

Rough sleeping as ‘abuse/misuse’ of the right to freedom of movement

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Executive Summary

Free movement of European Economic Area (EEA) nationals is governed by the Citizens' Rights Directive 2008/34/EC, which states that anyone can travel freely across the European Economic Area's borders and have a right to reside for 3 months, beyond which one's economic status has to fulfil one of four conditions (being employed, looking for work, being a student or being self-sufficient) and not be a burden on the social security system of the country one resides in.

In May 2016, the Home Office introduced a new policy interpreting rough sleeping as an 'abuse' of the right to freedom of movement, along with sham marriages and fraudulently acquiring the right to reside in the EEA. This granted Immigration Officers power to arrest, detain, remove and ban EEA nationals sleeping rough in the UK without warrant, whether or not they were exercising Treaty rights.

In February 2017, the policy was updated and now interprets rough sleeping as a 'misuse' of the right to freedom of movement. Proportionality was further qualified to ensure the policy was not used in as much of an indiscriminate way against those who are exercising Treaty rights. It also stated that all operations should be coordinated with local-authority commissioned street outreach services.

The research set out to analyse in detail the development of the policy and its implementation in the UK. The bulk of the research relied on evidence found in London. No other country in Europe is known to consider rough sleeping an infringement of the Citizens' Rights Directive or to have removed any EEA nationals on those grounds.

Evidence of formulating the policy can be traced back to the Mayor's Rough Sleeping Group (MRSRG) held in August 2015. Within 2 months, Operation Adoze (operation testing the policy's premise) was ready to be launched. 127 individuals were removed from this initial pilot taking place in the borough of Westminster between November and December 2015.

The strategic intent behind the policy seems to have arisen from a concern for the steady increase in numbers of EEA nationals sleeping rough since 2011, in particular those from Central and Eastern Europe. It also coincided with more frequent refusals of Reconnection, as offered by the voluntary sector; and a persistent issue with rough sleepers of Roma ethnicity in Westminster.

The rationale for the policy is varied amongst the stakeholders involved in its implementation. The Home Office sought to reduce the Anti-Social Behaviour and the burden on public finances associated to rough sleeping. The rationale expressed by Thames Reach and

St Mungo's is more questionable insofar as they claim to mitigate the effects of enforcement, when in fact, they are providing the intelligence on which enforcement action is based.

No Best Practice guidance has been published by local authorities or homelessness organisations on how to work with Immigration Enforcement. Similarly, despite recommendations from the Mayor's Rough Sleeping Group, no rationale about when and why enforcement should be used has been published.

Information Sharing is a problematic area insofar as the GLA and other local authorities require commissioned services to cooperate with the Home Office, including the sharing of personal details of individuals and/or their location. This requires further legal analysis and research.

The implementation of the policy requires a high level of cooperation between local authorities, the GLA, homelessness organisations and the Home Office's ICE teams. This is done through joint 'patrols', multi-agency meetings, data sharing and ad-hoc communication. Initially, the policy (version 2.0) demanded that Immigration Enforcement referred vulnerable rough sleepers to street outreach teams but as the opposite happened in practice, the wording of the policy in version 3.0 was amended to demand that operations 'be planned and in co-operation with the local authority's outreach services'.

Common issues arising from the implementation of the policy include the confiscation of ID documents (making it impossible to exercise Treaty rights) and Immigration Officers not explaining appeal procedure or giving appeal forms as required by the policy. In addition, many rough sleepers reported being intimidated by officers whilst some homelessness agencies reported the disappearance of their clients only to find out they had been detained, even though they were supporting them to gain employment or accommodation.

The expertise of street outreach services is used by the Home Office to decide on the vulnerability of individuals and whether it is proportionate to remove them. This is problematic insofar as homelessness organisations are grossly overstepping their remit with no consideration for the rights of EEA nationals sleeping rough.

There are multiple barriers to getting legal representation to appeal notices of removal, not least the absence of Legal Aid, unless an exceptional case funding application is made. Free immigration advice delivered by voluntary sector agencies is oversubscribed making it difficult to be supported in appealing removal decisions.

Whilst there are no definitive figures on the number of EEA nationals having been removed from the UK on the grounds of rough sleeping, it can be deduced from the data released by the Home Office, local authorities and the GLA that hundreds of people have already been removed in the first year of operation. This comes in addition to those who had been removed during the pilot phase. This corroborates with the decrease in numbers of EEA nationals sleeping rough on the streets of London since May 2016.

The policy has driven away homeless people and agencies supporting them from local-authority commissioned services. Homeless people may find more hidden places and they have become more guarded about revealing where they sleep in fear of Immigration Enforcement.

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Foreword

This report was kindly funded by the Strategic Legal Fund (SLF). The SLF was established as a pilot by The Diana, Princess of Wales Memorial Fund in October 2011, delivered in partnership with Trust for London and MigrationWork CIC. Since November 2012, the SLF has been a project of Trust for London. It is delivered in partnership with Esmee Fairbairn Foundation, Unbound Philanthropy, Joseph Rowntree Charitable Trust, Paul Hamlyn Foundation, and MigrationWork CIC.

The SLF makes grants to organisations to undertake pre-litigation research and third party interventions in cases that can make a significant difference to vulnerable young migrants in the UK. It supports work that goes beyond securing justice for an individual and makes a contribution to promoting the rights of vulnerable migrant children and young people more generally.

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1. Context

1.1 EEA Migration to the UK

The Citizens' Rights Directive 2004/38/EC (also referred to as 'Free Movement Directive') defines the right of free movement for citizens of the European Economic Area (EEA) and came into force on 30th April 2004. The European Economic Area includes the member states of the European Union (EU), Iceland, Norway and Liechtenstein.

It gives EEA citizens the right of free movement and residence across the European Economic Area, as long as they are not an undue burden on the country of residence and have comprehensive health insurance.

EEA nationals residing in another country must exercise one of the four treaty rights following a three-month grace period:

- being a job seeker
- working or being self-employed,
- studying,
- being self-sufficient.

This legal framework governed the accession of A8 (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia) and A2 (Bulgaria, Romania) countries, which joined the European Union on 1 May 2004 and 1 May 2007 respectively. Both groups of countries had restrictions on accessing the labour market until 1 May 2011 (for A8) and 1 January 2014 (for A2).

Welfare entitlement for EEA migrants is complex and has changed several times over the last few years. The most important change ended access to Housing Benefit for EU migrants (since 1 April 2014) unless they are in genuine employment, with a threshold of weekly earnings set at £154.

1.2 EEA Migrant Homelessness in the UK

In contrast to UK nationals, who often end up homeless as a result of traumatic life events, EEA migrants 'generally become homeless due to practical issues relating to housing, employment, language skills and benefit entitlements'¹.

Homeless Link lists the causes of migrant homelessness as follows:

- Casual or seasonal employment ends, along with any tied accommodation
- Wages too low to afford rents
- Job offers that turn out, on arrival, to be short term or non-existent
- Not enough contingency savings e.g. for a deposit or transport home
- Unscrupulous landlords e.g. over-charging, evicting illegally, not returning deposits
- Escape from trafficking and forced labour²

'Since 2010/11 the number of people sleeping rough in London coming from Central and Eastern Europe has risen 79%, as compared with a 56% increase for their UK-born counterparts'.³

Table 1 (below) shows the steady increase in people sleeping rough from the European Economic Area, though most of this is due to the increase in rough sleepers from Central and Eastern Europe.

¹: Homeless Link (2014), 'Working with EEA migrants: Good practice guidance for homelessness services', p. 3

²: Ibid.

³: Crisis (2015), 'Homelessness Monitor England 2015', p39. Available at: http://www.crisis.org.uk/data/files/publications/Homelessness_Monitor_England_2015_final_web.pdf

Table 1 - Percentage of European rough sleepers in London between 2007-2016

Year	Total number of rough sleepers seen in Greater London	Percentage of CEE rough sleepers	Percentage of other European rough sleepers	Percentage of EEA rough sleepers
2007-08	3017	11	6	17
2008-09	3472	15	8	23
2009-10	3673	20	7	27
2010-11	3975	22	8	30
2011-12	5678	28	11	39
2012-13	6437	28	12	40
2013-14	6508	31	9	40
2014-15	7581	36	9	45
2015-16	8096	37	9	46

This change in demographics of London’s street population is likely to be the most important change affecting services providing support to people sleeping rough (outside of changes in government legislation). In their written submission to DCLG’s Homelessness Enquiry, St Mungo’s highlighted the issue of access to Housing Benefit, prohibiting homeless migrants from accessing supported accommodation along with the support needs that are particular to homeless migrants. They concluded by saying that ‘homelessness services must find different ways of working in order to effectively support different groups off the street. This takes time and resources which are not always available.’⁴

1.3 Evolution of Administrative Removals

In January 2009, Thames Reach launched a project to help vulnerable rough sleepers from Central and Eastern Europe ‘who have expressed a wish to return to their home country’⁵. Between 2009 and 2015, more than 3000 people were reconnected through the programme.

In 2010, UKBA officials were made available to undertake operations in Westminster to target EEA rough sleepers in collaboration with Thames Reach and St Mungo’s. The purpose of Operation Ark was about testing a process of administrative removal for those individuals not exercising Treaty rights. The original funding for Operation Ark came from central government and was subsequently handed over to the Greater London Authority.⁶

⁴: St Mungo’s (2016), ‘Written Evidence submitted by St Mungo’s’. Available at: <http://data.parliament.uk/writenevidence/committeeevidence.svc/evidencedocument/communities-and-local-government-committee/homelessness/written/28524.pdf>

⁵: <http://www.thamesreach.org.uk/news-and-views/news-archive/news-archive-2009/reconnection-project-for-eastern-european-rough-sleepers/>

⁶: City of Westminster, Cabinet Member Report (8th December 2011). Available at: http://transact.westminster.gov.uk/committee/index.cfm?c_docs=Cabinet%20Member%20Decisions/Adult_Services_and_Health%202011-12/14%20-%20GLA%20grant%20for%20Operation%20Ark

By the end of 2011, the report highlights that over 70 people had been forcibly removed whilst over 500 people had taken up voluntary return. However, further restrictions were built in the process of administrative removals. Most notably, re-entry restrictions were introduced on 1st January 2014, thus banning people who had been removed for 12 months unless they can show at port of entry that their circumstances are different, especially around housing and employment.

In November 2015, Operation Adoze was launched to pilot an amendment to the UK's Immigration (EEA) Regulations by introducing rough sleeping as an 'abuse' of the right to freedom of movement. This meant that EEA rough sleepers could be detained and given 30 days' notice to leave the UK, regardless of the length of time they had been in the UK or whether or not they were exercising Treaty rights. This meant that people who slept rough in their first three months of arriving in the UK were particularly vulnerable to be detained and removed, as well as those who were working and sleeping rough. This pilot was then made into policy, published on 4th May 2016.

As part of this research factsheets were produced for voluntary sector agencies and those directly affected by the policy along with a phone line, through which EEA nationals could be signposted to accredited immigration advice. It was disseminated through the Housing & Immigration Group (made up of lawyers, advisors and campaigners - currently 379 members), the Immigration Law Practitioners Association and sent to another 50+ homelessness organisations across the UK. The factsheet can be seen in Appendix B.

On 1st February 2017, further amendments to the policy were made. They centre around three aspects of the policy⁷:

- rough sleeping is interpreted as a 'misuse' of the right to freedom of movement, replacing the term 'abuse' previously used. 'Misuse' doesn't appear to have been legally defined, but relates to a 'conduct which appears to be intended to circumvent the requirement to be a qualified person'. Sleeping rough or returning to the UK within 12 months of being banned without evidence of one's situation being different will also count as 'misuse'.
- proportionality test: the test was further qualified in version 3.0, which may be a result of indiscriminate use of the policy against rough sleepers and subsequent individual legal challenges and appeals.
- operational logistics: 'in general, encounters with vulnerable rough sleepers should be planned and in co-operation with the local authority's outreach services' whereas in version 2.0 Immigration Officers were advised that 'If you encounter a vulnerable rough sleeper, for example, someone who is dependent on alcohol or drugs, you must refer them to the local authority's outreach services to make sure that they receive the support they need'.

Those amendments will be further discussed in section 4 and 5.

⁷: Home Office (1st February 2017), European Economic Area (EEA) administrative removal (Version 3.0): Instructions for assessing whether to administratively remove a European Economic Area (EEA) national (or a family member of an EEA national). Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/590663/GI-EEA-admin-removal-v3.pdf

The table below outlines the chronological development of the policy from its pilot to the present day. It also shows the geographical area covered and the policy framework governing its administration.

	Dates	Area Covered	Policy Framework
Operation Adoze (pilot)	November 2015 - December 2015	Westminster	Operational Guidance version 1.0
Operation Adoze (repeat pilot)	January 2016 - March 2016	Westminster, Kensington & Chelsea, Hammersmith & Fulham, Camden, City of London and Southwark	Operational Guidance version 1.0
Policy introducing rough sleeping as 'abuse' of right - Reg 19(3)(c)	4th May 2016 - 31st January 2017	National	Operational Guidance version 2.0
Policy revising rough sleeping as 'misuse' of right - Reg 26(3)(c)	1st February 2017 - present	National	Operational Guidance version 3.0

2. Scope

The scope of this research first enquires into the development of the policy, published on 4th May 2016, which introduced rough sleeping as an 'abuse' of the right to freedom of movement, later amended to 'misuse'. This gives power to Immigration Officers to arrest, detain, remove and ban EEA nationals rough sleeping in the UK without warrant. The research then analyses in details the application of the policy, covering logistics as well as issues arising from its implementation. Finally, an analysis of the data available attempts to understand the scale of removals under this policy.

Most of the evidence is based on research in London. Given the higher number of people sleeping rough in the capital, much of the enforcement action targeting EEA nationals sleeping rough focuses there. Manchester, Birmingham, Liverpool, Cambridge, Brighton, Plymouth and Newcastle have also been targeted.

The European Federation of National Organisations working with the Homeless (FEANTSA) was consulted to find out whether the policy exists in any other EU countries. FEANTSA stated that they were not aware of any other EU member state that considers rough sleeping as an infringement of Directive 2004/38/EC and thought it couldn't be considered lawful according to EU law.

3. Method

3.1 Desk research

Desk research was conducted at regular intervals between August 2016 - March 2017. It initially focused on the causes of homelessness and the particularities of EEA nationals sleeping rough. Searches were also run for any documents in the public domain that could refer to Operation Adoze or the use of immigration enforcement in tackling rough sleeping. Minutes of Local Authority Committee meetings were particularly useful, as were contracts specification for rough sleeper services.

It looked for any evidence of success for the Reconnection service and Operation Adoze. In March 2016, the Chancellor was the first person to make public reference to the 'success' of Operation Adoze, leading to its national roll out. Evidence is scarce. The Reconnection service has never been evaluated despite its existence since 2009. Similarly, there has been no published evidence of the success of Operation Adoze. Whilst 'success' had not been defined, it would seem that it is simply based on the numbers of people reconnected or removed, as individuals' situation and wellbeing are not monitored on return to their country of origin.

Information was also requested from the Greater London Authority to access detailed minutes of The Mayor's Rough Sleeping Group, which was chaired by the Deputy Mayor for Housing and existed 'to lead and coordinate the wide-ranging work to tackle rough sleeping in London'⁸. In 2015, a specific working group was set up to explore the use of enforcement in tackling rough sleeping, the minutes of which were provided (see Appendix E).

3.2 Semi-structured Interviews

All interviews were conducted with individuals and organisations having full knowledge of the scope and purpose of this research. All interviews took place on an anonymous basis so that people could speak without the fear of being identified or reprimanded. Interview questions are in Appendix C.

- 12 interviews completed with homeless people affected by the policy
- 21 interviews completed with frontline organisations/staff
- 8 interviews completed with strategic organisations/staff

It is important to note that Thames Reach refused to be interviewed and also refused to give access to their street outreach teams/staff who conduct joint shifts with the Home Office ICE teams. It was not possible to interview St Mungo's either despite a number of requests made between October 2016 and February 2017. Together these agencies deliver street outreach services in 31 London boroughs out of 33. Similarly, Westminster Council refused to respond to questions.

3.3 Data requests

Freedom of Information requests were submitted to the Home Office in September 2016, which resulted in the release of the rationale for Operation Adoze along with some broad figures about the actions taken by the Home Office under Operation Adoze and since the publication of the policy. It must be noted that these figures do not include detailed outcomes or breakdown per regions, as was requested. (See Appendix D)

Further information was released by Local Authorities thanks to Freedom of Information requests submitted by Liam Sheehan throughout December 2016⁹. These covered the number of operations conducted against EEA nationals rough sleeping, numbers of voluntary departures and enforced removals as well as enquiring about any policy or guidance governing this work.

Combined Homelessness And Information Network (CHAIN) is a multi-agency database recording information about rough sleepers and the wider street population in London. The system is commissioned and funded by the Mayor of London, managed by St Mungo's, and populated by street outreach workers. Data was requested to review the number of EEA homeless people and the number of those reconnected and/or forcibly removed. Unfortunately, the data is not reliable especially where enforced removals are concerned. Other data sets have been put together to try and identify the scale and effects of enforcement. Another request was submitted to understand what initial service offer was made to this group in terms of housing and support. Although this data is not retrievable,

⁸: Mayor's Rough Sleeping Group: terms of reference and priorities for 2015, <https://www.london.gov.uk/what-we-do/housing-and-land/homelessness/mayors-rough-sleeping-group-archive-information>

⁹: https://www.whatdotheyknow.com/user/liam_sheehan?page=2

recorded outcomes will give a sense of what is offered and achieved by street outreach services and No Second Night Out hubs.

Given the difficulty to access a reliable data set, the Legal Aid Agency and the law firms contracted to provide the Detention Advice Surgery Service were contacted with a view to analyse the numbers of people accessing the scheme for advice following detention on 'rough sleeping' grounds. Only two firms responded (from a possible 7) stating they only record data of cases they take on for representation, which were too few to constitute a dataset.

4. Development of Policy

4.1 Origins and Implementation of Operation Adoze

It is difficult to locate the exact origins of Operation Adoze. However, the detailed minutes of the Mayor's Rough Sleeping Group dated 19th August 2015 show that the group was 'strongly supportive of amending the UK's Immigration (EEA) Regulations'¹⁰ so that 'the Anti-Social Behaviour often associated with rough sleeping becomes legitimate grounds for removing EU nationals from the UK before they (can be shown to) have spent three months in the country'¹¹. It was noted at that meeting that 'any potential amendments to EU treaty rights could take a number of years to implement even if secured'¹². The Department of Communities and Local Government (DCLG) and the Home Office had to lead on the basis of these recommendations. Research interviews indicated that some of the voluntary organisations present at the meeting did not agree with amending the UK's Immigration (EEA) Regulations, but given that the organisations having to implement the future policy did agree, St Mungo's and Thames Reach, it was not challenged through formal channels or expressed publicly.

Within two months of that meeting, Operation Adoze was ready to be launched. It sought to pilot an amendment to the UK's Immigration (EEA) Regulations by introducing rough sleeping as an 'abuse' of the right to freedom of movement. This meant that EEA rough sleepers could be detained and given 30 days' notice to leave the UK. The GLA confirmed that in November 2015 'this approach was implemented by ICE in Westminster, working in conjunction with local outreach teams to ensure that those with support needs weren't simply given notice, but received suitable offers of assistance. [...] Those who received notice could either accept a voluntary return offer, or were required to report regularly throughout a 28-day notice period. The notice would expire if the individual ceased to sleep rough.'¹³

Between 1 November and 31 December 2015, ICE teams approached 205 EEA nationals sleeping rough in Westminster, of which 180 were served a notice of liability for removal. 127 were subsequently removed. The pilot was then repeated in Westminster and extended to 5 neighbouring boroughs for a similar period of time.

4.2 Strategic Intent

Given that prior to Operation Adoze, the legal framework enabled ICE teams to administratively remove EEA nationals not exercising Treaty rights and restrict re-entry for 12 months, the strategic intent behind the policy was queried during the interviews.

It came to light that the rising numbers of EEA rough sleepers, and perhaps more importantly their rising proportion within the total number of rough sleepers in London was of particular concern to

¹⁰: 'Use of enforcement in tackling rough sleeping', Item 4 - Minutes of the Mayor's Rough Sleeping Group, 29th August 2015.

¹¹: Ibid.

¹²: https://www.london.gov.uk/sites/default/files/2015.08.19_mrsg_minutes_agreed.pdf

¹³: Correspondence from the GLA, 25th April 2016.

DCLG. In addition, a specific issue around Roma people rough sleeping in highly visible and touristic places in Westminster, e.g. Park Lane & Marble Arch, was seen to be in need of a robust approach.

In 2015, St Mungo's commissioned the Roma Support Group to conduct research 'to provide a greater understanding of the 'pull' factors leading to rough-sleeping in the borough of Westminster and to provide insights that could be used to develop a strategy for reducing rough-sleeping amongst Romanian nationals of Roma ethnicity.'¹⁴

'In the absence of engagement between both homelessness services and Roma rough sleepers, and in addition to media stereotyping and negative political discourse, we observed a lack of understanding about this client group and a degree of myth and misconception. Traditionally, homelessness services are tailored for people with complex needs, i.e. individuals with substance misuse or mental health issues. However, as Roma do not fit into this profile they also do not identify with the services provided and the services do not identify with them.'¹⁵

Further confusion was reported by rough sleepers of Roma ethnicity because of the lack of separation between enforcement agencies and street outreach services, which made them less likely to engage with support services. It is unknown whether any of the recommendations made were followed up by St Mungo's or Westminster Council.

Another explanation given for the introduction of Operation Adoze was the increase in encampments of rough sleepers, from which many find a base to seek employment. This cohort has tended to refuse Reconnection offers and/or altogether working with street outreach services. Furthermore, concerns were raised about the Health & Safety risks associated to street outreach workers going to visit those sites. Some respondents also noted a shift in the profile of EEA nationals sleeping rough, who more often rejected Reconnection offers, because they were working.

4.3 Rationale

4.3.1 *Home Office*

'The pilot aimed to reduce the number of EEA nationals sleeping rough in Westminster and neighbouring boroughs given the social harm seen by the local authorities and law enforcement agencies, and the burden these individuals placed on local services. The approach focused on behaviour change, encouraging EEA national rough sleepers to find alternative accommodation in the private rental sector or to seek support from the services available to them to return home.'¹⁶ In a separate correspondence, the Home Office stated that the rationale behind this approach relies on the interpretation that free movement rights were never intended to be used to facilitate rough sleeping, which remains a burden on public finances such as outreach services, law enforcement and street cleaning.

4.3.2 *Local Authorities & GLA*

The rationale for when/why work should take place between the voluntary sector and enforcement agencies has not been published by local authorities or the GLA, despite the 'need for a clear narrative around when and why enforcement is used' being highlighted in the minutes of the Mayor's Rough Sleeping Group (August 2015)¹⁷.

¹⁴: Roma Support Group (2016), 'Rough sleeping Roma in the City of Westminster', p. 3

¹⁵: Ibid, p. 31

¹⁶: Home Office response to Freedom of Information request (8th February 2017) - see Appendix D.

¹⁷: https://www.london.gov.uk/sites/default/files/2015.08.19_mrsq_minutes_agreed.pdf

The GLA later stated that it had not been involved in the development, implementation or evaluation of Operation Adoze or the policy. In its commissioning framework, the GLA had clarified its support for enforcement based on the following arguments:

- 'Offers of reconnection are frequently refused by this economic migrant group who would rather sleep rough than accept routes that are offered, as they are intent on resolving their street homelessness themselves.'¹⁸
- 'Enforcement makes clear to rough sleepers that continuing to sleep on the streets is not an option and that there are legal consequences if offers of reconnection or accommodation are not taken up'¹⁹.

Westminster Council also confirmed that enforcement 'actions are designed to make living on the streets as uncomfortable as possible in order to reduce numbers and show a consistent message that it is not fine to sleep rough.'²⁰

4.3.3 Homelessness Organisations

Thames Reach and St Mungo's have both stated that they work with the Home Office ICE teams to 'mitigate the unintended negative impact of policies'²¹ and 'to provide support and advocate on behalf of vulnerable individuals'²². However, evidence uncovered as part of this research shows that they are providing the intelligence for the Home Office ICE teams.

Homelessness organisations start by stating that rough sleeping is dangerous and harmful, with a heightened risk for destitute migrants to die on the streets. They claim their first offer of support is around employment and ensuring people understand their rights and entitlements. However, EEA nationals are not eligible for housing benefits unless they earn above a certain threshold (currently set at £154/week). This means that apart from churches offering shelter during the winter months, EEA nationals have very few options in terms of housing. Organisations which only support people who are eligible for welfare benefits shift the weight of responsibility to homeless people, failing to provide a safety net against the impact of government austerity measures or to consider the way accommodation for homeless people is financed.

It is widely acknowledged in the homelessness sector that Reconnection has been the default offer made to EEA nationals accessing 'No Second Night Out' hubs and others sleeping rough for a number of years. And where people refuse this offer, working with ICE teams has been the solution to ensure people are removed from the streets of London.

Data requested from CHAIN would seem to confirm this trend. 562 EEA nationals attended NSNO hubs between April 2015 - March 2016, out of a total of 1905 new EEA rough sleepers 'eligible' to access this resource, thus accounting for just under 30%. From the total number of those who attended NSNO, 42% were reconnected, 48% abandoned NSNO and only 10% were accommodated to remain in the UK. In absolute terms, this means that only 3% of new EEA nationals sleeping rough were accommodated through NSNO unless otherwise accommodated by street outreach services.

¹⁸ p.12, 'Rough Sleeping Commissioning Framework' (September 2015). Available at: https://www.london.gov.uk/sites/default/files/rough_sleeping_commissioning_framework.pdf

¹⁹: Ibid, p.13

²⁰: : p.99 - Audit and Performance Committee minutes, City of Westminster, 3rd February 2016. Available at: <http://committees.westminster.gov.uk/documents/g3697/Public%20reports%20pack%2003rd-Feb-2016%2019.00%20Audit%20and%20Performance%20Committee.pdf?T=10>

²¹: Email correspondence from Thames Reach (13/12/2016)

²²: Petra Salva, 'How My Charity Works With People Sleeping Rough From Non UK Countries' (March 2017). Available at: http://www.huffingtonpost.co.uk/petra-salva/how-we-work-with-people-s_b_15261268.html

4.4 Best Practice guidance

There has been no specific Best Practice guidance for street outreach staff in working with ICE teams published prior to Operation Adoze or the update in policy (May 2016), despite references being made to its development as early as August 2015. It is particularly striking that in Westminster, where there is the highest concentration of rough sleepers, where enforcement action has been tested on homeless people over the years (from Operation Ark to Operation Adoze), the local authority states there is no guidance as of January 2017.²³

It was noted in the Migrant Destitution toolkit produced by Homeless Link on behalf of the Strategic Alliance on Migrant Destitution that:

Some contracts to support homeless people off the streets, particularly in London, require joint work with Home Office enforcement teams; these are not necessarily backed up by suitably robust and transparent protocols that protect the rights of the individual subject to enforcement action.²⁴

Hammersmith and Fulham Council released an outdated policy (drafted and authored by St Mungo's) whereby EEA rough sleepers not cooperating with street outreach services or complying with the Single Service Offer made by No Second Night Out would be referred to ICE teams:

These individuals' details will be passed on to the ICE by the outreach team. Following this a joint shift will be agreed with outreach, ICE, Parks Police to target/tackle these individuals. In some cases where there is cause for concern outreach may defer some CEE National to ICE before the three months period, this could be due to ongoing ASB, non engagement with services etc.²⁵

The Greater London Authority recently released an undated document entitled 'Working with migrant rough sleepers' which gives some basic guidelines for Thames Reach's GLA-commissioned London Street Rescue, though it would not qualify as Best Practice guidance or policy.²⁶ St Mungo's began a process of internal review and external consultation in autumn 2016 with a view to draw up a Migrant Strategy for the organisation. This may result in Best Practice guidance for its staff. Of the 33 London boroughs contacted through Freedoms of Information requests, only Hammersmith & Fulham Council published guidance or protocol on how to work with ICE teams.

4.5 Information Sharing protocols

An example of the GLA requirements for its rough sleeper commissioned services to share information with the Home Office can be found in this excerpt from London Reconnections Team contract awarded to St Mungo's, starting April 2016 [emphasis added]:

3.26. The service provider is expected to work in close partnership with the Home Office and the Police. The development of the service should be explored to include a coordination officer from the Home Office to be included

²³: <https://www.whatdotheyknow.com/request/380545/response/935331/attach/html/2/Response%20not%20held.pdf.html>

²⁴: 'Migrant Destitution Toolkit' (Nov 2016), <http://www.homeless.org.uk/our-work/national-projects/strategic-alliance-on-migrant-destitution/migrant-destitution-toolkit>

²⁵: see Appendix F - 'Enforcement Policy for EU and NON EU nationals not engaging with Outreach Team', https://www.whatdotheyknow.com/request/rough_sleeping_eea_nationals_22#incoming-930620

²⁶: see Appendix G - Thames Reach (2017), 'Working with migrant rough sleepers'. Available at: <https://www.whatdotheyknow.com/request/383943/response/940640/attach/html/3/migrant%20homeless%20guidelines.pdf.html>

as part of the reconnections service. *Details of all reconnections are expected to be shared with the Home Office.*

3.27. *The service provider will be expected to support Home Office operations across the capital, making staff available to target those EU rough, sleepers with support needs, who issued with Removal notices, or similar paperwork, with a reconnections offer. The service provider will ensure that details of clients refusing reconnection are recorded and passed to relevant referral agencies and the Home Office.*²⁷

Thames Reach, whilst not disclosing any protocols, states in its London Street Rescue guidance that 'in order to facilitate joint work London Street Rescue will share basic, operationally necessary demographic information of rough sleepers who have been identified as having no option other than removal. Protected data is not shared with Home Office ICE staff without the consent of clients. Information on locations and hot spots of rough sleeping may be shared.'²⁸

Freedom of Information requests have been submitted to selected Local Authorities (Westminster, City of London, Tower Hamlets) and the GLA. All street outreach services in those boroughs require levels of cooperation with the Home Office, without specifying the nature of that relation or making demands as specific as the GLA. The legal basis for circumventing consent and sharing personal information about individuals remain unclear and will be the subject of further research and legal analysis. The Memorandum of Understanding governing the sharing of information between the Home Office and the GLA has not been released to this date.

5. Application of policy

Westminster Council intensely lobbied for the premise of Operation Adoze to become national policy²⁹. 'The Cabinet Member [Cllr Nickie Aiken] had also met with James Brokenshire Immigration Minister at the Home Office, who had recognised that new powers were needed relating to rough sleepers who were foreign nationals, and that legislation relating to the current 90 day visa rule needed to be revised'³⁰.

Guidance for the operational process for the administrative removal of a European Economic Area (EEA) national, or a family member of an EEA national on the basis of rough sleeping was published on 4th May 2016 as version 2.0. It was effective until 31st January 2017 after which it was replaced by version 3.0, which is valid to this day.

5.1 Identification of EEA rough sleepers

According to the policy operational guidance version 2.0, ICE teams were to refer EEA rough sleepers, where vulnerable, to street outreach services. In practice, street outreach services identify EEA rough sleepers as part of their work. Then they input individuals' details on the CHAIN database, which include name, date of birth, nationality, bedded down location and more.

²⁷: 'Contract for the provision of Rough Sleeper Services - Routes Home' (Apr 2016), p.88. Available at: <https://www.contractsfinder.service.gov.uk/Notice/18544006-084c-47df-b9e6-d0288cbfbd12?p=@08=UFQxbIRRPT0=NjJNT>

²⁸: Thames Reach (2017), 'Working with migrant rough sleepers'. Available at: <https://www.whatdotheyknow.com/request/383943/response/940640/attach/html/3/migrant%20homeless%20guidelines.pdf.html>

²⁹: Minutes of 'Audit and Performance Committee', 30th June 2016. Available at: <http://committees.westminster.gov.uk/documents/s18721/YE%20Performance%20and%20P2%20Finance%20Report.pdf>

³⁰: Minutes of 'Adults, Health & Public Protection Policy & Scrutiny Committee', 24th September 2015. Available at: <http://westminster.moderngov.co.uk/ieListDocuments.aspx?CId=158&MId=3686&Ver=4>

The information is then shared with the Home Office ICE teams in several ways:

- joint shifts are arranged between ICE teams and street outreach services. The frequency of these visits depends on the number of EEA nationals rough sleeping. In most boroughs, it would appear to be monthly, but in Camden, the local borough reported those visits are fortnightly. The City of London also has monthly joint shifts. Given the highest number of rough sleepers are in Westminster it may have weekly or fortnightly joint shifts.
- the GLA has arranged for the Home Office to receive mapped CHAIN data on a monthly basis, which indicates the number of non-UK national sleeping rough per ward.
- It has also been ascertained through interviews with frontline staff that some street outreach services and day centres have direct communication with ICE teams and/or meet directly so specific individuals may be targeted and joint shifts arranged.
- 'Thames Reach and Home Office ICE staff also meet on a quarterly basis to discuss changes in legislation and demographics of non - UK rough sleepers, these meetings ensure that services are developed to meet changing needs and legal guidance'.³¹

This would seem to reverse the wording of the policy (version 2.0) insofar as ICE teams were meant to refer to street outreach services and not the other way around.

5.2 Logistics of operations and joint shifts

According to the policy operational guidance version 3.0, 'encounters with vulnerable rough sleepers should be planned and in co-operation with the local authority's outreach services'.³² It also adds that should a vulnerable foreign national rough sleeper be met whilst 'in the field', they must be referred to the relevant local authority before making a proportionate decision regarding removal.³³ This amendment in the policy accounts for what was evidenced in the previous section and confirms the close links between street outreach services and ICE teams in targeting EEA nationals sleeping rough.

It would appear therefore that operations targeting foreign national rough sleepers are to be coordinated with street outreach services and based on their intelligence. This also includes the importance of street outreach services in deciding whether or not the decision is proportionate. Whilst the final decision will rest with ICE teams, the Home Office wants to ensure that people with specific type of vulnerabilities, especially those that would create a risk in detention (e.g. alcohol or drug dependency, mental health issues), can rely on the expertise of street outreach services. Some frontline staff reported that ICE teams relied on street outreach services to flag up clients who could be a risk if they were detained, e.g. alcohol withdrawal or mental health issues. There were, however, cases where such clients were detained regardless.

Joint shifts are led by street outreach teams, bringing ICE teams to serve notices of removal to non-cooperating EEA rough sleepers or to act as a coercive threat when offering voluntary reconnection.

Where larger encampments are concerned, it would appear that these are led by Local Authorities themselves through Anti-Social Behaviour teams or the Police, as in Haringey. Street outreach services may be present to assess people's support needs or offer voluntary reconnection as an alternative to detention.

³¹: Thames Reach (2017), 'Working with migrant rough sleepers'. Available at: <https://www.whatdotheyknow.com/request/383943/response/940640/attach/html/3/migrant%20home-less%20guidelines.pdf.html>

³² : p.17 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/590663/GI-EEA-ad-min-removal-v3.pdf

³³ : Ibid.

A number of interviewees reported being scared at the time they were served with notices of removal, immigration officers being intimidating and coming in large numbers, often with the Police and street outreach services.

5.3 Common issues

Frontline staff in migrant support and homelessness organisations reported ICE teams routinely confiscate ID documents from migrant rough sleepers during operations, making it impossible to seek employment or to find accommodation, thereby preventing them from exercising their Treaty rights. All rough sleepers interviewed (who had not been detained) had their ID documents confiscated.

In all 12 people interviewed who had received notices of removal, none of them had been given appeal papers as is specified in the guidance. Nor were their appeal rights explained to them.

Whilst the guidance also offers some information about when detention should be used for this group, 'for example where an individual is suspected of actively engaging in criminality or there is a clear risk of absconding'³⁴, it has been difficult to verify in practice or establish a pattern. During a raid on an encampment in Haringey, 11 people were detained from a total of 19, one being released the following day. Interviewees who were not detained during that raid did not know why some were detained and others not.

Just as rough sleepers of Roma ethnicity reported being confused about the role of street outreach workers as they present with ICE teams, a number of professionals also stated that clients they were working with and supporting sometimes 'disappeared' from one day to the next. This was a result of enforcement action, which would be found out later when clients sought supporting evidence from those agencies they were accessing for support into housing or employment. As a result of this, some professional agencies stated that they didn't refer clients from the European Economic Area to local outreach teams for fear of enforcement action. This means that both clients and agencies have been driven away from services whose support they need to resolve their homelessness.

5.4 Proportionality & Vulnerability tests

The role of homelessness organisations in deciding proportionality and highlighting vulnerability/risk is not limited to street outreach services. Some third sector organisations have their own relationship with the Home Office ICE teams and meet them on a regular basis to share information with them about clients and give them the 'green' light for enforced removals or ask them for more time to try and support them.

One frontline organisation interviewed for the research stated that it set up its relationship with the Home Office voluntarily in order to better support its clients. Those who refuse services and whose health deteriorate are referred to ICE. From the referral criteria described by the organisation, it would appear that those cases would most likely fall under the non-exercise of Treaty rights rather than simply rough sleeping. Whilst the organisation described their action to be 'in the best interest' of the clients concerned, it would seem to circumvent consent by sharing personal data.

The proportionality test was further qualified in version 3.0 of the operational guidance, which may be due to previous indiscriminate use of the policy against EEA nationals who were otherwise exercising Treaty rights, who had family in the UK or who may have been permanently resident. In all these cases, the Home Office would have had to concede prior to court proceedings or appeals would have been won in the Immigration and Asylum Tribunal.

³⁴: Home Office (May 2016) 'European Economic Area administrative removal: consideration and decision' Version 2.0

However, this qualification seems to place further responsibility on street outreach services to advise on who can be detained and removed and who should not. Whilst the final decision will remain with the Home Office, the role of street outreach services may be considered to be outside its remit, integrated into immigration enforcement rather than the support and advocacy it is meant to provide.

5.5 Issues to access legal advice and representation

A number of issues to access legal advice and representation arose during research interviews, both with frontline staff and EEA nationals who had been served notice of removal.

Although lodging an appeal against the decision is free, Legal Aid is not available to challenge removal decisions unless an exceptional case funding application is made, even for those in detention. Legal aid is available for challenging either removal directions or detention decisions of those in detention. As a result, it has been difficult for homeless people to seek help, free immigration advice delivered by migrant support agencies being oversubscribed and therefore difficult to access.

Frontline staff in five organisations stated that they were able to support clients to get their ID documents back by providing letters of support explaining that not having ID limited their ability to resolve their homelessness. ID documents were returned to claimants when going to report as per the requirement of the Home Office.

Barriers to seeking legal redress were found in EEA nationals' confusion in understanding their rights and entitlements. They were first surprised to hear that freedom of movement in the EU was qualified. They were often not aware of the meaning of exercising Treaty rights. Many of the people interviewed also had jobs, even if precarious, and therefore were even more surprised at the new interpretation of sleeping rough as an 'abuse' of right.

There were further difficulties for EEA nationals in defending their rights insofar as their language skills might be sufficient to hold low-skill employment, but not to understand complex legal processes, including the steps needed to pursue an appeal. Similarly, the burden of proof can be difficult to put together when sleeping rough and living precariously.

An additional issue was identified by a detainee support group, which reported that EEA nationals detained for rough sleeping were often advised to return rather than appeal the decision. Instead of being based on the merit of the case, it was perceived to be an issue with the complexities of having to apply for exceptional case funding from the Legal Aid Agency. This issue was confirmed by a legal agency supporting people to exit detention.

6. Understanding Scale through Data

6.1 Home Office Data

Table 1 (below) indicates that between 1 November and 31 December 2015, ICE teams approached 205 EEA nationals sleeping rough in Westminster, of which 180 were served a notice of liability for removal. 127 were subsequently removed³⁵. It is important to note that the line between voluntary and enforced return is blurred as some of the people interviewed as part of this research signed up to 'voluntary return' after being detained. In the table below, 'voluntary return' also only accounts for those who had already been served notice of removal. Even when people had visibly strong cases, their fear of being detained indefinitely whilst the legal process took its course meant their preferred

³⁵ : <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-12-01/55899>

to return to their country of origin. For many, it was also their first experience of incarceration which is traumatic in itself.

Table 1: Number of EEA individuals encountered under Operation Adoze (between 1 November 2015 and 31 December 2015) and the numbers subsequently served a notice of liability for removal, returned and currently detained, by nationality.

Nationality	Individuals encountered during an Enforcement Visit	Of which			
		Subsequently served a notice of liability for removal	Subsequent Enforced Return	Subsequent Voluntary Return	Currently Detained
Austria	1	1	0	0	0
Belgium	1	0	1	0	0
Bulgaria	1	0	0	0	0
Czech Republic	2	1	2	0	0
Estonia	1	1	0	0	0
France	2	2	1	0	0
Germany	0	0	0	0	0
Greece	2	2	1	0	0
Hungary	2	2	0	0	0
Italy	2	2	0	1	0
Latvia	6	4	1	0	0
Lithuania	10	8	2	0	0
Netherlands	0	0	0	0	0
Poland	28	23	9	1	1
Portugal	2	2	0	0	0
Romania	145	132	35	73	1
Slovakia	0	0	0	0	0
Spain	0	0	0	0	0

It is also significant that the Home Office could not disclose a breakdown of those who had been served with those notices, as per the FoI request:

- How many were in the UK for less than 3 months?
- How many were otherwise exercising Treaty rights?
- How many had permanent residence in the UK?
- How many had retained right to reside?

According to the FoI response, this would have required a manual search, going beyond the threshold budget/time available for this work. However, in response to a parliamentary question, Robert Goodwill, Minister for Immigration, stated that ‘the Home Office does not hold data on the number of EEA nationals who were removed under Operation Adoze who had previously been granted documentation certifying a permanent residence status in the UK’³⁶.

Table 2 (below) shows the same figures for the period 4th May 2016 - 31st October 2016. However, these figures are national because the Home Office does not hold the information requested by borough or county. It is likely that a higher proportion of these encounters still happen in London, though urban centres such as Birmingham and Manchester would have contributed too.

During this 6-month period, ICE teams approached 732 EEA nationals sleeping rough across the UK, of which 516 were served a notice of liability for removal. 185 were subsequently removed and 46 were in detention (as of 27th October 2016). This figure seems low in comparison with the number of EEA nationals encountered in Westminster during Operation Adoze.

³⁶ : <https://www.theyworkforyou.com/wrans/?id=2017-01-23.61235.h>

Table 2: Number of individuals encountered under operations relating to EEA rough sleepers (between 4 May 2016 and 31 October 2016) and the numbers subsequently served a notice of liability for removal, returned and currently detained, by nationality.

Nationality	Individuals encountered during an Enforcement Visit	Of which			
		Subsequently served a notice of liability for removal	Subsequent Enforced Return	Subsequent Voluntary Return	Currently Detained
Austria	1	1	0	0	0
Bulgaria	28	20	2	4	1
Croatia	2	0	0	0	0
Czech Republic	9	5	3	0	0
Denmark	1	1	0	1	0
Finland	1	0	1	0	0
France	2	2	0	0	0
Germany	1	1	0	0	0
Greece	4	4	0	0	0
Hungary	15	8	1	0	0
Italy	16	14	0	1	0
Latvia	17	7	2	0	3
Lithuania	44	24	5	2	6
Netherlands	3	3	0	0	0
Poland	202	131	22	4	27
Portugal	15	8	1	0	1
Romania	350	280	32	100	5
Slovakia	9	3	0	0	3
Slovenia	1	0	0	0	0
Spain	11	4	3	1	0
Sweden	0	0	0	0	0

6.2 Data from Local Authorities

The data obtained from the GLA and London Boroughs throughout January and February 2017 is indicative of the scale of the operation, but does not give detailed evidence of who the policy is affecting, in particular whether people were exercising Treaty rights or not. In addition, it must be noted that Newham, which took an enforcement-based approach to street outreach since 2014, was not consulted (due to oversight). Westminster Council claimed they did not hold the information, which seems very strange in a borough where Operation Adoze was piloted and later intensely lobbied for to become a national policy³⁷. The City of London Police has gone over the deadline by 3 months and still hasn't provided the information. Whilst not invalidating the data, Westminster is the borough with the highest number of EEA rough sleepers, accounting for about 50% of street population. The City of London is also in the top 5 boroughs. Both these boroughs also have a rich history of engaging with enforcement agencies so these figures are important to understand the scale of the issue.

In 2016, 133 operations were organised across 12 London Boroughs (not including Westminster). Of those 12 boroughs, 7 responded with data of voluntary return and enforced removals, others stating they do not hold that information. 71 visits were made resulting in 46 voluntary departures and 105 enforced removals. The GLA also organised its own visits in partnership with Thames Reach

³⁷ : p. 26 'Audit and Performance Committee Report', City of Westminster (30 June 2016) - <http://committees.westminster.gov.uk/documents/s18721/YE%20Performance%20and%20P2%20Finance%20Report.pdf>

through its London Street Rescue team. They reported 8 visits resulting in 9 voluntary departures and 28 enforced removals.

The released figures are likely to be underestimated, not only because some of the local authorities do not have duties to hold the information and therefore not obliged to release it. ICE teams may also have returned to certain sites without the knowledge of local authorities or street outreach services and detained people then.

What can be deduced from the information is that most boroughs will have a monthly operation involving ICE teams whilst the busier boroughs, such as Camden, which reported 2 operations a month, may have several monthly operations. Westminster Council declared that 41 operations took place since March 2016 in a reviewed Freedom of Information response (20/04/2017), though they still claim not to record the number of individuals administratively removed under this policy.³⁸

6.3. CHAIN Data

The first set of data requested from CHAIN is in Table 3 (below). It indicates a slight decline in the number of reconnections to non-UK destinations. Whilst there is a capacity for street outreach workers to record enforced removals since May 2013, it appears that it is not consistently recorded, leading to evidence that is described as ‘patchy’ by the CHAIN team. Whilst 127 people were removed from Westminster during Operation Adoze, CHAIN data covering Greater London only shows 5 people during the operation itself and an additional 41 for the period leading to October 2016. The discrepancy in recording is stark.

Table 3 - Number of voluntary reconnections (by Homelessness Organisations) and enforced removals (by the Home Office) between 2012 and September 2016 in Greater London (source: CHAIN)

Year	Standard reconnection	HOIE removal	Total
2012	674	0	674
2013	737	23	760
2014	787	28	815
Total	2198	51	2249
Quarter	Standard reconnection	HOIE removal	Total
2015 Jan-Mar	185	9	194
2015 Apr-June	165	7	172
2015 July-Sept	165	9	174
2015 Oct-Dec	157	5	162
2016 Jan-Mar	139	4	143
2016 Apr-June	112	18	130
2016 July-Sept	94	19	113
Total	1017	71	1088

³⁸: <https://www.whatdotheyknow.com/request/380545/response/968173/attach/html/2/Internal%20review%20response.pdf.html>

The second set of data of interest to this research is in Table 4 (below). It shows the overall numbers of Central and Eastern European, other EEA nationals and British people sleeping rough in Greater London since April 2015. The quarterly breakdown of this data enables us to enquire about the impact of Operation Adoze and subsequent enforcement action.

Table 4 - Numbers of individuals found sleeping rough per quarter in Greater London between April 2015 and December 2016 per region of origin (CEE, other EEA, UK). Percentages are calculated in relation to the overall number of people sleeping rough.

	Apr-Jun 15	Jul-Sep 15	Oct-Dec 15	Jan-Mar 16	Apr-Jun 16	Jul-Sep 16	Oct-Dec 16	Jan-Mar 17
CEE	992	1000	969	953	892	721	777	602
CEE (%)	36	35	35	38	34	28	29	24
Other EEA	182	157	181	155	173	168	141	127
Other EEA (%)	7	7	7	6	6	6	6	6
UK	1115	1197	1185	999	1187	1264	1356	1346
UK (%)	41	42	42	40	45	49	50	54

In comparison to yearly figures seen in section 1, the drop in the number of rough sleepers from Central and Eastern Europe is the most noticeable. There is a 20% drop between Oct-Dec 2016 and Oct-Dec 2015 and a 28% drop between Jul-Sep 2016 and Jul-Sep 2015. Overall the fall in numbers is steady since Oct-Dec 2015, at which time Operation Adoze started. These figures must also be understood in a context of continuing rise in overall numbers, which the number of UK rough sleepers indicates here. Latest figures published by CHAIN confirm the trend by showing a year-on-year reduction of 37% in the number of rough sleepers from Central and Eastern Europe.

There may be too many variables to make a direct correlation between the increase in enforcement and the reduction in overall numbers of EEA nationals sleeping rough. Other reasons for this drop have been explained by frontline staff and other agencies as being the result of people sleeping rough in more hidden places and thereby not being accounted for in these figures.

Another migrant support group who host weekly food and social activities confirmed this trend and reported that migrant rough sleepers had become much more guarded about revealing the location of their sleeping site, for fear of being found out by street outreach services and the Home Office.

7. Conclusion

This research set out to analyse in details the application of the Home Office policy interpreting and introducing rough sleeping as an 'abuse/misuse' of the right to freedom of movement as defined by the Citizens Directive 2004/38/EC.

Although it was not in the scope of this research to enquire into the legal basis for the policy, a threshold was crossed whereby rough sleeping *per se* became criminalised by equating it with fraudulent means of acquiring a right to reside, such as sham marriage. It was also ascertained that this interpretation cannot be found anywhere else in the European Economic Area.

The aim of the policy is to reduce the number of EEA nationals sleeping rough as they are seen as a burden on public finances, such as street outreach services, policing and street cleaning. Data released by the GLA confirms a trend in the reduction of EEA nationals sleeping rough since May 2016.

However, the indiscriminate use of the policy against those who are exercising Treaty rights saw an amendment in the proportionality test. To this end, street outreach services are used by the Home Office to determine whether or not individuals concerned are likely to be able to change their circumstances following which a decision is made on their removal. Similarly, Immigration Enforcement was initially meant to refer all rough sleepers deemed vulnerable to street outreach services. However, it was evidenced in the course of the research that the opposite happened, i.e. street outreach services provided the intelligence to Immigration Enforcement and led them to the location of EEA rough sleepers.

The sharing of information and data between homelessness organisations, local authorities and the Home Office is subject to Memoranda of Understanding, which have not been made public to this date. Given the complexity of both practice and law in this area, it requires further research to ascertain whether or not this is lawful. In the great majority of London boroughs, there is no guidance or policy for the partnership between street outreach services and immigration enforcement.

Although Central and Eastern European nationals constitute a majority group amongst EEA rough sleepers, there appears to be some level of discrimination given that the number of other Europeans, mostly Western, has not appeared to decrease on the scale of their Central and Eastern European counterparts.

Finally, there are a number of common issues arising from the practice which were found out in the course of the research. The confiscation of ID documents, whilst included in the policy, prohibits people from exercising their Treaty rights and finding accommodation. Similarly, Immigration Officers were found not to explain appeal procedures or hand out appeal forms when serving notices of removal as stipulated in the policy.

This has created an environment where homeless people are driven away from services whose support they need to resolve their homelessness whilst agencies supporting homeless people are not referring their clients to local authority commissioned services for fear of enforcement action being taken. This is likely to create a situation where homeless people further remove themselves from support services and put themselves at risk in the process.

Appendices

Appendix A: Case Studies

The following case studies have been compiled from interviews with EEA nationals who were served with a notice of removal on the grounds they were rough sleeping. Those relating to cases in Manchester were kindly provided by the Booth Centre.

1. London

Feb 2016

Spanish national in his early 60s. He had come to the UK in September 2015 through an employment agency, contracted as a lorry driver. After a short period of employment, he was told he was not needed anymore. He found another job as a kitchen porter with accommodation tied to the employment. He saved some money and came to London.

He started sleeping in his car on a residential street in January 2016. By February, local residents made a complaint to Lambeth Council, which arranged for ICE to visit the man within 2 weeks. He was served 30-day notice of removal on initial visit. He had also been met by street outreach services and was offered reconnection only.

He was subsequently detained at Lunar House, Croydon when reporting the second time, despite having lodged an appeal. It transpired that his appeal had been registered with the tribunal but had not been transferred to the Home Office. This administrative issue was never resolved. The man spent nearly 8 weeks in detention before being removed back to Spain, his appeal having never been heard.

Sep 2016

Polish man in his 50s who had been living in the UK for 11 years, working intermittently and no criminal convictions. He was soon to be accommodated with the support of a migrant rights agency. He was known to local outreach team, Thames Reach LSR, as he had attended their work programme in the past.

He was woken up at 12am at his sleeping site in Haringey along with 7 other people. Raid consisted of 12 people including ICE, Police and Thames Reach street outreach workers. Interviewee reported that ICE initially came for someone else but came back to serve him with 30-day notice of removal and confiscated his ID documents. He asked for Appeal papers, which was refused by IOs.

He was supported to appeal the decision by a local migrants rights agency. He was eventually given his documents back by the Home Office at the second time of reporting having also provided a supporting letter explaining he was a permanent resident.

Oct 2016

20 people (mostly from Poland) were sleeping rough together in Haringey, near Seven Sisters. Large immigration raid took place with Police late in the evening. 11 people were detained, only one was released the following day - all others removed from the UK. Police, Thames Reach and BBC had come to the site prior to this. All individuals were given 30-day notices of removal and required to report to Home Office during that period. ID documents were confiscated from everyone and no Appeal forms were distributed. One person was injured in trying to escape.

Of 5 people interviewed who had been caught up in this raid:

- Three of them were working (self-employed), two others were looking for work
- Four had spent between 12-15 years in the UK and one had spent 3 years
- None had criminal records

Dec 2016

One man sleeping on his own off Charing Cross Road (Westminster) for 4-6 weeks. Had been met by street outreach services twice before arrest. He was detained on the spot, though he told Immigration Officers he was working.

He was known to street outreach services as he had been sleeping rough and working for 18 months prior to this. At time of interview (end of January 2017), man was about to be removed to Slovakia where he had nowhere to live. He stated that he did not want to remain in detention and so preferred to sign forms to 'voluntary' return.

2. Manchester

Person A had been in the UK for over four years having come to the UK to work. He had managed to find some agency work but did not have enough regular work yet to enable him to afford a tenancy and so had slept rough. He had developed a strong network of support in the UK and was also doing volunteer work in the community. He has a son and two brothers who live locally. He had derived rights from his brother who is working and who helped to support him financially. He did not have a criminal record. He had been offered a voluntary return but had declined due to his family connections in the UK and lack of family or support networks in his home country and due to the length of his residence in the UK he would not have benefits or housing entitlements in his home country and would be homeless and destitute if he did return. He would also be unable to come and visit his son if he was removed because this would be prohibited.

Person B had been rough sleeping for less than one month after losing his job and being unable to afford his flat. Due to his recent work history he had retained workers status and would have been eligible for benefits and homelessness assistance and given support could have demonstrated this. He had worked for the majority of his five years in the UK and had also developed strong social networks here which he no longer had in his home country.

Person C had been in the UK for 12 years and in 2013 had already demonstrated he had a permanent right to reside in the UK. He was a long established Manchester resident. He had become homeless recently after losing work and being unable to afford his accommodation and had slept rough. He was continuing to look for work. He would have no rights to benefits or accommodation in his home country due to his length of residence in the UK.

Person D was economically active in the UK. He was found rough sleeping by the Home Office on his first week of sleeping outside. He was still working for an agency and had worked consistently during all his time in the UK, though as an agency worker his hours varied. He had become homeless after he could no longer lodge with his friend. As a worker he has a right to reside in the UK. He had a right to homelessness assistance and with support he would have been able to find accommodation.

Appendix B: Factsheet

The following factsheet gives a comprehensive overview of the policy introducing rough sleeping as an 'abuse' of the right to freedom of movement, which was published by the Home Office on 4th May 2016.

>>> **FACTSHEET**

EEA Administrative Removal

This factsheet looks at the updated policy and guidance dated 4th May 2016 describing the operational process for the administrative removal of a European Economic Area (EEA) national by Immigration Compliance and Enforcement teams. It has been written for voluntary-sector agencies, local authorities and others working with EEA nationals facing homelessness.

Who are EEA nationals?

EEA nationals are nationals of a Member State of the European Union (EU) other than the UK, or a national of Iceland, Liechtenstein, Norway or Switzerland.

What is Administrative Removal?

The process by which a non-UK national is expelled from the UK by the immigration authorities. Persons subject to removal include EEA nationals who must fulfil certain conditions to remain in the UK.

What is new?

The main addition to the original guidance on administrative removal of EEA Citizens introduces rough sleeping as an abuse of the right to freedom of movement (Reg 19(3)(c)). EEA nationals sleeping rough become liable to be removed, which may include detention and subject to re-entry restrictions for 12 months, regardless of how long they have been residing in the UK or if they are otherwise exercising Treaty rights.

Rough sleeping is a sufficient condition to grant power of removal to the Home Office.

Right to Reside

Initial right to reside - 3 months

EEA nationals have an initial right of residence for 3 months beginning on the date on which they were admitted to the UK. During this 3-month period, they are not eligible to claim welfare benefits. There are no other conditions or restrictions placed upon them.

Extended right to reside - 3 months - 5years

Beyond the initial 3 month period, EEA nationals are entitled to remain in the UK as a 'qualified person' through exercising a Treaty right. An individual may lose their right to reside and be subject to administrative removal if they cease to exercise a Treaty right.

The term 'Treaty right' refers to the following categories:

- Job seeker (up to 91 days)
- Worker
- Self-employed, Self-sufficient, Student

As a job seeker, one must demonstrate:

- activity of looking for a job e.g. visits to Job Centre, job applications
- likelihood of finding a job, e.g. language skills, qualifications

Permanent right to reside - 5+ years

After a period of 5 years of continuous lawful residence in the UK, EEA nationals who are in the UK acquire a right of permanent residence that does not require them to be exercising a Treaty right. This right can only be lost through an absence from the UK of more than 2 consecutive years.

Powers of Home Office to forcibly remove EEA nationals

Regulation 19(3)(a): no right to reside

Regulation 19(3)(a) may be used where there is evidence that the person never had, or has ceased to have, a right to reside under the EEA regulations. In practice, this mostly applies to EEA nationals who have been in the UK for at least 3 months and less than 5 years.

Regulation 19(3)(c): abuse of rights

Regulation 19(3)(c) may be used where there are reasonable grounds to suspect fraud or an abuse of rights under the EEA regulations.

Removals under regulation 19(3)(c) must meet at least one of the following criteria:

- they have engaged in conduct which appears to be intended to circumvent the requirement to be a qualified person
- they have entered into, attempted to enter into, or assisted another person to (attempt to) enter into a marriage of convenience
- they are sleeping rough
- they have fraudulently obtained, attempted to obtain or assisted the (attempted) fraudulent acquisition of a right to reside under the EEA regulations
- they have attempted to enter the UK within 12 months of being removed under Reg 19(3)(a), and are unable to provide evidence that upon re-entry, the conditions for any right to reside, other than the initial right of residence, are met

This regulation may apply even if the EEA national has been in the UK for less than 3 months, or is otherwise exercising Treaty rights. In 'serious cases of abuse' it can apply to a person who has a permanent right of residence.

EEA nationals rough sleeping

Rough sleeping is considered to be an abuse of free movement rights, therefore EEA nationals encountered sleeping rough may be subject to administrative removal under regulation 19(3)(c).

Definition

Individuals are identified as rough sleepers where they are sleeping, about to bed down (sitting on/ in or standing next to their bedding) or actually bedded down on the street, or in other open spaces or locations not designed for habitation, such as doorways, stairwells, parks or derelict buildings. 'Bedded down' is taken to mean either lying down or sleeping.

This does not include people in hostels or shelters, people in campsites or other sites used for recreational purposes or organised protest, squatters or travellers.

Removals

The Home Office will consider the administrative removal of EEA nationals who are sleeping rough, even if they:

- have been in the UK for less than 3 months
- are otherwise exercising Treaty Rights

In more serious cases of abuse it can apply to a person who has a permanent right of residence.

Proportionality

A decision to administratively remove an EEA national can be made under regulation 19(3)(c) only where it is considered proportionate. All 19(3)(c) removals must take into account all the circumstances of the case; these considerations must be fully recorded by Immigration Officers.

This includes:

- age
- state of health
- family ties to the UK
- length of residence in the UK
- social and cultural integration
- economic situation

Vulnerability & suspected trafficking

Vulnerable rough sleepers must be referred to the local authority's outreach services to make sure they receive the support they need. Similarly with individuals who are at risk of suicide or self-harm, appropriate action must be taken by Immigration Officers. If EEA nationals may be potential victims of trafficking, they must be referred by Immigration Officers to the National Referral Mechanism (NRM).

Administrative Removal Procedure

Standard removal procedure apply to the enforcement of 19(3)(c) Regulation. As follows:

Initial Encounter

During the initial encounter, Immigration Officers must assess the individual to try and establish status. If further investigation is required, a "Minded to Remove" (ICD 4621) letter must be issued, inviting individual to attend an interview. There is no serving notice for this interview, as long as it gives enough time to collect evidence required.

If, during this initial encounter, it is established that the individual is not exercising his/her treaty rights, IS 151 A and B (EEA) can be served.

Up until then, all is based on consent - no photographic or finger printing evidence can be taken by authority alone.

Removal

When Immigration Officers have enough info to establish that the individual is sleeping rough (or not exercising a Treaty right), the following letters are served together and must include Appeal papers (ICD. 1041 and ECD. 3138):

- IS 151A "liability to removal" - enables IO to keep passport
- IS 151B "decision to remove" - automatically gives rise to 14-day right of appeal but is essentially a 30-day notice to leave

This gives power of arrest without warrant to Immigration Officers or constables.

- IS151D "Removal Directions" - giving 72 hours notice for removal, running concurrently with the other periods notice.

Retention of Documents

Retention of documents by Immigration Officers is authorised only after the notice of "liability to removal" (IS 151 A) has been served. However, EEA nationals can request to retain their documents, as withholding the documents may prevent individuals from exercising Treaty rights.

Detention

EEA Nationals should not be detained whilst a decision to administratively remove is pending, except where individual engages in criminality or there is a risk of absconding.

In practice, this means individuals can be detained once a notice of “liability to removal” (IS151A) and a notification of “decision to remove” (IS151B) have been issued, which can be given at the time of initial encounter.

Re-entry restrictions

Individuals removed under Regulation 19(3)(c) for rough sleeping will be subject to re-entry restrictions for 12 months following their removal or voluntary departure.

Procedure for appeals and judicial review

Appeal papers should be served by Immigration Officers together with the notification of “decision to remove” (IS151B).

Appeals have to be lodged within 14 days of the date from which the notification has been received. An appeal against removal under regulation 19(3)(c) will suspend removal.

Individuals who provide evidence that they have ceased rough-sleeping will no longer be liable for removal as a rough sleeper under Regulation 19(3)(c).

Appeals

Appeals are free of charge. However there is no legal aid for appeals. This means that appellants have to submit appeals to the First Tier Tribunal through a lawyer they pay privately¹, or challenge the decision themselves, or with the assistance of an organisation that can assist with such cases such as the AIRE Centre or ULaw Legal Advice Centre, Pro Bono advice centre, University of Kent law school or even seek advice at their local Citizens Advice Bureau or law centres.

Judicial reviews

Where an individual has not been served with appeal papers but has had their passport or document retained by the Home Office following contact with them and this is restricting their right to work or is impacting on their search for work, this decision may be challengeable by judicial review. Also if the person has been detained and is facing removal their case could be challenge by judicial review. There is legal aid for judicial review cases and clients can contact Detention Action, the AIRE centre and any firms of solicitors who undertake judicial review work.

Link to Appeal form and guidance:

http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2980

For more information, please contact Jean Demars: j.demars@gold.ac.uk

¹ For this try the Law Society’s Find a Solicitor page, <http://solicitors.lawsociety.org.uk/>

Appendix C: Interview Questions

The following questionnaires served as a basis for semi-structured interviews conducted with EEA nationals rough sleeping who had been served notice of removal as well as organisations working with rough sleepers, on the frontline and strategically.

INTERVIEW QUESTIONS FOR STREET OUTREACH SERVICES

Operation Adoze

1. When did you first hear about Operation Adoze?
2. What was your involvement in the operation?

Relationship with the Home Office

3. What contact, if any, do you have with the Home Office?
4. Have you received referrals from the Home Office ICE teams?
5. Do you submit info about rough sleepers to the Home Office?
 1. Directly, e.g. email/phone, joint outreach shift
 - A. Indirectly, e.g. CHAIN, funders report, Local Authority
6. (if applicable) What led you to decide to work collaboratively with the Home Office ICE teams?
7. (If applicable) Are you contractually bound by any funders, e.g. local authority to do so?
8. What are the benefits, challenges and risk of implementing such policy?

Policy implication for your clients

9. What impact has this new policy had on your clients?
10. Have you felt an increase in enforcement action since October 2015? Since May 2016?
11. What common issues arise for your clients?

Action taken

12. What actions have you taken since the publication of the policy?
13. Have you supported people in making appeals? if so, how and what is the outcome?
14. Have you supported people in regaining ID documents? if so, how and what is the outcome?
15. Have any of your clients be detained? if so, were you able to support them (and how)?

Eligibility to access services

16. What do you understand by 'eligibility' to services for EEA migrants?
17. What are the criteria for deciding that individuals should be reconnected?
18. What efforts have been made by your agency to offer housing & support services to homeless migrants in the UK, and in particular EEA clients?

Evidence of Solved Homelessness

19. What data, if any, do you collect from individuals who have been:
 - re-connected voluntarily
 - forcibly removedIn particular, have you got evidence of:
 - solved homelessness
 - access to support services in home countries

INTERVIEW WITH ORGANISATIONS PROVIDING ADVICE TO EEA ROUGH SLEEPERS

Relationship with the Home Office

1. What contact, if any, do you have with the Home Office?
2. Have you received referrals from the Home Office ICE teams?
3. Do you submit info about rough sleepers to the Home Office?
 - Directly
 - Indirectly, e.g. CHAIN, funders report, Local Authority
4. What led you to decide to work collaboratively with the Home Office ICE teams?
5. Are you contractually bound by any funders, e.g. local authority to do so?
6. What are the benefits, challenges and risk of implementing such policy?

Policy implication for your clients

7. What impact has this new policy had on your clients?
8. Have you felt an increase in enforcement action since October 2015? Since May 2016?
9. What common issues arise for your clients? (e.g. detention, appeals, confiscated papers, discrimination)

Action taken

10. What actions have you taken since the publication of the policy? (e.g. factsheet, individual case work, group advice)
11. Have you supported people in making appeals? if so, how and what is the outcome?
12. Have you supported people in regaining ID documents? if so, how and what is the outcome?
13. Have any of your clients be detained? if so, were you able to support them (and how)?

Monitoring

14. Request data for those affected or offer support to compile.
15. Would any clients be willing to be interviewed?

INTERVIEW WITH EEA ROUGH SLEEPERS AFFECTED BY THE POLICY

1. Circumstances / Case details

- Demographics: borough or county location, nationality, age, gender
- Economic Situation
- Health
- Support Need
- Convictions? (links to Anti-Social Behaviour)
- Time in the UK/Right to Reside
- Family in the UK
- Contact with street outreach services or local authority
- Reasons for being homeless/last settled place

2. Encounter with Street Outreach services

Had you had prior contact with street outreach services (or local authority)? Please describe.

What offer of support was made to you? In particular, were you ever offered support to find accommodation? Or were you offered Reconnection only?

3. Encounter with ICE team

What happened when Immigration Officers came? Please describe in as much details as possible.

What information did they request? Did they have your name/nationality?

Did they tell you anything they knew about you/your circumstances?

Were you explain Appeal procedure? Were you given Appeal documents?

4. Actions taken

What notice were you given? (please describe the process)

Were you given appeal papers at the same time?

Were you referred to outreach services? or any other services for support?

Were your documents retained? If so, did you claim them back? If so, did you obtain them back?

Were you detained at any point during this process?

5. Outcomes

What happened following the notification to remove you?

- a) your circumstances changed and you were not liable to be removed anymore
- b) you voluntary returned
- c) you appealed the decision
- d) you were forcibly removed

Appendix D: Freedom of Information request - Home Office

What follows is the request made to the Home Office for information relating to the administrative removal of EEA nationals sleeping rough and the subsequent response by the Home Office.

Jean Demars

XXXXXXXXXX

XXXXXXXXXX

Email: j.demars@gold.ac.uk

Home Office
Direct Communications Unit
2 Marsham Street
London SW1P 4DF

Dear Sir/Madam,

I am writing to make an open government request for all the information to which I am entitled under the Freedom of Information Act 2000.

Please find in Appendix A the specific data required for the purpose of this request. It relates to the removal of EEA Citizens who sleep rough in London and elsewhere in the UK. It is divided in 2 parts. The first one requests information relating to Operation Adoze and the second one requests information relating to Immigration Enforcement targeting rough sleepers under Regulation 19(3)(c) which describes rough sleeping as an abuse of the right to freedom of movement, since publication on 4th May 2016.

I would like the information specified in Appendix A (below) to be provided to me as *electronic copies*. May I also request that the information is sent to both the email indicated above and to Connie Sozi csozi@dpglaw.co.uk.

If this request is too wide or unclear, I would be grateful if you could contact me as I understand that under the Act, you are required to advise and assist requesters. If any of this information is already in the public domain, please can you direct me to it, with page references and URLs if necessary.

If the release of any of this information is prohibited on the grounds of breach of confidence, I ask that you supply me with copies of the confidentiality agreement and remind you that information should not be treated as confidential if such an agreement has not been signed.

I understand that you are required to respond to my request within the 20 working days after you receive this letter. I would be grateful if you could confirm in writing that you have received this request.

I look forward to hearing from you.

Yours faithfully

Jean Demars

Appendix A

1. Operation Adoze

1.1 General Information

Rationale, aims and objectives of Operation Adoze.

Strategic and Operational Partnerships - name of partners and subcontractors

Length and locations of operation

1.2 Actions taken

Numbers of individuals contacted

Numbers of people served notice of administrative removal *broken down by*:

- borough or county location
- nationality

And if data is available without going through a manual case search:

- how many were in the UK for less than 3 months
- how many were otherwise exercising treaty rights
- how many had permanent residence in the UK
- how many had retained right to reside

1.3 Outcomes

Numbers of:

- voluntary returns
- individuals detained
- individuals administratively removed

1.4 Finances

What was the overall cost of Operation Adoze?

Which government department funded the operation? Were there any other sources of funding?

2. EEA administrative removal under regulation 19(3)(c) (rough sleeping) since 4th May 2016:

2.1 Actions taken

Numbers of individuals contacted

Numbers of people served notice of administrative removal *broken down by*:

- borough or county location
- nationality

And if data is available without going through a manual case search:

- how many were in the UK for less than 3 months
- how many were otherwise exercising treaty rights
- how many had permanent residence in the UK
- how may had retained right to reside

2.2 Outcomes

Numbers of:

- voluntary returns
- individuals detained
- individuals administratively removed



Home Office

International and Immigration
Policy Group
2 Marsham Street
London
SW1P 4DF

Tel: 020 7035 4848
Fax: 020 7035 4745
www.gov.uk/homeoffice

By Email:

J.Demars@gold.ac.uk

FOI Reference: 41848

Date: 8 February 2017

Dear Mr. Demars,

Thank you for your e-mail of 14 November, in which you ask for information about the removal of EEA Citizens who sleep rough in London and elsewhere in the UK. Your full request can be found in Annex A. Your request has been handled as a request for information under the Freedom of Information Act 2000.

I apologise for the delay in responding to your request. The information you have requested has been provided in the enclosed Annex B and Annex C.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting reference 41848. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Rights Team
Home Office
Fourth Floor, Peel Building
2 Marsham Street
London SW1P 4DF
e-mail: foirequests@homeoffice.gsi.gov.uk

As part of any internal review the Department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. If you remain dissatisfied after this internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely

EU Free Movement Policy
International and Immigration Policy Group



Annex A – FOI request 41848

I am writing to make an open government request for all the information to which I am entitled under the Freedom of Information Act 2000.

Please find in Appendix A (below) the specific data required for the purpose of this request. It relates to the removal of EEA Citizens who sleep rough in London and elsewhere in the UK. It is divided in 2 parts. The first one requests information relating to Operation Adoze and the second one requests information relating to Immigration Enforcement targeting rough sleepers under Regulation 19(3)(c) which describes rough sleeping as an abuse of the right to freedom of movement, since publication on 4th May 2016.

1. Operation Adoze

1.1 General Information

- *Rationale, aims and objectives of Operation Adoze.*
- *Strategic and Operational Partnerships - name of partners and subcontractors*
- *Length and locations of operation*

1.2 Actions taken

- *Numbers of individuals contacted*
- *Numbers of people served notice of administrative removal broken down by:*
 - *borough or county location*
 - *nationality*

And if data is available without going through a manual case search:

- *how many were in the UK for less than 3 months*
- *how many were otherwise exercising treaty rights*
- *how many had permanent residence in the UK*
- *how many had retained right to reside*

1.3 Outcomes

Numbers of:

- *voluntary returns*
- *individuals detained*
- *individuals administratively removed*

1.4 Finances

- *What was the overall cost of Operation Adoze?*
- *Which government department funded the operation? Were there any other sources of funding?*

2. EEA administrative removal under regulation 19(3)(c) (rough sleeping) since 4th May 2016:

2.1 Actions taken

- *Numbers of individuals contacted*
- *Numbers of people served notice of administrative removal broken down by:*
- *borough or county location*
- *nationality*

And if data is available without going through a manual case search:

- *how many were in the UK for less than 3 months*
- *how many were otherwise exercising treaty rights*
- *how many had permanent residence in the UK*
- *how many had retained right to reside*

2.2 Outcomes

Numbers of:

- *voluntary returns*
- *individuals detained*
- *individuals administratively removed*

Annex B – Response to FOI request 41848

1. Operation Adoze

1.1 General Information

- ***Rationale, aims and objectives of Operation Adoze.***
- ***Strategic and Operational Partnerships - name of partners and subcontractors***
- ***Length and locations of operation***

Operation Adoze was carried out by the Home Office between November and December 2015, in response to a steady increase in rough sleeping by EEA nationals. The pilot aimed to reduce the number of EEA nationals sleeping rough in Westminster and neighbouring boroughs given the social harm seen by the local authorities and law enforcement agencies, and the burden these individuals placed on local services. The approach focused on behaviour change, encouraging EEA national rough sleepers to find alternative accommodation in the private rental sector or to seek support from the services available to them to return home.

The operation piloted a new approach whereby we widened our interpretation of the EEA Regulations to classify rough sleeping as an abuse of EU free movement rights, even if the EEA national rough sleeper in question is within their initial three months right of residence, or are claiming to be a qualified person (worker or self employed) thereafter.

As such individuals encountered rough sleeping were subject to administrative removal from the UK where it was considered proportionate to do so. The proportionality-based considerations took factors into account such as the reasons and length of time of the rough-sleeping, evidence of aggravating antisocial or criminal behaviour, and the rough sleeper's impact on the local community as well as their vulnerability.

The Home Office did not have any partnerships contracted for the purposes of Operation Adoze. We do however work closely with the local authorities of the relevant boroughs, the local police and the third sector, both those that provide commissioned services to the local authority and those operating in other forms.

1.2 Actions taken

- ***Numbers of individuals contacted***
- ***Numbers of people served notice of administrative removal broken down by:***
 - ***borough or county location***
 - ***nationality***

Please see Annex B for information on the number of individuals contacted and administratively removed broken down by nationality. The Home Office does not however hold this information broken down by borough or county location.

And if data is available without going through a manual case search:

- ***how many were in the UK for less than 3 months***
- ***how many were otherwise exercising treaty rights***

- *how many had permanent residence in the UK*
- *how many had retained right to reside*

This information is not available without conducting a manual case search.

1.3 Outcomes

Numbers of:

- *voluntary returns*
- *individuals detained*
- *individuals administratively removed*

Please see Annex B.

1.4 Finances

- **What was the overall cost of Operation Adoze?**
- **Which government department funded the operation? Were there any other sources of funding?**

Operation Adoze was delivered within Immigration Enforcement business as usual therefore the Home Office does not hold data on the overall cost.

There were no other sources of funding involved in Operation Adoze.

2. EEA administrative removal under regulation 19(3)(c) (rough sleeping) since 4th May 2016:

2.1 Actions taken

- *Numbers of individuals contacted*
- *Numbers of people served notice of administrative removal broken down by:*
- *borough or county location*
- *nationality*

Please see Annex B for information on the number of individuals contacted and administratively removed broken down by nationality. The Home Office does not however hold this information broken down by borough or county location.

And if data is available without going through a manual case search:

- *how many were in the UK for less than 3 months*
- *how many were otherwise exercising treaty rights*
- *how many had permanent residence in the UK*
- *how may had retained right to reside*

This information is not available without conducting a manual case search.

2.2 Outcomes

Numbers of:

- ***voluntary returns***
- ***individuals detained***
- ***individuals administratively removed***

Please see Annex B.

Annex C

Table 1: Number of EEA individuals encountered under Operation Adoze (between 1 November 2015 and 31 December 2015) and the numbers subsequently served a notice of liability for removal, returned and currently detained, by nationality.

Nationality	Individuals encountered during an Enforcement Visit	Of which			Currently Detained
		Subsequently served a notice of liability for removal	Subsequent Enforced Return	Subsequent Voluntary Return	
Austria	1	1	0	0	0
Belgium	1	0	1	0	0
Bulgaria	1	0	0	0	0
Czech Republic	2	1	2	0	0
Estonia	1	1	0	0	0
France	2	2	1	0	0
Germany	0	0	0	0	0
Greece	2	2	1	0	0
Hungary	2	2	0	0	0
Italy	2	2	0	1	0
Latvia	6	4	1	0	0
Lithuania	10	8	2	0	0
Netherlands	0	0	0	0	0
Poland	28	23	9	1	1
Portugal	2	2	0	0	0
Romania	145	132	35	73	1
Slovakia	0	0	0	0	0
Spain	0	0	0	0	0

Table 2: Number of individuals encountered under operations relating to EEA rough sleepers (between 4 May 2016 and 31 October 2016) and the numbers subsequently served a notice of liability for removal, returned and currently detained, by nationality.

Nationality	Individuals encountered during an Enforcement Visit	Of which			Currently Detained
		Subsequently served a notice of liability for removal	Subsequent Enforced Return	Subsequent Voluntary Return	
Austria	1	1	0	0	0
Bulgaria	28	20	2	4	1
Croatia	2	0	0	0	0
Czech Republic	9	5	3	0	0
Denmark	1	1	0	1	0
Finland	1	0	1	0	0
France	2	2	0	0	0
Germany	1	1	0	0	0
Greece	4	4	0	0	0
Hungary	15	8	1	0	0
Italy	16	14	0	1	0
Latvia	17	7	2	0	3
Lithuania	44	24	5	2	6
Netherlands	3	3	0	0	0
Poland	202	131	22	4	27
Portugal	15	8	1	0	1
Romania	350	280	32	100	5
Slovakia	9	3	0	0	3
Slovenia	1	0	0	0	0
Spain	11	4	3	1	0
Sweden	0	0	0	0	0

Notes

- (1) National figures are provided as the Home Office does not hold the information requested by borough or county location.
- (2) Operation Adoze figures (table 1) represent encounters of EEA nationals between 1 November 2015 and 31 December 2015. Data on returns/detention may include individuals served a notice of liability for removal before their encounter between these dates.
- (3) EEA Rough Sleeper figures (table 2) represent encounters from 4 May 2016 to end of October 2016. Data on returns/detention may include individuals served a notice of liability for removal before their encounter between these dates.
- (4) In both cases, figures represent individuals and ignore instances where a person is encountered and served a notice of liability for removal or returned more than once.
- (5) Individuals may feature in both tables above so the totals should not be added together.
- (6) Figures for those served a notice of liability for removal relate to papers served on or after the individuals were encountered.
- (7) Data on encounters and returns/detention are recorded on separate databases. Where it was not possible to match individuals encountered with those served notices of liability for removal, detained or returned, these individuals were omitted.
- (8) Returns figures include those returned after the initial encounter and up to 30 September 2016 in line with published statistics.

(9) Returns figures include Enforced returns - where it has been established that a person has breached UK immigration laws and has no valid leave to remain within the United Kingdom and the Home Office enforces their departure to ensure they leave the UK - and Voluntary returns which are made up of Assisted returns, Notified Returns and Other Verified Returns.

(10) Figures for those currently detained relates to those detained on 27 October 2016.

(11) These statistics have been taken from a live operational database. As such, numbers may change as information on that system is updated.

Appendix E: Minutes of Mayor's Rough Sleeping Group

The following document is referred to as Item 4, detailing the minutes of the Mayor's Rough Sleeping Group dated from 19th August 2015, entitled 'the use of enforcement in tackling rough sleeping'.

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

1. Summary

- 1.1 The issue of enforcement is on the 2015 workplan of the Mayor’s Rough Sleeping Group (MRSG) because it is one that several members and partners of the group suggested could fruitfully form the focus of one of the group’s meetings. It frequently emerges at the MRSG and the Local Authority Rough Sleeping Leads’ Group in discussions of both aids and barriers to tackling rough sleeping. Joint work with the Police and/or Immigration Compliance and Enforcement (ICE) is identified as key to effective results and its absence detrimental to them.
- 1.2 As discussed at May’s MRSG meeting, a small group of members or their representatives met to explore how enforcement is and could further be used effectively to tackle rough sleeping (see Appendix 1). The group focussed on the following questions:
- What do we mean by “enforcement” in the context of tackling rough sleeping? And what’s its place in doing so?
 - Where is enforcement working well and where is it working less well – and why?
 - What might help ensure enforcement works more effectively, consistently and sustainably?
- 1.3 The MRSG are asked to focus on the following recommendations that emerged from this group’s deliberations, set out in more detail at section four below:
- resourcing ICE to facilitate additional joint shifts with outreach teams;
 - developing and disseminating resources for Police and Magistrates;
 - better identifying and tackling illegal employment; and
 - developing the role played by the Cross Border Enforcement Group (CBEG) in information-sharing.
- The group are also asked to consider whether there are other recommendations they might want to add to these.
- 1.4 Please note that this paper does not consider in any detail joint working between outreach and other rough sleeping services and ICE teams. This will be covered in wider good practice guidance on working with non-UK nationals currently being developed by St Mungo’s Broadway and Providence Row and to be considered separately at this meeting.

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

- 2.1 Enforcement can target both anti-social and criminal behaviour, and breaches of migration law. It is underpinned by the statutory powers of the Police in relation to the former and ICE in relation to the latter, but it arguably spans a spectrum wider than these, including disrupting rough sleepers or gathering evidence around street activity.
- 2.2 Using the statutory measures at the furthest end of the spectrum is – rightly – a last resort, where other approaches to tackling rough sleeping have failed. For example, ICE may remove an EU national at the point where they have refused both support with securing employment and voluntary reconnection. However, “softer”, early enforcement measures can have a key role in preparing rough sleepers to accept support. Moreover, when support is offered, it can be helpful to make clear that, if it is refused, enforcement will be used – for example, when offering reconnection to EU nationals not exercising treaty rights. So, there is not necessarily the sort of stark disjunction between support

and enforcement that might initially be assumed.

- 2.3 The Police and ICE are not the only agents of enforcement and it is important that different agencies support enforcement work along a spectrum of activity. Outreach workers, as well as Safer Neighbourhood Teams and Community Safety Officers, have an important part to play. Examples include Tower Hamlets Council’s Enforcement Officers (THEOs), responsible for youth gangs, vice and rough sleeping; comparable officers in Hackney, Newham, Southwark and Kensington and Chelsea; and City Inspectors and Neighbourhood Problem Solving Coordinators, who are in the course of being trained in Westminster. Tower Hamlets’ THEOs gather evidence for enforcement agencies, while Newham’s Community Safety Officers use Anti-social Behaviour Notices as part of “leg work” for ICE. The City of London tend to deploy their outreach workers to do these types of work, through often use team managers for interactions that might undermine support work outreach workers have done with rough sleepers. The Fire Brigade can also function as a key enforcement agent – for example, in closing down squats and other sites that are used for rough sleeping, including some of those along the A406.
- 2.4 Agencies find enforcement can be helpful in demonstrating responsiveness to public concern, although those not immediately affected by rough sleeping may be wary about its use - as illustrated by the recent reaction to attempts to use Public Space Protection Orders (PSPOs) to tackle rough sleeping in Hackney and Oxford.
- 3. Aids and barriers to the effective use of enforcement in tackling rough sleeping**
- 3.1 A number of key themes emerged in the course of discussing where and why enforcement does and does not make an effective contribution to tackling rough sleeping. These are outlined below.
- 3.2 **Clear and robust legislative or regulatory provision appropriate to particular situations:** Participants highlighted the value of clear, specific legislative or regulatory provision that is readily applicable to particular circumstances. Positive examples cited included the following:
- Legislation on trespass can be used by private landowners whose property is being occupied by rough sleepers.
 - Dispersal orders, which are useful in responding to large groups of rough sleepers.
 - PSPOs are of value in dealing with encampments.
 - Provision, from January 2014, for a 12 month bar on the re-entry to the UK of EU nationals removed for not exercising treaty rights, is considered to have reduced the “revolving door” element of reconnecting EU nationals who are sleeping rough.
 - Anti-Social/Criminal Behaviour Orders (ASBOs/CBOs) have been/are of use for those who persistently behave anti-socially and can sometimes prompt persistent rough sleepers to consider entering accommodation.
- 3.3 Conversely, participants highlighted how using the Vagrancy Act 1824 often proved difficult. The Crown Prosecution Service does not generally pursue prosecutions under this legislation. Where the Act has been used, individuals who accept the accommodation that must be offered at the point of arrest frequently move out of it straight away. Similarly, participants were somewhat cautious about PSPOs, commenting that, although useful in some settings, their specific geographical scope could generate displacement.
- 3.4 **Availability of appropriate resources:** Participants identified how the commitment of resources from all agencies – for example, Police and ICE officers regularly supporting outreach service shifts – is vital to effective enforcement. They reported instances of

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

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

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

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

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

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

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

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

- 4.1 The following recommendations emerged from the group’s discussion of how enforcement could more effectively be used to tackle rough sleeping:
- more immediately, resourcing ICE to facilitate additional joint shifts with outreach teams;
 - developing and disseminating resources for Police and Magistrates;

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

- 4.2 These recommendations are not intended to be exhaustive or to capture the breadth of best practice in using enforcement to tackle rough sleeping, but they are areas where participants suggested that some intervention may yield worthwhile returns in the short to medium term. More detail on what each might entail is outlined in the table below.
- 4.3 It is worth noting that the group were strongly supportive of amending the UK's Immigration (European Economic Area) Regulations, which define how the UK interprets the European Council Directive 2004/38/EC's stipulation that "EU citizens or members of their family may be expelled from the host country on grounds of public policy, public security or public health...", provided the member state applies a principle of "proportionality" and ensures that conduct that merits expulsion "represent[s] a genuine, sufficiently serious and present threat which affects the fundamental interests of society." They wanted to see the regulations changed, so that the ASB often associated with rough sleeping becomes legitimate grounds for removing EU nationals from the UK before they (can be shown to) have spent three months in the country would enable a more robust approach to ensuring those sleeping rough are helped off the streets quickly, rather than needing to wait for an extended period of time, during which the individual is at risk and communities are disrupted. While the Mayor and Rough Sleeping Group members may choose to lobby on this issue, there is no guarantee that doing so will yield change. And any such change would anyway be likely to take some time.
- 4.4 Some participants also suggested offering short-term, low cost accommodation for EU nationals either looking for work (potentially with support to find employment as part of the provision), or already working but without the resources for a deposit for private rented accommodation, would help add to the limited options services can offer to this cohort – and thus strengthen the rationale for using enforcement with those who refuse offers. However, there was some concern about the feasibility of this work, because of the following:
- a) The cohort have often refused offers of low cost accommodation where small-scale accommodation projects have been run, preferring to maximise income that they can return home by sleeping rough, so it is likely that accommodation would need to be free.
 - b) It would be difficult to ensure that residents neither overstayed the period for which accommodation was available nor returned to the streets when it was terminated.
- Therefore intervention in this area is not recommended at this stage.

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

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

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

Appendix F: St Mungo's 'Hammersmith & Fulham guidance and protocol'

Enforcement Policy for EU and NON EU nationals not engaging with Outreach Team

Local Protocol for Outreach working with CEU and non EU Nationals

Outreach will assess all CEU and non EU Nationals presenting as rough sleeping. Check if the client is known to outreach, do they have a history of rough sleeping, and if so does their name appear on the data for homeless people (Chain) How long the person has they in the UK and are they exercising their Treaty Rights. If client is unsure of Treaty Right and where there is no language barrier, outreach to explain the term of the Treaty Right to remain in the UK. Were there is a language barrier outreach to make other provisions

Below is the procedure to be followed by the Outreach Team -

Referrals to Outreach

- 1.1 All CEE and Non EU nationals will be treated with the same equality and diversity as all others referrals. First contact as a rough sleeper outreach will assess current situation and provide further information.
- 1.2 Those eligible for NSNO will be referred via the outreach team
- 1.3 Those individuals seen on the street who are exercising their Treaty Rights will be asked to present to the Day Centre, outreach will assess their current situation further. All information will be check on CHAIN. Following this outreach with implement an action plan and identify any risk.
- 1.4 All other individuals NOT Eligible for NSNO and not exercising their Treaty Rights will be provided with information on a reconnection back to their country of origin, whether this is via LRT or Refugee Action
- 1.5 All individuals will be made aware of the risk to person (violence, theft, etc) whilst rough sleeping, and the debilitating effect on their general health and wellbeing.

Engagement

- 2.1 All Individuals will have opportunity to access the Day Centre
- 2.2 Individuals will have the opportunity to discuss any ID concerns.
- 2.3 Individuals will have opportunity to apply for NINO number
- 2.4 Individuals will be signposted to work related agencies e.g. Job Centre plus, Upper Room, Progression Services etc.

Sign Post client to services

- 3.1 Provide information on local Day Centres, West London Churches etc.
- 3.2 Job Centre for a NI No to access employment.
- 3.3 Health Services etc.

After 8 weeks Period

- 3.1 If individual show no signs of adhering to the Treaty Rights e.g. not interested in work, training, or applying for their national insurance number, and continue to sleep rough they will be given a letter reminding them of EU Treaty Protocol and expectation that they are adhere to these.
- 3.2 Individuals will be given a further opportunity to consider a voluntary reconnection.

After 12 weeks period

Individuals will be made aware that within this time frame if no progress has been made by themselves then their names will be forwarded to the UKBA.

CEE National who do not adhere to the UK Treaty Rights after 3 months

Action to be taken when CEE National do not exercise their Treaty Rights for example -

- Refuse to accept assistance from the outreach team and other agencies.
- Not demonstrating that they are seeking Employment or Further Education.
- Don't have access to Public Funds.
- Clients who refuse a single service offer of reconnection etc.

These individuals' details will be passed on to the ICE by the outreach team. Following this a joint shift will be agreed with outreach, ICE, Parks Police to target/tackle these individuals.

In some cases where there is cause for concern outreach may defer some CEE National to ICE before the three months period, this could be due to ongoing ASB, non engagement with services etc.

Summary of procedure of Action:

Immigration officer will speak to the CEE National and determine whether admin removal criteria are met.

- 4.1 If the EEA national is not exercising Treaty Rights or there is reasonable grounds to suspect abuse of rights or fraud.
- 4.2 Where further evidence is required, the Immigration Officer will serve a reminder to remove letter and interview the CEE National.
- 4.3 The Immigration officer then considers, whether evidence suggests a criminal prosecution in case of abuse of rights or fraud, and whether the case should be referred for deportation action.
- 4.4 If Voluntary Departure has been requested, the Immigration Officer will consider if this is appropriate.
- 4.5 Where administrative removal criteria is met, the officer will seek authorisation for removal from a senior officer before serving administrative removal paperwork

Action Taken

- 5.1 Arrange removal Directions Placing the individual on reporting restrictions.
- 5.2 Detaining where appropriate - attempting to participate in or facilitating a marriage of convenience or trying to fraudulently acquire residence rights.
- 5.3 For conduct designed to circumvent residence requirements (e.g. exiting) re-entering to re-set in the UK

On 1st January 2014 the Home Office approach to deportation and removal of EEA nationals changed:

Re-entry restrictions following administrative removal: EEA nationals who are administratively removed for not exercising Treaty Rights (under the current provisions) will not be able to re-enter the UK for twelve months following removal unless they can demonstrate that they will immediately be exercising Treaty Rights upon re-entry.

Removal following abuse of rights or fraud: EEA nationals can now also be administratively removed from the UK for the abuse of free movement rights or fraud where it is appropriate and proportionate, namely: clock for the initial unconditional right of residence, or attempting, to enter)

Further action:

Failure to comply: If the EEA national fails to provide sufficient evidence or fails to attend an interview at least twice, then the Immigration Officer can infer that the person does not have the right to reside and pursue Removal action.

From 1/1/14, an EEA national can be refused admission to UK if removed from the UK and tries to re-enter the UK within 12 months of removal unless the EEA national can prove that they will be immediately exercising Treaty rights upon re-entry.

An EEA national is a qualified person exercising Treaty rights if they are:

- 6.1 Work (work must be meaningful and effective not marginal and ancillary)
- 6.2 Self-Employed person (work must be meaningful and effective not marginal and ancillary)
- 6.3 Self-sufficient person (must also have comprehensive sickness insurance e.g. a private policy or EHIC)
student (must also have comprehensive sickness insurance)
- 6.4 Jobseeker (the person must be actively seeking work and have genuine chance of getting a job in UK)
- 6.5 All individuals have to provide a proof of address which can be (Bank statement ,tenancy agreement, utility bill)

**All individuals who are assess by NSNO and refused their SSO (Reconnection back to home country)
Outreach will reiterate the SSO for no more then 28 days. After this time outreach will refer client to
Immigration Office West ICE Team. Outreach will NOT support EEA nationals with any support letters OR
any translations if needed.**

**Hammersmith and Fulham
Outreach Team**

Appendix G: Thames Reach 'working with migrants'

Working with migrant rough sleepers

Overview of Thames Reach

Thames Reach's outreach services support rough sleepers found on London's streets by helping them escape homelessness and destitution.

Thames Reach has worked with vulnerable rough sleepers for over 30 years and our staff witness on a daily basis the dangers of sleeping rough, the detrimental effect it has on people's health and the potential for destitute people to die on the streets.

In order to work effectively we have developed a wide range of partnerships that enable us to help rough sleepers move away from the streets. These include partnerships with councils and housing organisations, health services, employers and training providers, the police and, in the last few years, with migrant charities and the Home Office.

The situation facing non-UK nationals sleeping rough

The latest annual figures for rough sleeping in London (CHAIN annual report for Greater London April 2015 – March 2016) indicate that 59% or 4,675 of the 8,096 people seen sleeping rough were non-UK nationals. Most had no rights to welfare benefits or housing. We employ staff from a range of different countries, particularly from Central and Eastern Europe, who have excellent language skills and understand the cultural needs of people from EEA countries who are sleeping rough.

The operational regulations detailed in the instructions covering administrative removal changed in May 2016. They gave new powers to Home Office staff to remove rough sleepers before the three-month period has elapsed because rough sleeping can be considered an abuse of free movement rights. Under the regulations, there is a requirement that the response to rough sleepers who have been sleeping rough for less than three months is proportionate, taking into account all the circumstances of the case. This change in Home Office guidance has not changed the practise of Thames Reach outreach teams or the way in which we work in partnership with HOICE.

Options for non - UK nationals

All rough sleeping clients, including UK nationals receive a complete assessment of their needs in order to enable us to create a Single Service Offer which is recorded on CHAIN. These could include:

Support them to access benefits or work and accommodation.

Referral to legal advice/ Street Legal where individuals have complex immigration cases.

Referral to Routes Home and /or safeguarding teams for complex and vulnerable rough sleepers including those with mental health and substance misuse issues.

Rough sleeping clients who have been comprehensively assessed and have no recourse to public funds, no local connection to any UK borough and are not ready to work and who's

best and fastest option to cease rough sleeping is to return to their country of origin will be offered a supported reconnection.

Thames Reach seek to engage and motivate rough sleepers to take - up offers of support. if this is unsuccessful enforcement options will be used alongside the continuing offer of support. Enforcement action for non -UK nationals will involve Thames Reach working with HOICE.

Partnership work with ICE

Client who consistently refuse the offer of a supported reconnection and any other reasonable offers by outreach of assistance and who continue to rough sleep presenting a risk to themselves, other rough sleepers and the public will be brought to the attention of HOICE. These clients will be the subject of local authority task and targeting meeting or will be encountered by HOICE staff during joint outreach shifts.

Thames Reach outreach services work closely with local authorities to co-ordinate resources on rough - sleeping 'hotspots' where three or more rough sleepers are found bedded down. Clients who are sleeping in a hot spot may also be met by the home office during a joint shift and advised of the likely consequences of continuing to rough sleep and refuse offers of assistance from commissioned outreach teams.

The role of Thames Reach staff during joint shifts is to ensure that clients understand the information that is given to them and that Home Office staff are acting with due regard to a rough sleeper's vulnerability. GLA guidance is that if the Home Office encounters a vulnerable foreign national at risk of homelessness or 'rooflessness', a referral should be made to local outreach to find the most appropriate route off the streets. It is the GLA's view that where a vulnerable rough sleeper, for example someone dependent on drugs or alcohol, is encountered, they must be referred to local outreach services to make sure they receive the support they need.

Information sharing

In order to facilitate joint work LSR will share basic, operationally necessary demographic information of rough sleepers who have been identified as having no option other than removal. Protected data is not shared with HOICE staff without the consent of clients. Information on locations and hot spots of rough sleeping may be shared.

All Home Office staff will be fully briefed by outreach teams, specifically on possible vulnerabilities, which must be taken into consideration before shifts take place. Those with vulnerabilities should be worked with by outreach. LSR and HOICE will share information on known risks of working with particular rough sleepers.

In extraordinary cases, such as criminal offences unrelated to rough sleeping (for example, being 'wanted for serious crimes abroad', or offences of sexual assault) individual-level data may also be shared to ensure protection of the public. All requests for individual-level data in these circumstances will be required to be approved by the GLA prior to being sent to the Home Office.

Home Office staff will share information with outreach staff on the outcomes for rough sleepers who have been detained and outreach staff will continue to offer an voluntary reconnection as an alternative to administrative removal.

Thames Reach and HOICE staff also meet on a quarterly basis to discuss changes in legislation and demographics of non - UK rough sleepers, these meetings ensure that services are developed to meet changing needs and legal guidance. Thames Reach may also undertake to deliver training and advice for HOICE staff on how to deal with vulnerable client groups.

Data Collection

All work undertaken by Thames Reach outreach staff is recorded on the CHAIN database. Anonymised and aggregated data from this database may be shared by the GLA with the Home Office.

Thames Reach collect data on number of people who have been voluntarily reconnected, and where relevant on numbers who have been detained or administratively removed. This information is used to better understand the needs and outcomes for rough sleepers and to develop more effective services to meet the needs of migrant rough sleepers.