attempt made to promote behaviour change	Traditional/low threshold night shelters, soup kitchens, soup runs, (some) day centre

Table 1. Typology of social control (Johnsen, Ftizpatrick & Watts, 2018).

Coercive techniques represent elements of conditionality, through which those experiencing homelessness are guided towards service providers, whereby the assistance offered can become punitive if refused (Reeve, 2017). Within England and Wales, this is also highly dependent upon the support services available within the municipality, as service providers typically represent independent charities with insecure revenue streams (Buckingham, 2009). This notion of conditionality suggests that assistance offered from the welfare state to homelessness sector is predicated on the assumption of their compliance and social control (Veasey & Parker, 2021).

Although it is well understood that those experiencing homelessness are particularly vulnerable, with individual circumstances often disregarded in discourse, such individuals face continued criminalisation which, in turn, can lower the tolerance levels from the general public (Johnsen & Fitzpatrick, 2010). For instance, research by the Homeless Link (2014) has highlighted that, typically, 80% of this group reported they had a mental health condition of some form, 73% reported physical health problems through prolonged inability to access medical treatment, and 39% suffered from a form of substance abuse. All these factors can be said to cumulatively force this population to engage with informal and potentially illegal economies, which vastly increases their vulnerability to punishment, such as monetary sanctions. When combined with the inability to pay such

sanctions, as will be discussed throughout this article, the outcome for those afflicted with homelessness inevitably leads to criminalisation. However, as the following section begins to establish, a co-productive method could avoid this continued criminalisation.

Methodology

In this section, we establish our understanding and use of co-production and outline how it will be used as an analytical framework to explore the issues deriving from the punishment of rough sleepers under the soon-to-be repealed Vagrancy Act 1824 and continuing through PSPOs.

Co-production is a diverse concept that operates in several situations, from social care to municipal management, sharing many commonalities in implementation regardless of its environmental setting (Rademacher, Cadenasso, & Pickett, 2019). Typically framed between the state (or other similar institution) and a collection of citizens with a vested local interest (Joshi & Moore, 2004). Co-production is a method of distributing resources and sharing power, popularised initially by Ostrom (1996) in her seminal *Crossing the great divide: Co-production, synergy, and development.* At its core, co-production focuses on producing goods and services as individuals and organisations work collectively to obtain shared goals, such as the participatory budgeting scheme found in the Porto Alegre approach (Santos & Boaventura, 1998). The theory was developed in opposition to the established state-run bureaucracies that bear the continued structural trappings of centralised controlled power, with policies that typically demonstrate structural inequality (Bevir, Needham & Waring, 2019).

Since its initial and perhaps more literal conception as a system used to obtain goods and services, the definition of co-production continues to evolve, with some arguing co-production is now used as a political tool, a method to democratically obtain rights through active participation (Dryzek, 2000). Through this new understanding, co-production involves a range of actors with various levels of need and creates connections with both individuals and organisations that otherwise would not exist, suggesting the growth in collective community governance and engagement with issues pertinent to local communities (Goodwin, 2019). Furthermore, when used in this democratic way, empowering co-productive processes can have powerful effects on engaging disenfranchised groups such as people experiencing homelessness (Tisdall, 2017).

Building upon this, co-production has a long history of public service provision as a method of empowerment that grants the ability to redefine unequal power relations (Holt, Jeffries, Hall, & Power, 2019). For instance, we highlight the example of Manchester's Homelessness Partnership, which includes as part of its remit continued collaboration between charity groups, corporate business partners, formerly homeless individuals, Manchester City Council and Greater Manchester Police (Manchester Homelessness Partnership, 2019). This partnership collaboratively shares resources, coordinates on specific problems, and works towards a consistent approach to community work, culminating in a charter of democratically chosen values representing the community's shared ethos on homelessness (Manchester Homelessness Partnership, 2019). We draw upon this example of co-production in subsequent sections.

We also draw upon the example from Finland, as this is one of the only European countries with a rapidly declining homelessness population (Eide, 2021). Per capita, Finland also has one of the lowest prison populations in Europe and has enjoyed falling incarceration rates since the 1950s (O'Sullivan, 2012). Their municipalities support their homeless populations by adopting the widely appreciated and co-productive 'housing first' principle, which provides permanent residency unconditionally to its population without any forms of coercion, as opposed to the typical 'treatment first' models utilised in the UK (Cornes et al., 2014). Such housing is provided collaboratively, with different measures of support provided for vulnerable populations, such as mental health and addiction services, to promote an ethos of joint working (Pleace, 2017). However, it is essential to note that this lacks the conditionality we outlined previously as problematic.

However, one of the criticisms of the co-productive process is that it can create tensions by challenging these existing power structures and that these multiple actors will usually have a divergent set of interests that have to be managed effectively (Clayton & Vickers, 2019). However, the main advantage of co-production is that it can create a sense of shared ownership, and by deputising local citizens, you gain increased local support or 'buy in' - a level of co-operation that would otherwise be unavailable to host or state organisations. Therefore, we argue that, compared to current alternatives, co-production provides a more suitable approach to tackling homelessness in England and Wales.

In the following sections, we explore the Vagrancy Act 1824 and PSPOs through the lens of co-production, using the following criteria:

- What legislative justification exists to enable authority figures to utilise either the Vagrancy Act 1824 or PSPOs against homeless populations?
- How do the agencies responsible make use of the Vagrancy Act 1824 and/or PSPOs against this marginalised group?
- To what level (if any) does the statute/existing guidance encourage agencies to utilise co-production within its legislative processes?
- If no evidence of co-production exists, what changes could be made to further incorporate such approaches?

The Vagrancy Act 1824

Within England and Wales, the Vagrancy Act 1824 provided the most consistent demonstration of criminalisation and persecution towards people feeling the effects of homelessness in a community justice setting for nearly two centuries. In doing so, this statute exemplified the criminalisation deployed towards this vulnerable group.

The Vagrancy Act 1824 statute was initially introduced as a means of preventing mass migration from newly unemployed people fleeing the Napoleonic wars and the implications of mass poverty, such as the credible dangers of rioting and widespread civil disobedience (Baker, 2009). Despite its seemingly contextualistic introduction, the 1824 statute has been used in varying degrees by local authorities and enforcement officers, with its most recent aim before repeal being to prevent apparent harm from occurring from homelessness. The historical context of this statute has resulted in several problematic considerations. For instance, Section 4 uses poorly defined terms such as 'vagrants' and outlining a moralising criteria that are simply outdated. This vagueness has historically resulted in the statute being used in racially discriminatory ways, such as in the 1970s, targeting communities with higher BAME populations (Crisis, 2018). In respect to this population, justification of criminalisation derives from two pertinent sections of the 1824 statute, Section 3 (begging justification) which states 'every person wandering abroad, or placing himself or herself in any public place, street, highway, court, or passage, to beg or gather alms' (p.1). This element is combined with Section 4 (rough sleeping justification) stating that 'anyone wandering abroad and lodging in any barn or outhouse, or any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or wagon, and not giving a good account of himself', can meet this definition of vagabond and threat to social order (p.1).

Where an individual is found to breach the Vagrancy Act 1824, a perpetrator can face a fine of up to £1,000 through Section 4, and, in some instances, it has been found, an informal ban from entering specific public spaces. It is not difficult to see how such a form of punishment could be problematic for a population lacking any economic capital. Further, this statute, under Section 4(1), contains the power of arrest for the occupation of abandoned buildings or from residing in structures near public spaces, such as tents (Sanders & Albanese, 2017). As Moss and Moss (2019) assert, this exacerbates the moral panic associated with those in the lowest classes in society and the inevitability of criminalisation for those issued with a monetary punishment with no means of paying it.

There have been several previously unsuccessful attempts by policymakers, charities and politicians to repeal the Vagrancy Act of 1824, including that by MP Layla Moran to introduce a bill to repeal the statute in 2018. Further attempts include the damning report by the charity organisation Crisis (2018) which continued criticisms of the law's criminalisation of the homeless. However, it is only during the parliamentary discussion on the current levels of rough sleeping that the subject of the Vagrancy Act 1824 once again came to the forefront, with the then Housing Secretary Robert Jenrick in February 2021 announcing that the act was 'an antiquated piece of legislation' – hinting the Government had plans to scrap the act (Brown, 2021; UK Parliament, 2021a). This assertion coincided with both charity campaigns to repeal the act in April 2021, and a parliamentary debate on prospective repealing of the statute, which gained widespread agreement across the political spectrum, 'The Government wholeheartedly agree that the time has come to reconsider the Vagrancy Act 1824. As many

Members have said, no one should be criminalised simply for not having anywhere to live' (UK Parliament, 2021b, p. 20). As of the 22nd of February 2022, The House of Commons finally took the decision to begin the process of repealing the act (House of Commons, 2022), which will undoubtedly increase the importance of the PSPO as a potential replacement.

It is outlined as part of the Government's rough sleeper strategy that homeless populations should not be discriminated against in the imposition of policy (GOV, 2018). In practice, however, police officers are expected to deal with the social problem of homelessness and are placed in an unfavourable position. From the decrease in 'community services', such as multi-agency teams with skills to deal with complex needs necessary to carry out a holistic approach, there is little choice other than to react using statutory punishments (Cummins, 2018, p.1). This has also resulted in instances where the Vagrancy Act 1824 is used informally by front-line workers, whereby an individual's behaviour is challenged without the individual being cautioned (Crisis, 2018). The person experiencing homelessness is then displaced elsewhere, which, in some circumstances, is acknowledged to be in a more dangerous location, which subsequently increases their chances of them coming into contact with the criminal justice system or becoming a victim of crime themselves. As a result, we speculate on whether front-line workers such as police officers may lack the suitable infrastructure, support or training to deal with vulnerable populations such as homeless populations especially under the 1824 statute.

Whilst the Home Office (2014) produced a strategic guide for working with vulnerable populations, homeless populations were not mentioned directly within this document. Although it outlines essential issues such as substance abuse and poor mental health, no guidance is offered for a population with multiple complex needs. Notwithstanding that the difficulty of meeting this need is acknowledged, '[P]eople with mental health problems or other vulnerabilities may have a range of complex needs, which the police alone are not fully equipped to meet' (Ibid, 2014: p2). The College of Policing (2018) released its report on the *Evaluation of vulnerability training for front-line police officers and staff,* to improve the police's response to vulnerability. Many officers found the definitions of vulnerability out of date and requested more nuanced understandings, as well as some groups requesting more advanced course content on how to deal with these populations, suggestive of the fact that some forces were seeing higher and more complex needs than others. In the absence of appropriate levels of training and support, it is no surprise that there has been an increase in the reported use of 'enforcement measures' by law enforcement. As evidenced in a report from the homeless charity Crisis (2017) on the impact of enforcement on-street homeless – 70% of 458 rough sleepers involved had experienced informal criminalisation by the police, and a further 81% received no support or guidance whatsoever from referral/signposting. When lacking appropriate training on the complexity of nuance and adequate referral services, police have little alternative than punitive measures.

Reports suggest that prosecutions using this statute have been falling over recent years, from 1,050 in 2011 to 183 in 2019 (House of Commons, 2021). However, this figure does not consider individuals who were arrested but not prosecuted using this statute, as the data provided by the Ministry of Justice was insufficient to raise these conclusions, nor records its more everyday use, as mentioned above. This suggestion raises concerns of accountability and transparency, similarly, raised by the PSPO. Whilst prosecution levels under the Vagrancy Act 1824 have been falling in a seemingly positive way prior to its repeal, we suggest that this is due to the introduction of PSPOs, commencing in 2014, which have consumed the community vacuum left by the problem of homelessness. As a result, the following section will begin the exploration of the PSPO as a tool used against what are considered homeless populations; the potential impact that this usage can have from a community justice perspective.

Public Spaces Protection Orders (PSPOs)

Exemplifying elements of social control from Johnsen, Fitzpatrick and Watts (2018) (Table 1.), PSPOs are a civil anti-social behaviour (ASB) measure introduced through Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014. These orders derive from an amalgamation of different ASB powers by the Conservative-led Coalition government, following the previous 12 years' worth of ASB powers first introduced in statute through the Crime and Disorder Act 1998. The approach adopted by the Coalition government in 2010 reflected a refocus of ASB towards the victimisation suffered and the potential negative impact that continued victimisation can have on citizens (Heap, 2016). Whilst PSPOs combine Designated Public Place Orders, Gating Orders and Dog Control Orders, we assert that PSPOs afford a much broader scope in their implementation, which provides more worrying implications for the homeless population without a greater emphasis on co-productive approaches to implementation.

Local authorities introduce PSPOs as a means of regulating ASB demonstrated by perpetrators within public spaces. As a result, PSPOs are enforceable against all users of the concerned public space through their scope, rather than being issued on an individualistic basis, like previous ASB measures such as the Anti-Social Behaviour Order. To introduce a PSPO against a designated public space, a local authority must follow a bi-stage test outlined by the 2014 statute. Section 59(2) of the ASB Crime and Policing Act 2014 provides that:

- (a) activities carried on in a public place within the local authority's areas have had a detrimental effect on the quality of life of those in the locality; or
- (b) is it likely that activities will be carried on in a public place within that area and that they will have such an effect.

Further, Section 59(3) of the 2014 statute poses whether the activity taking place:

- (a) is, or is likely to be, of a persistent or continuing nature,
- (b) is, or is likely to be, such as to make the activities unreasonable; and
- (c) justifies the restrictions imposed by the notice.

As part of their scope, PSPOs include prohibitions and requirements that regulate the ASB of all public space users within the designated PSPO area. Examples of prohibitions initially cited as potentially applicable for PSPOs include prohibiting alcohol consumption; examples of requirements include keeping dogs on their lead (O'Brien, 2016), reflecting the amalgamation of PSPOs from prior ASB measures. The prohibitions and requirements commonly found within PSPOs reflect the ideology of the 'model' citizen, deriving from a neoliberal and consumerist perspective on the behaviours of individuals within public spaces, and often blur notions of criminal and civil law within their scope (Brown, 2017).

For those in breach of a PSPO, two statutory punishments are available under the 2014 statute. These are either a fixed-penalty notice (FPN) of up to £100 issued on the spot or a fine not exceeding £1,000 if found guilty of a summary conviction in the Magistrates' Court., We extend concerns regarding the lack of accountability that local authorities have to the Home Office in introducing PSPOs (Heap & Dickinson, 2018), particularly concerning the criminalisation of people experiencing rough sleeping, and the primary means of ascertaining the number of FPNs issued for PSPO breaches deriving from campaign groups such as The Manifesto Club (Appleton, 2019; 2020).

However, our primary concern with PSPOs in this article is the need for a "necessary consultation", found within Section 72(4) of the 2014 statute. At a minimum, it is asserted that a local authority must consult with:

- (a) the Chief Officer of Police, and the local policing body for the police area that includes the restricted area,
- (b) whatever community representatives the local authority thinks it appropriate to consult; and
- (c) the owner or occupier of land within the restricted area, if, or to the extent that it is reasonably practicable to consult with the owner.

Other bodies to consult with from within the guidance include residents' associations, public space users and those included with behaviours such as street-busking (Home Office, 2021). However, consultations have been highlighted whereby citizens were either unaware of their right to have their voice heard or where consultations occurred on an 'invite-only basis (The Kennel Club, n.d.). We raise issues with the potential for consultations to be excluding towards those people experiencing homelessness through a lack of co-production in implementation. In the following section, we apply the introduction of PSPOs to our criteria of effective co-production

Discussion

In this section, we expand upon our initial discussions of the use of the Vagrancy Act 1824 and PSPOs and apply them to our co-production test established in the methodology.

When first considering the soon-to-be repealed Vagrancy Act 1824, interpretation of this statute by local authorities and enforcing bodies is far from clear. As previously mentioned, this is often manifested in its more informal use on homeless populations to exclude them from specific spaces, where justifications for criminalisation are often ambiguous and discriminatory (Crisis, 2018). The effect upon this group has proven variable dependent upon the particular ethos and policy of that local authority and the resources available to their respective police forces – 34% of local authorities reporting its formal use (Crisis, 2017). However, as the review of the evidence has suggested, its effect upon these vulnerable populations was disproportionately negative and criminalising wherever it was present. We would argue that currently, no aspect of the Vagrancy Act 1824 is open to co-productive processes as it currently rests entirely upon the discretion of the professionals, or members of law enforcement that continue to utilise this act in an ambiguous and inconsistent way. Although arguably it is always possible to improve any component of legislation or policy with more co-productive techniques such as community consultation, the concern may reside around the very moralising definitions of the act itself. Terms such as 'vagabond' are no longer appropriate as a means to describe the most vulnerable and socially excluded of our citizens, and as such, such an act may no longer be fit for purpose.

Concerning the utilisation of PSPOs, we find a lack of encouraging co-production in their implementation through the existing statute and guidance, particularly concerning consultation with those identified as potential perpetrators of proposed orders. As Osborne, Radnor & Strokosch (2016) assert, community members that are likely to be impacted by policy should be deputised into processes such as consultations as co-producers to create shared definitions and understandings. In this case, these shared meanings exist through the relationship between parties, positive interactions between citizens and service users and the local authorities. As the success of projects such as Manchester's Homeless Partnership demonstrates (Allmark, 2020), when creating a community-based charter of objectives and ethical conduct, rough sleepers themselves can be empowered to be part of the process. Further, co-production will make local authorities better aware of the concerns and vulnerabilities of their population, which in turn should increase tolerance and support from stakeholders. Thus, we assert that local authorities *must* include vulnerable groups such as individuals with lived experience of homelessness as co-producers in introducing PSPOs, rather than the first involvement of these groups potentially being a form of punishment under an order once introduced. Publication of Archer's (forthcoming) PhD research findings explores empirically the extent to which local authorities consult, or do not consult, with those experiencing homelessness, amongst other vulnerable population groups, directly in the implementation of PSPOs.

Further concerning PSPOs and co-production, it is pertinent to understand the impact prohibitions and requirements can have on these individuals. It is well understood that defining ASB often results in blurring criminal and civil law (Brown, 2015); this is furthered in the introduction of PSPOs. For instance, Brown (2020) reports, out of a sample of 32, that 27 local authorities had introduced a PSPO with prohibitions worded surrounding some form of begging; a further five were in the process of consulting to introduce a PSPO of this nature. Further, prohibitions on alcohol/psychoactive substance consumption within public spaces fail to recognise the importance of such behaviours for this population (Klee & Reid, 2009). Whilst Home Office (2021) guidance states that PSPOs '... should not be used to target homeless people based solely on the fact that they are homeless or rough sleeping' (p. 65), this does not form part of the 2014 statute and is only guidance and, as such, PSPOs of this nature can face challenges on the basis of judicial review proceedings, deriving from Section 66 of the 2014 statute. When coupled with a lack of consultation with homeless populations directly, the introduction of prohibitions and requirements perceived to target people experiencing homelessness represents a lack of co-production and criminalisation without allowing these individuals to express their views and lived experiences.

Conclusion and recommendations

Through the course of this article, we have sought to examine the issue of homelessness through a community justice and co-productive lens, highlighting issues present within the Vagrancy Act 1824 and the recent implementation of PSPOs. As demonstrated, punishments resulting from both the 1824 act and PSPOs risk criminalising those suffering homelessness without providing an opportunity for a co-productive perspective in

implementation. The impact of this further limits the ability of these groups to rise out of their circumstances, creating a cyclical existence of criminality. Punishment in this way routinely results in different forms of exclusion and weakens the social and community bonds between people experiencing homelessness and the broader community of public space users, engendering hostility on both sides.

Whilst we have discussed both the ageing Vagrancy Act 1824 (which was recently announced as being in the process of repeal at the time of writing) and the use of the PSPOs, we are more concerned with the use and impact of the latter, aligning with assertions that these measures present a lower level of accountability for local authorities (Brown, 2020). Furthermore, whilst a statutory requirement for consultation before implementing PSPOs exists, there is no overt statutory onus on local authorities to directly engage with these homeless people as a population group. This gap in statutory procedure presents an obvious opportunity for local authorities to adopt co-productive techniques to implement PSPOs, which goes beyond imposing measures that primarily target people experiencing homelessness within their scope. Instead of responding to concerns, we highlight how the application of PSPOs, following their introduction in statute in 2014, has continued the cycle of the 'revolving door' of punishment and criminalisation for those going through homelessness (Kushel et al., 2005) through a lack of co-production.

From a community justice perspective, the holistic approach in Finland contrasts sharply with the Vagrancy Act 1824 and the use of PSPOs in the English and Welsh context. Finland demonstrates a powerful example of community justice practice that engenders a more comprehensive social policy to combat a social problem. The punitive measures applied here seek to coerce a vulnerable population or risk the implications of criminalization and prosecution. Throughout this article, we have raised issues with coercive techniques to obtain compliance from those people enduring homelessness. In line with Finland, we suggest that homelessness is viewed as an economic and shared social issue rather than an individual criminal or civil one, and those suffering homelessness should not be criminalised for their poverty.

Building on the notion of a co-productive and inclusive community in the future, we outline different recommendations applicable both to the Vagrancy Act 1824 and PSPOs. Amongst other concerns, and within the limited scope of this paper, we recommend that future application of PSPOs should consider:

- Greater inclusion of people experiencing homelessness through co-production within the consultation process for PSPOs at both a statutory and guidance level. Deputising these individuals into the process of consultation will provide PSPOs that better reflect the experiences of homelessness rather than continuing the criminalisation of this population group.

- Supporting agencies and charities that work most closely with the population of people that are experiencing homelessness and should be included more acutely in the process of introducing PSPOs. This would increase co-operation and co-production and increase access to support services, decreasing the need to rely on more punitive practices in the first place. Further, in line with the discussions above, we recommend that homelessness should be viewed by the community as a shared social problem, as is the case in Finland, from which the inclusion of support service providers would help a move towards alleviation of the social problem of homelessness. This shared sense of responsibility would result in greater tolerance towards homeless people and a move away from the conditionality of the help model, which excludes those with the most complex areas of need.

- A greater level of accountability in the introduction of PSPOs. Not only should there be a consistent level of reporting of the number of PSPOs introduced and the prohibitions and requirements therein, but the usage of punishments such as FPNs should also be captured by the Central Government and made publicly available. This will ensure consistency in the approach of local authorities and guard against misuse and potential discrimination against people suffering from homelessness. Academic research, charitable organisations and interested citizens should not be the sole means of holding local authorities to account.

Finally, we assert that repealing the Vagrancy Act 1824 does not absolve the criminalisation of homelessness. Instead, repealing this statute leaves measures such as the PSPO in its place, which is troubling; in many respects,

PSPOs risk problematising the homeless population and creating hostility within the community setting. We assert that PSPOs can potentially be implemented more harmfully without the 1824 statute and its restrictions; we recommend that a well-informed understanding of the measures replacing the Vagrancy Act 1824 occur before repeal concludes. Practitioners, academics and policy makers must reflect on the concerns raised by previous legislation, in line with Baker's (2009) statement that: '[A]n enlightened answer to the current homelessness problem cannot be found in the criminal law' (p. 3). This assertion does not mean, however, that community justice can now be found in civil law.

Anton Roberts is a researcher and PhD candidate at Manchester Metropolitan University. He works in the field of criminal justice/social policy for the Policy Evaluation and Research Unit (PERU), with his own doctoral research explores the role exaggerated masculinity plays in extreme environments - from rough sleepers, religious extremists to violent offending populations.

Benjamin Archer is a Lecturer in Law within the Department of Law and Criminology at Sheffield Hallam University, and a joint-funded Sheffield Institute for Policy Studies and Doctoral Training Alliance PhD student. His doctoral research examines the introduction and implementation of Public Spaces Protection Orders by local authorities; his wider research interests include greenspace management and the revitalisation of high streets in town and city centres.

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