

## 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](mailto: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: No comment.

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: No comment.

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: No comment.

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

Comments: In advising clients, we are aware of their frustration at the fact that police have very limited powers to deal with squatters (and/or appear reluctant to exercise those powers they do have), particularly in relation to commercial premises where criminal damage is alleged. It is a common issue that once the police realise that solicitors are engaged on behalf of the land owner, it is assumed the civil route will be pursued and the police do not need to become overly involved.

In relation to following the civil route, this generally works although often the capacity and procedure of the County Courts can give rise to uncertainty and delays. The process however can be expensive and can take several weeks to see through to conclusion, during which time a land owner has no access to his property. Sometimes, if the property has been sold but completion has not yet taken place, the landowner may be put in breach of contract and become liable in damages as the landowner is unable to provide vacant possession.

In following the civil route the greatest delay in dealing with squatters under the current law is the issue of enforcement. Following the grant of a County Court order, it is often quicker to transfer a matter to the High Court for enforcement of the said order. This, however, takes more solicitor time and increases cost. Moreover, enforcement officers' charges can be high, depending on the property.

A further frustration is that "professional" squatters are generally familiar with the legal procedures and exploit them to their advantage. It is often the case that whilst a property owner is attending Court to obtain a possession order, the squatters vacate and a client is left feeling it has wasted costs. There is a general perception that the law is weighted in favour of squatters rather than landowners.

**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: See the response to question 4 above. The squatter is committing a criminal offence if he remains in occupation 24 hours after an Interim Possession Order is granted but getting the police to agree to take any action after just 24 hours is very difficult.

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

Comments: Law-abiding property owners would feel that their interests were better served if the police were accorded greater powers in relation to both residential and commercial premises and they were more inclined to use them. This could be achieved by widening the existing laws or the creation of a new 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: If there is to be a new criminal offence, then we agree with the definition proposed.

**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: Occupation should cover any occupation, no matter how short a period, given the damage that can be done.

**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: Any offence should relate to all buildings as any distinction will lead to ambiguity and difficulties.

**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: There is a distinction between a person who remains in occupation after a tenancy agreement has expired and who is trespassing because they have no legal rights and a squatter who has had no prior connection with a property and occupies a property.

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

Comments: Yes – when following the current civil route, any person in possession of the land has the opportunity to put in a defence meaning that the Court will have to consider all issues before making an order for possession.

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

Comments: Our members are not aware of malicious allegations having been made against legitimate occupiers. We suspect that this does not commonly occur.

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

Comments: A fine, or imprisonment for repeat offenders.

**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: Our members have no or little experience of this, which suggests that charges are seldom being brought. Section 7 does not assist owners of commercial property or vacant residential property.

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

Comments: See 14 above.

**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: If section 7 were to be expanded, we believe that it should also cover adverse occupation of commercial property.

**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: If section 7 were to be expanded as suggested in our response to question 16 above, it would seem logical to extend the exemption to the section 6 offence to include displaced commercial occupiers. However, in practice, we suspect that this would make it difficult to commit a section 6 offence at all (although we hasten to add that our experience of sections 6 and 7 is very limited, which implies that they are seldom used).

~~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: See the responses to questions 16 & 17 above.~~

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

Comments: See the response to questions 4, 5, 14 & 15. The police are not willing to become involved until a Court Order has been made and in relation to enforcing an order for possession, the process can take time and can be costly.

~~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: The guidance appears almost exclusively aimed at residential property owners. There is little information provided for commercial property owners. It might be helpful to provide a separate guidance note relating to commercial premises for the sake of clarity. It would also be useful to explain what constitutes “certain other occupiers” or “intending occupiers” whose interest in the affected premises is protected under legislation. Otherwise, the explanation of the law is fairly clear. The guidance does not present a realistic picture of the difficulties of recovering possession from squatters.~~

**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: One of our members recently dealt with the eviction of squatters from commercial premises in West London. This cost the client a total of nearly £6,000 including fees, costs and VAT. In the event, the eviction was unopposed; it would have cost the client significantly more had the squatters opposed the eviction. Other members report costs incurred of between £3,000 and £8,000 in respect of residential and commercial properties. This ignores any damage to the properties. In light of the potential for spiralling costs, not to mention the impact on both private life and business, we feel that both residential and commercial property owners need greater protection from squatters. Giving the police more power to deal with squatters on both residential and commercial premises, by widening the existing laws or creating a new offence, would help to achieve this. It would be a deterrent to potential squatters as they would know that their occupation would immediately constitute a criminal offence.

**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: No comment.

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

## About you

Please use this section to tell us about yourself

<b>Full name</b>	Keith Conway
<b>Job title</b> or capacity in which you are responding (e.g. member of the public etc.)	Chairman of the Property Litigation Association Law Reform Committee
<b>Date</b>	5 October 2011
<b>Company name/organisation</b> (if applicable):	c/o Clyde & Co LLP
<b>Address</b>	The St Botolph Building 138 Houndsditch London
<b>Postcode</b>	EC3A 7AR
If you would like us to acknowledge receipt of your response, please tick this box	<input checked="" 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.

The PLA Law Reform Committee is a committee of the Property Litigation Association. The Property Litigation Association has over 1,000 members, all of whom are lawyers who deal at least 50% of the time with property-related disputes. Members deal with disputes in the commercial and residential sectors. Property litigation solicitors are those that will have first-hand experience of dealing with squatters.

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