



Ministry of JUSTICE

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Options for dealing with Squatting

List of questions for response

We would welcome responses to the following questions set out in this consultation paper. Please email your completed form to: squatting.consultation@justice.gsi.gov.uk, or fax to: 020 3334 5051

Question 1. **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?**

Comments: This response is submitted on behalf of the Criminal Bar Association which represents some 3,600 barristers in England and Wales who both prosecute and defend in all the criminal courts, from the magistrates' courts to the House of Lords. As a professional body representing advocates, it is not appropriate for the CBA to answer questions which invite responses based on individual personal experiences. We will indicate that position by stating "Not Applicable" in answer to all such questions.

Question 2. **Please provide any evidence you have gathered on the number of squats and the nature of squatting in your area or nationwide?**

Comments: **Not Applicable**

Question 3. **Do you have any 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?**

Comments: **Not Applicable.**

Question 4. **Do you think the current law adequately deals with squatting? Please explain your reasons.**

Comments: **The consultation paper acknowledges that there are no reliable data on the nature and extent of squatting. In the absence of any such evidence, we have no reason to believe that the existing law does not deal adequately with squatting. The civil remedies available appear to us to be adequate and there is a sufficiency of criminal offences already available as remedies. Form the information provided, we feel what may be required is for existing remedies to be more vigorously enforced rather than any changes to the criminal law.**

Question 5. **If you have taken steps to evict squatters from your properties, what difficulties have you encountered (if any) in removing squatters from your property using existing procedures? Have you had any positive experiences of using existing procedures?**

Comments: **Not applicable**

Question 6. **Do you think there is a need for a new criminal offence of squatting?**

Comments: The paper itself makes plain that there are no reliable data held by central Government about the numbers who squat or their reasons for so doing. On first principles, therefore, it has not been demonstrated by reliable evidence that it is either necessary or proportionate to introduce a new criminal offence. We take into account that it is already a criminal offence under s.7 Criminal Law Act 1977 for a squatter to occupy someone's home or (subject to certain pre-conditions) intended home. In either case, it is a criminal offence for a squatter to remain in the property as soon as they have been told of the displaced homeowner or intended homeowner. The police can arrest any trespasser who does not leave. The homeowner or intended homeowner can use force to enter the property and reasonable force to remove the trespassers.

Furthermore, we think there are significant problems with the scope of any such new offence, as we set out below in answer to other questions, which we regard as an additional reason for not creating any new criminal offence.

Question 7. **If so, do you agree with the basic definition of squatting set out in paragraph 21 (i.e. the unauthorised entry and occupation of a building)?**

Comments: As we do not accept that it has been demonstrated that there is any need for a new criminal offence, we do not regard it as appropriate to comment in detail on the drafting questions in the paper. As we have pointed out, there is as yet no reliable evidence about squatting or its extent and we believe it wrong in principle to seek define a new criminal offence in the absence of reliable evidence as to the nature and extent of the conduct that it is sought to criminalise. That said if, contrary to our view, a new criminal offence were to be created, we believe that the basic definition as set out in paragraph 21 is inadequate. Mere trespassory entry should not be sufficient for criminal liability. Any definition must make plain that the offence could only be committed intentionally, that is, squatters must enter knowing they do not have the authority of the rightful owner and continue to occupy knowing they do not have that permission.

Question 8. How should the term ‘occupation’ be defined? Should it cover those who occupy a building for a short period (e.g. a couple of hours)?

Comments: Making all necessary changes, we repeat our answer to question 7. We add that if, contrary to our view, a new criminal offence were to be created, the definition of occupation is inadequate; it would need to be focussed on the social mischief against which the law was aimed. Too broad a definition would criminalise conduct that ought not to be criminal in a democratic society, too narrow would lead to excessive legalism. We do not see that a definition that is merely temporally limited would address these concerns.

Question 9. What ‘buildings’ should be covered by the offence? Should it cover all buildings or only some (e.g. should it cover public and private buildings, outbuildings, abandoned or dilapidated buildings, or buildings that have been empty for a long time)?

Comments: Making all necessary changes, we repeat our answer to question 7. In the absence of reliable evidence on the problem, it is impossible to say whether ‘building’ should be further defined and if so, how.

Question 10. Do you think there should be any exemptions to any new offence of squatting? If so, who should be exempt and why?

Comments: Making all necessary changes, we repeat our answer to question 7. We can see arguments for specifically excluding (eg) political protests that ought not to be criminalised in a democracy, such as student occupations, but we do not think it proper to comment further in the absence of evidence as to the nature and scale of the squatting problem.

Question 11. **Do you agree that the existing law provides adequate protection against false allegations?**

Comments: It appears to us that it does.

Question 12. **If not, what other steps could be taken to protect legitimate occupiers from malicious allegations?**

Comments: We do not consider further steps are necessary.

Question 13. **What do you think would be the most appropriate maximum penalty for a new squatting offence?**

Comments: Since there is no evidence to justify creating a new criminal offence, it is impossible to state what should be the appropriate penalty. That said, we are not presently persuaded that it is necessary for the penalty to include imprisonment. We assume that part of the aim of criminalising squatting is to give the police powers of entry and arrest. The prompt exercise of these powers might well be an adequate solution to the social problem as every such exercise would to that extent bring the squatting to an end. If squatting is a response to homelessness, and the absence of evidence makes it impossible to be sure one way or the other, then imprisoning offenders would be seen to be both a disproportionate response and an inefficient use of a scarce and expensive resource.

Question 14. **In your experience (e.g. as a displaced residential occupier or protected intending occupier or as a law enforcer), how effective is the existing offence in section 7 of the Criminal Law Act 1977?**

Comments: **Not applicable**

Question 15. How does the definition of 'displaced residential occupier' and 'protected intending occupier' work in practice?

Comments: **Not applicable**

Question 16. If we were to expand section 7 so that it covered squatters who refused to leave other types of building when required to do so by the rightful occupier, what type of buildings and what types of occupier should be specified?

Comments: **Not applicable**

Question 17. If section 6 were amended to exempt additional categories of people from the offence, which categories should be exempted? Are there any categories of people that should not be exempted?

Comments: **Not applicable**

Question 18. Do you know of circumstances where the section 6 offence has been used –was it used to protect a tenant from forcible entry by a landlord or was it used for other reasons, e.g. to stop a violent partner from breaking back into his home? Please describe the circumstances.

Comments: **Not applicable**

Question 19. What barriers (if any) are there to enforcement of the existing offences and how could they be overcome?

Comments: **Not applicable**

Question 20. 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?

Comments: **We were not previously aware of this guidance but having read Annex A we think it clear and helpful. Accordingly, we have no suggestions for improvement.**

Question 21. If any of the proposals in this document were to be adopted, what impact would this have on you, your organisation or those whose welfare you promote?

Comments: **Not applicable.**

Question 22. Do respondents who identify themselves as having a protected characteristic (listed in paragraph 39) or who represent those with protected characteristics think any of the proposals would have a particular impact on people who fall within one of the protected characteristics? If so why?

Comments: **Not applicable.**

Question 23. [insert question]

Comments:

Question 24. **[insert question]**

Comments:

Question 25. **[insert question]**

Comments:

Question 26. **[insert question]**

Comments:

Question 27. **[insert question]**

Comments:

Question 28. **[insert question]**

Comments:

Question 29. **[insert question]**

Comments:

Question 30. **[insert question]**

Comments:

Please complete the section overleaf to tell us more about you.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.
