

Understanding the new immigration rule targeting non UK-national rough sleepers

JUNE 2021 UPDATE

What is the rough sleeping rule?

On 1 December 2020 the government amended the Immigration Rules to make rough sleeping a ground for refusing or cancelling permission to remain in the UK.

However, on 6 April 2021 the rough sleeping rule was amended so that permission to remain may only be refused or cancelled where a rough sleeper has also:

- ‘repeatedly refused suitable offers of support’ *and* ‘engaged in persistent Anti-Social Behaviour (ASB)’.

On 20 April 2021 the Home Office published [guidance](#) on the interpretation of the rough sleeping rule

Who does the rough sleeping rule apply to?

The rough sleeping rule may apply to:

- undocumented migrants
- people on work, visitor and student visas, including EU nationals arriving since 1 January 2021
- victims of trafficking and modern slavery, including unrecognized victims and those granted discretionary leave under the Home Office’s policy on victims of trafficking and modern slavery
- people on UK ancestry visas
- those applying to remain in the UK on the basis of their private life under Article 8 ECHR outside the Immigration Rules

If a rough sleeper fits into one of the above categories, the rough sleeping rule may apply only where they:

1. ‘repeatedly refuse suitable offers of support’ *and*
2. ‘engage in persistent anti-social behaviour’

Who does the rule not apply to?

The rough sleeping rule does not apply to:

- people granted or eligible for pre-settled or settled status under the EU Settlement Scheme (EUSS)
- people granted leave under a protection route (for example as a refugee or on the grounds of human rights or humanitarian protection)

- those applying to remain in the UK on the basis of their private life under Article 8 ECHR within the Immigration Rules
- those applying for leave as family members under Appendix FM
- people granted leave as a victim of trafficking under the Immigration Rules

It is unclear whether the Home Office intends to apply the rough sleeping rule to people with Indefinite Leave to Remain (ILR).

What are 'suitable offers of support'?

According to the Home Office guidance, 'suitable offers of support' do not only relate to accommodation. The nature of support offered should be relevant to an individual's needs.

Examples of support include:

- offers of accommodation
- help with looking for work
- help accessing benefits
- access to services for alcohol, substance misuse or mental health issues
- help with making an application to the EU Settlement Scheme
- *if a rough sleeper wants to go 'home'*, help to apply for a voluntary return
- if they think they are a victim of trafficking or modern slavery, referral to the National Referral Mechanism

How will Immigration Enforcement interpret 'repeated refusal'?

The Home Office guidance states that 'in most cases it will be appropriate to consider ongoing refusal of support which has been offered over a period of at least 3 months.'

What is considered 'persistent' anti-social behaviour?

Where a person has been issued with an anti-social behaviour order or notice or is the subject of action following an ASB Case Review or Community Remedy, Immigration Enforcement will consider that they have engaged in persistent anti-social behaviour.

Orders and notices are given by local authorities or the police. Examples include:

- Community Protection Notice (CPN)
- civil injunctions
- use of dispersal powers
- breach of a Public Space Protection Order (PSPO)

How will the Home Office target people?

The Home Office will rely on referrals from local authorities and the police and may also ask councils to confirm whether or not someone has 'repeatedly refused support'.

How can I find out more?

This information sheet is neither comprehensive nor a substitute for legal advice. If you or anyone you support is concerned about the rough sleeping rule, please contact PILC at office@pilc.org.uk