

Appendix 2. THE HOMELESS BILL OF RIGHTS

The Homeless Bill of Rights

This is the English text of the document launched in Europe. We found it a poor translation of the original French text, here, and we tweaked it to make it colloquial and added two articles with FEANTSA's consent.

This is the full text of the Homeless Bill of Rights launched in Brighton in October 2018. You can download it here as a Word document and pdf. Below the text, at the bottom of this page, we provide a short commentary.

HOMELESS BILL OF RIGHTS

In accordance with international human rights treaties and in line with domestic law and the democratic and humanist values that underpin it, we, Brighton and Hove City Council ("the Council") declare:

It is the constant concern of the Council to respect and uphold the rights of people who are experiencing homelessness, in particular their right to housing. While working towards that goal we are determined not to contribute in any way to the harsh and inhuman conditions too often experienced by people who do not have a place to live.

We believe that it is the responsibility of all individuals, businesses and organisations, and of all local authorities, including ourselves, to commit themselves to improving the living conditions of people who are homeless and to lessen the negative effects of homelessness.

To help achieve this, and in common with other cities throughout Europe, we believe that it is important to re-state that every person who is experiencing homelessness is entitled to the same treatment as any other resident in the city area. No one should be denied rights because they are homeless.

In particular we commit ourselves to making effective the following rights:

1. THE RIGHT TO HOUSING

The most important right a homeless person has is to exit homelessness. Services supporting access to appropriate housing must be accessible to all homeless people. In partnership with other competent public authorities, the Council shall work to ensure that there are sufficient routes into housing to meet need.

2. THE RIGHT TO SHELTER

Where housing cannot be immediately provided, there must be access to decent emergency accommodation for all homeless people. The Council is committed to ensuring that there is sufficient emergency accommodation available to all, so that no one is forced to sleep rough for want of a bed.

3. THE RIGHT TO USE PUBLIC SPACE

People who are homeless should have the same right to use public space and to move freely within it, and to rest in it, as anyone else. This includes, but is not limited to, access to pavements, parks, public transport and public buildings on the same terms as any other member of the public.

4. THE RIGHT TO EQUAL TREATMENT

The Council is committed to ensuring that their staff and services uphold the right to equal treatment for all, without discriminating against the homeless.

5. THE RIGHT TO A POSTAL ADDRESS

The Council shall secure that homeless people who need one have an effective postal address of last resort.

6. THE RIGHT TO SANITARY FACILITIES

The Council commits to providing access for all homeless people to basic sanitary facilities – running water (drinking fountains), showers and toilets sufficient to allow for the level of hygiene appropriate to maintaining human dignity.

7. THE RIGHT TO EMERGENCY SERVICES

The right to emergency services – social services, health services, the police and the fire service – on equal terms with any other member of the public, without being discriminated against because of their housing situation or their physical appearance.

8. THE RIGHT TO VOTE

The right to vote, to be included on the electoral register and to be given the necessary documents to prove their identity when voting in elections, without being discriminated against because of their housing situation.

9. THE RIGHT TO DATA PROTECTION

People who are homeless have the right to data protection, with their data only being shared by public and other services with their consent and only for the purposes of providing services and solutions to them. Homeless people have the same right as everyone else to exercise control over their personal details, particularly their health information, their criminal record if they have one, their housing and their private life and family history.

10. THE RIGHT TO PRIVACY

The right to privacy must be respected and protected to the fullest extent possible in all types of accommodation, including communal accommodation structures and informal accommodation lived in by homeless people. The Council is committed to working to ensure that all emergency accommodation provided can deliver on this right.

11. THE RIGHT TO SURVIVAL PRACTICES

The right to carry out practices necessary to survival within the law. While the Council strives for a city in which such practices are not necessary, we recognize that where people have no other option they will seek support from other people through begging or foraging for discarded food to survive. Such survival practices should not be criminalized as such, or banned, or arbitrarily confined to specific areas.

12. THE RIGHT TO RESPECT FOR PERSONAL PROPERTY

People who are homeless should have their belongings, including tents and sleeping bags, respected by everyone including public servants. They should never be damaged or thrown away or be removed without compelling need, and if they are removed they should be made available for collection without charge.

13. THE RIGHT TO LIFE

The right to life requires public authorities to take measures to preserve life. When people who are homeless (including people in emergency accommodation) die, the Council is committed to ensuring that their deaths are recorded as such, and that in each case there is a reasonably public investigation in order to understand the causes of death and what might have prevented it.

Commentary

We have closely followed the text of the European document, with two additions. I'll briefly discuss the different rights, and why they are needed; I will be more thorough over Articles 12 and 13, which are our own additions to the document (although we hope other European cities may follow our lead). I will often reference the European Convention on Human Rights (hereafter "the Convention"), which is part of our law by virtue of the Human Rights Act 1998.

THE RIGHT TO HOUSING

This is the fundamental right for the homeless: not to be homeless. It must underlie all the others. It is not contained in English law, but it is in the Universal Declaration of Human Rights (Article 25) and in the International Covenant on Economic, Social and Cultural Rights (Article 11(1)), international treaties which the UK has signed. At present it is an aspiration rather than a reality; but it cannot be forgotten.

THE RIGHT TO SHELTER

While we work towards making the first article a reality, the entirely achievable goal for the moment is that enough emergency provision must be available to make sure that nobody is forced to sleep rough. I would argue that this is already an obligation in English law. Article 3 of the European Convention requires that public authorities take steps to prevent torture and ill-treatment; there is a breach of Article 3 when someone faces an imminent prospect of serious suffering caused or materially aggravated by a denial of shelter, food or the most basic necessities of life (*R(Limbuella) v SSHD*, [2005] UKHL 66). That applies to nearly all rough sleepers and places an obligation on public authorities to remedy the breach. There is good evidence from France that the mere provision of shelter dramatically reduces death rates.

We are familiar with the law that places limits on the Council's ability to provide for persons with no recourse to public funds. Like all human rights, this right applies to everyone regardless of nationality, immigration status or "local connection". There is no law preventing the provision of simple shelters to preserve life, as in *SWEP*.

THE RIGHT TO USE PUBLIC SPACE

Homeless people should have the same rights to use public space as anyone else. Otherwise you are treating their desperate situation as a reason to treat them differently, to clear them away, to make them invisible. This, like the next provision, is about anti-discrimination. The legal argument for both is that it gives effect to Article 14 (the prohibition against discrimination) of the Convention, taken

with Article 11 (freedom of assembly and association) and Article 8 (the right to respect for private and family life and the home).

THE RIGHT TO EQUAL TREATMENT

Underlying all human rights is the right to dignity. You rob those who are homeless of their dignity when you treat them as in some way different from or inferior to their fellow citizens.

THE RIGHT TO A POSTAL ADDRESS

This is very important for prospects of gaining employment or housing. We have some provision already in Brighton and Hove; this right says that all homeless people are entitled to such assistance. It clearly falls within Article 8.

THE RIGHT TO SANITARY FACILITIES

It should be clear to everyone how important this is. Again, this is Article 8 of the Convention.

THE RIGHT TO EMERGENCY SERVICES

It is very difficult for homeless people to access the medical care they are entitled to, and many homeless people say that the police do not respond adequately to their complaints or protect them from crime. This is an anti-discrimination provision, see the commentary on Article 3 above.

THE RIGHT TO A VOTE

All citizens should be able to vote, whatever their housing situation. The proposed identity checks on voting will make it even harder for homeless people to exercise their democratic rights and it is important that there be a commitment to making it possible. This is Article 3 of Protocol 1 of the Convention.

THE RIGHT TO DATA PROTECTION

There have been deeply regrettable occasions when publicly funded outreach workers have passed on the private information of homeless people without their consent. These rights are protected by the Data Protection Act and by Article 8.

THE RIGHT TO PRIVACY

This is self-evidently important, and is protected by Article 8 of the European Convention; it is a right very hard for homeless people to access.

THE RIGHT TO SURVIVAL PRACTICES

While people remain actually homeless, they must survive as best as they can, and they should not be criminalized for doing so. People should not be arrested for asking for help.

It is argued that as begging is currently a crime under the Vagrancy Act we cannot adopt this article. However, this document is an aspirational document, not a legal one, as Article 1 shows. See the front page of the site for arguments as to why we should adopt it anyway.

THE RIGHT TO RESPECT FOR PERSONAL PROPERTY

This is one of the two Articles added to the Brighton document following consultation with homeless people, and addresses what they felt to be a major issue. It follows similar provisions in US homeless bills of rights and has the support of FEANTSA.

The belongings of a homeless person are entitled to the same respect and protection as everyone else's. Our property is protected by the English common law. Article 1 of Protocol 1 of the Convention also protects us against unjustified interference with our possessions by public authorities and requires them to take steps to ensure that they are protected. In practice, as with so many rights, this protection has seemed worthless to homeless people, who see their property confiscated or destroyed all the time.

THE RIGHT TO LIFE

This is the second Article added as a result of input from our members, frustrated at the lack of information and apparent investigation of the deaths of homeless people. It has the support of FEANTSA.

There is no official system in the UK for recording the deaths of homeless people, let alone for investigating them, although since we began this campaign the Office of National Statistics (ONS) has begun to collect statistics of its own accord. The ONS records that 726 people died in England and Wales in 2018 who were rough sleepers or in emergency accommodation. We see this failure to account for these deaths as a fundamental failure of our responsibilities to the homeless. It is so dangerous to life and health to be homeless that the average age at death was 45 for men, 43 for women.

Article 2 of the European Convention for Human Rights is the Right to Life, the first and most fundamental right. Under it, the UK is required to have a legal and administrative framework in place to prevent threats to the right to life; SWEP, the emergency protocol for providing shelter in extreme weather, may be taken as an expression of this. In addition, where there is a specific and urgent threat to life, the state must act. Where the right is engaged but people die, Article 2 obliges us to investigate. This article commits the Council to keeping a record of the deaths of homeless people (including those in temporary and emergency accommodation) and to ensuring those deaths are adequately investigated.

Conclusion

Any one of us could be made homeless, or any of our friends or family. No-one is immune; for most of us it would take only one or two pieces of bad luck to put us on the street. How would we be treated then? We know only too well. It is likely that we would be abused, assaulted, spat upon; we might even be killed. We would be endlessly moved along by security or the police, or arrested for begging, or spray-painted or urinated upon as we tried to sleep by people who think it is a laugh to be cruel.

Human rights are for everyone, without exception; but it can be hard to believe that if you are homeless. What value does your fundamental right to human dignity have if you are treated as a second class citizen, or as despicable or blameworthy, through no fault of your own? So we are putting forward this Bill of Rights for the Homeless, to declare out loud what is already the law, to proclaim that we all have human rights, we all have dignity, whatever our housing situation, whatever our misfortunes.

Appendix – Organisations involved

BRIGHTON AND HOVE HOUSING COALITION

The Brighton and Hove Housing Coalition brings together groups of activists in the City and the surrounding area to coordinate action and spread information and news about all housing issues. We are independent of local and national government and self funding. Our aims and objectives are to provide an independent voice that supports tenants, leaseholders, homeless and people in temporary or emergency accommodation.

FEANTSA

FEANTSA is the European Federation of National Organisations Working with the Homeless.

Maria José Aldanas, who spoke at the launch, is the policy officer at FEANTSA with special responsibility for the Homeless Bill of Rights campaign, and the co-ordinator of Housing Rights Watch.

HOUSING RIGHTS WATCH

Housing Rights Watch is an interdisciplinary European network of associations, lawyers and academics from different countries, who are committed to promoting the right to housing. The right to housing has been recognised as one of the most important fundamental human rights and what we seek is the realisation of every person's right to live in dignity and to have a secure, adequate and affordable place to live.

The network was set-up in Cardiff in November 2008 in order to facilitate exchange and mutual learning among housing rights experts and advocates.

JUST FAIR

Just Fair brings social justice and human rights together. They work to ensure that UK law, policy and practice complies with our international human rights obligations.

Jamie Burton, who spoke at the launch, is co-founder and Chair of Just Fair. He is a barrister specializing in judicial review, human rights, social and clinical care, housing, social security, criminal justice and environmental law.

BREAKING NEWS!

The Homeless Bill of Rights has caught the popular imagination in Greece and 35 cities have signed it so far!

10% of Greek cities have just signed the Homeless Bill of Rights

