

OPTIONS FOR DEALING WITH SQUATTING: HOMELESS LINK'S CONSULTATION RESPONSE OCTOBER 2011

Homeless Link is the national membership organisation for agencies working with people who are homeless across England. As the collaborative hub for information and debate on homelessness, we seek to improve services for homeless people and to advocate for policy change. Through this work, we aim to end homelessness in England.

INTRODUCTION

Homeless Link welcomes the opportunity to respond to this consultation and we thank the Ministry of Justice for inviting our input at a recent roundtable with other organisations representing people who are homeless. At this meeting we raised a number of concerns about proposals to criminalise squatting which we build on in our written response.

While we acknowledge the rights of property owners, we are concerned that the proposals for addressing squatting are predicated on a misconception about the characteristics of a large number of the people who squat.

Many of these individuals are vulnerable members of society experiencing a range of pronounced support needs who either lack the capacity to, or have been excluded from, accessing other forms of shelter. Furthermore the majority of squats are unoccupied buildings offering only a marginal improvement to sleeping on the street. The spectre of squatters occupying properties in desirable postcodes and the threat of squatters occupying a family home while the residents are on holiday are the actions of a small proportion of the total squatting population. This is borne out by the limited statistics we have on squatting. The consultation document estimates a total squatting population of 20,000 and in 2010 only 531 ordinary possession orders were granted. The disparity between these figures points to the fact that the majority of squats are unoccupied buildings where the owner was not sufficiently troubled by the squatters' presence to apply for an order.

We also have concerns around this consultation process. The consultation document states that 'there is no data held by central Government about the number of people who squat or their reasons for doing so' and aims to use the consultation process as a means to establish an evidence base on squatting and squatters. We are concerned that legislative solutions have been developed using partial evidence and that consequently the equalities impact assessment is not as rigorous as it could have been. While we appreciate that data about squatting is difficult to obtain, we believe that a clearer understanding of the factors that lead to squatting would have elicited different proposals.

Any move to change the laws governing squatting should take account of all the factors that structure an individual's experience of squatting. Extensive changes to the benefits system, to the provision of social housing, to statutory homeless support and local authority cuts to support service budgets all have a bearing on the level of support available to vulnerable individuals. Recent Homeless Link research

examining the impact of local authority funding cuts shows that homelessness services are seeing more people rough sleeping and are restricting access to services for people with higher needs/multiple needs as a result of capacity issues¹. This is likely to have a knock on effect on incidence of squatting.

We are also concerned over the minister's statement that "there are avenues open to those who are genuinely destitute". Single homeless people rarely qualify for housing support from local authorities (LA) and in many cases the standard of prevention or relief advice offered to homeless applicants is ineffectual². In addition to this, research³ indicates that this group may also struggle due to a shortage of vacant beds in homeless hostels.

These introductory points are not offered as a justification or as grounds of a right to squat but to demonstrate that in most cases squatting is not a lifestyle choice but a last resort taken by vulnerable individuals. Criminalisation of this already excluded group will only serve to compound their exclusion, pushing them further from the job market and adding another obstacle to accessing sustainable housing, as recent Homeless Link research into criminal justice and homelessness indicated⁴:

'Experience shows that once criminality is mentioned...local housing agencies 'shut the door' for many clients' (Homelessness Service Provider).

'No one wants to employ someone with a criminal record' (Homelessness Service User).⁵

Criminalisation carries significant cost implications and does nothing to tackle the problems that cause homeless people to squat in the first place. With homelessness on the rise we would not want to see individuals faced with the impossible choice between sleeping on the streets or risking being criminalised.

Below we have responded to those questions most relevant to our client group and area of expertise.

EXTENT OF THE PROBLEM

'Is squatting a particular problem in your area and where does it occur the most, e.g. in residential or non-residential property? Were these properties empty/abandoned/derelict before they were occupied or were they in use?'

Squatting is a complex problem stemming from a more general housing and service shortage. Research undertaken by Crisis (2004) indicates that areas of high population density with low levels of social housing provision and low levels of housing support are coterminous with high numbers of squatted properties. This link between reduced housing support and squatting prevalence indicates that squatting, among some groups is the result of genuine need not wilful anti-social behaviour.

¹ Homeless Link (2011) 'Cuts Monitoring Data: Online Survey 07/06/2011'

² Local Government Ombudsman (2011) Homelessness: How councils can ensure justice for homeless people

² Local Government Ombudsman (2011) Homelessness: How councils can ensure justice for homeless people <http://www.lgo.org.uk/news/2011/jul/lgo-highlights-councils-failings-legal-duties-homeless-people/>

³ See for example Broadway & RIS (2006) Accommodation for single homeless people in London: Supply and Demand

www.broadwaylondon.org/ResearchInformation/Research/SupplyDemand/main_content/Supplyanddemand.pdf

⁴ Homeless Link (2011) 'Better Together: Preventing Reoffending and Homelessness'

http://homeless.org.uk/sites/default/files/Better%20Together%20Final%20Report_Sep11_prm.pdf

⁵ *ibid*

Squatting normally occurs in unoccupied properties with few amenities. Respondents to Crisis' research⁶ on hidden homelessness indicate that the types of property used vary from 'rat infested' shells with no windows or running water; to short term sites in disused flats prior to their redevelopment; to empty residential sites sometimes with basic amenities such as a garden hose. The common theme is that this is a 'tenure' of last resort often used after periods of rough sleeping. It is most commonly a hard, cold and trying existence.

'Do you have any data or other information on the demographic profile of people who squat - e.g. do they share any of the protected characteristics set out in the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation). Do they live alone or with others?'

As members of the hidden homeless population, who do not appear on national or local databases, it is difficult to make an accurate assessment of the total number who squat at any one time. However given that Crisis' research found that '40 per cent of single homeless people squat as a response to homelessness'⁷ we would say the figure of 20,000 proffered in the consultation document is a very conservative estimate.

It is clear however that people who squat experience complex vulnerabilities. Statistics about squatters published by Crisis showed that:

- '34% have been in care
- 42% had physical ill health or a disability
- 41% reported mental ill health⁸;
- '20% experience alcohol dependency'⁹; and
- significant numbers have served a prison sentence and/or experienced substance misuse issues¹⁰.

Squatting is also 'tenure' of last resort for Central and Eastern European (CEE) migrants. Data gathered by two Local Authorities using Homeless Link's Preventing Mapping Tool (PrOMPT) designed specifically for CEE migrants indicated that 36% of those currently rough sleeping had squatted at some point since coming to the UK.

In addition, information gathered in 2010 showed that squatting was prevalent among wider migrant groups, including asylum seekers and irregular migrants. 32% of agencies surveyed nationally said they were working with migrants who were squatting¹¹.

Squatting is characterised by insecurity, poor living conditions, criminalisation, risks to personal safety and poor health. People often find themselves living in highly unsuitable locations with no amenities, in structurally unsound buildings that pose a significant fire risk. Several of these factors can be seen in Harvey's quote below.

⁶ Crisis (2011) 'The hidden truth about homelessness: Experiences of single homelessness in England' http://www.crisis.org.uk/data/files/publications/HiddenTruthAboutHomelessness_web.pdf

⁷ Crisis & Centre for Regional Economic and Social Research (2011) Squatting: a homelessness issue An evidence review http://www.crisis.org.uk/data/files/publications/Crisis_SquattingReport_SEPT2011.pdf

⁸ ibid

⁹ Crisis (2011) 'The hidden truth about homelessness: Experiences of single homelessness in England' http://www.crisis.org.uk/data/files/publications/HiddenTruthAboutHomelessness_web.pdf

¹⁰ Crisis and The Countryside Agency (2004) 'Life on the Margins The experiences of homeless people living in squats' http://www.crisis.org.uk/data/files/publications/LifeMargins_Full.pdf

¹¹ Homeless Link (2010), 'Homelessness among migrant groups: survey of homelessness and refugee agencies across England.

“You find empty buildings where you’re not going to bother anyone...doesn’t matter if the windows are put through, you’re going to make your own little cardboard bed...and put paper down your trousers” (Harvey Homelessness Service User).¹²

People squat because:

- It offers temporary respite from rough sleeping;
- They have made an application to a LA housing options department that did not elicit a successful intervention;
- Other temporary options are unsuitable, oversubscribed and/or do not meet their support needs;
- They have no recourse to public funds;
- They have exhausted opportunities to reside with family and friends; and
- They are not aware of available sources of help.

Individuals end up squatting as a result of personal vulnerabilities and gaps in the social support safety net. Although only some of their vulnerable characteristics fall under the scope of an equalities assessment we would like to see all their circumstances acknowledged. We would like to see legislation that is sensitive to the diverse vulnerabilities of these members of society.

THE EXISTING LAW

‘Do you think the current law adequately deals with squatting? Please explain your reasons?’

We believe the current law adequately deals with squatting. There are sufficient protections available through civil and criminal recourse to remove the minority of squatters who are engaged in anti-social behaviour. Anti-social and criminal acts perpetrated by the intended objects of this legislation can be tackled through the use Ordinary Possession Orders (OPO), Interim Possession Orders (IPO) and where there is evidence of damage or forced entry, the Police. Further criminalization of squatting would affect the large number of squatters residing in unoccupied properties not causing inconvenience to the owner. Criminalisation would therefore target a group that is not the stated object of the consultation. We do not believe that the current low level of recorded OPOs constitutes sufficient demand to justify such poorly targeted legislation.

THE OPTIONS

OPTION 1 - CREATE A NEW OFFENCE OF SQUATTING IN BUILDINGS

‘Do you think there is a need for a new criminal offence of squatting?’

We do not think there is a need for a new criminal offense of squatting. A new offense would only further marginalise a group that is already struggling with complex vulnerabilities, social exclusion and very poor living conditions.

Criminalising homeless people who periodically reside in squats will increase the number of people rough sleeping at a time when we are already seeing an increase

¹² P9 Crisis (2011) ‘The hidden truth about homelessness: Experiences of single homelessness in England’ http://www.crisis.org.uk/data/files/publications/HiddenTruthAboutHomelessness_web.pdf

in the numbers on the street. This in turn will place increased demand on homelessness service providers who are already struggling to meet demand for services in a period of reduced funding. Criminalisation will result in an increased work load for the Police.

Our experience of addressing homelessness has shown us that a personally tailored mixture of enforcement and support generates the best outcomes. Enforcement activities around squatting are currently sufficient to deter the majority of people from squatting unless they are experiencing particularly intense needs. However support for squatters to access alternative housing solutions has been neglected. Criminalisation is a blunt instrument that further destabilises this crucial balance between enforcement and support.

OPTION 3 – REPEAL OR AMEND SECTION 6 OF THE CRIMINAL LAW ACT 1977

We are concerned about the proposal to repeal Section 6. This section of the Criminal Law Act is in place to offer protection to both property owners and squatters. We are concerned that repeal may result in owners mistakenly or intentionally using unnecessary force to secure entry. There is a particular concern around repealing the section of the Criminal Law Act 1977 and the corporate sector as they have the resources to employ third parties to engage in 'self-help' violence against often vulnerable inhabitants.

Given that the majority of squatted premises are unoccupied and therefore the minimal gains repeal will make for the corporate sector we believe that reducing protections to victims of domestic violence is a particularly expensive consequence. Although the impact assessment document acknowledges that repeal will make it easier for violent partners to re-enter the property of their victim we believe this factor should be viewed as considerably more important than the marginal gains offered to the corporate sector. The impact assessment infers that the MoJ will seek repeal and then add regulations that protect victims of domestic violence. Given the hugely complex nature of housing law and incidents of domestic violence we believe the police will find this very difficult to enforce successfully.

We believe that any problem with, or misunderstanding of, Section 6 can be addressed through providing further clarity via the Direct Gov squatting guidance web page. The risk to squatters, owners and domestic violence victims is too great to justify repeal.

OPTION 4 – LEAVE THE CRIMINAL LAW UNCHANGED BUT WORK WITH THE ENFORCEMENT AUTHORITIES TO IMPROVE ENFORCEMENT OF EXISTING OFFENCES

We would welcome the opportunity to engage further with a population that is otherwise invisible and difficult to help. Therefore we would like this proposal to be supplemented by a requirement for the Police to work with homelessness service providers when engaging squatters. For example Staffordshire Fire & Rescue services have become rough sleeping champions and their involvement has allowed homelessness services to access homeless populations that would otherwise have remained hidden.

Through this type of joined working squatters could be supported to exit a risky and unsuitable environment and interventions could be put in place to mitigate their need to rough sleep. It has the potential to shorten their homeless episode and ultimately reduce the cost incurred by an individual's homelessness.

OPTION 5 – DO NOTHING: CONTINUE WITH EXISTING SANCTIONS AND ENFORCEMENT ACTIVITY

'Are you aware of the Government's new guidance on evicting squatters under existing laws? If so, is it helpful? Do you think the guidance could be improved in any way?'

The Government's new guidance on evicting squatters could be improved by the inclusion of contact details for local homelessness charities. The contacts could be used by displaced residential occupiers or protected intending occupiers to source homelessness professionals to accompany them when they state the requirement for the squatters to leave. In this way support and alternative accommodation options could be offered immediately, potentially streamlining the occupier's re-entry to the property and providing a solution to the squatters housing crisis. This intervention could be strengthened further by implementation of the joint described above.

WIDER IMPACTS, INCLUDING EQUALITY EFFECTS OF PROPOSALS

'If any of the proposals in this document were to be adopted, what impact would this have on your organisation or those whose welfare you promote?'

As we have highlighted above, we think criminalisation of squatting would target already vulnerable clients.

There is already legislation in place to deal with squatting, and while this can be appropriate to use, tackling squatting is also an opportunity to seek a more appropriate accommodation solution for an individual in housing need. We would like to see this review of squatting legislation used as an opportunity to promote joint work between homelessness providers, the police and fire services, and as a vehicle to address the underlying support needs which lead people to squat. This opportunity must be considered so that people who are squatting as a means to avoid sleeping on the streets are not punished and instead are supported to access emergency accommodation or other support they require. The experience of our members shows us that squatting is a consequence of a shortage of suitable accommodation. We must address our current housing shortage, not further excluded marginalise members of our society.

Richard Jones
Homeless Link 2011