

**Crisis Report stage and amendment briefing:
Offence of squatting in a residential building
New Clause 26 of the Legal Aid, Sentencing and Punishment of Offenders Bill**

October 2011

Introduction

Crisis, the national charity for single homeless people, calls on you to oppose NC 26 of the Legal Aid, Sentencing and Punishment of Offenders Bill, which is set to be debated at Report stage from Monday 31 October. The Government amendment tabled will create **a new criminal offence of squatting in a residential property**. The offence will be punishable with up to 51 weeks in prison and/or a £5,000 fine. In light of the Government amendment **Crisis is also calling on MPs to support two further amendments**, on empty homes and on homeless people who squat.

Whilst we of course have every sympathy with someone whose home is squatted, under the current law it is already a criminal offence for a squatter to refuse to leave someone's home or a home that they are about to move in to. The new amendment will therefore largely affect empty homes, of which there are over 700,000 in England alone, including many that are dilapidated and abandoned. Crisis is concerned that vulnerable homeless people will be criminalised or forced into rough sleeping and other dangerous situations by the change.

Research shows that many homeless people squat and that homeless squatters tend to be even more vulnerable than other single homeless people. Crisis is concerned that the draconian punishments and wide scope of the legislation risk seriously penalising vulnerable homeless people while doing nothing to tackle the underlying reason that homeless people squat, which is their homelessness.

Crisis therefore is supporting two amendments at Report stage. The first would exempt from criminalisation those properties which have been empty for more than 6 months and where there are no steps being taken to bring them back into use. The second amendment would exempt some of those who are homeless or particularly vulnerable from committing the criminal offence of squatting.

Amendment: Exempting long term empty properties that are not being brought back into use

As an amendment to New Clause 26

"Insert new subclause (2A)

"(2A) The offence is not committed where the building has been empty for 6 months or more and where there are no significant steps being taken to refurbish, let or sell the building at the time of the trespass."

This amendment would mean that squatting remains a civil matter in all buildings that have been left empty long term and are not being brought back into use, while ensuring that residential buildings that have been recently lived in or are being brought back into use would be covered by the new criminal law.

Explanation

Amendment xx would incentivise property owners to bring homes back into use while avoiding the danger that disproportionate sentences (up to a year in prison and £5000 fine) could be given to those who squat in derelict properties.

Amendment: Exempting homeless and particularly vulnerable people from the new criminal offence of squatting in a residential building

As an amendment to New Clause 26

“Insert new subclause (2AA)

“(2AA) The offence is not committed in cases where the person:

- (a) has been a resident of a homelessness hostel in the previous year
- (b) has been a resident of a homelessness nightshelter in the previous year
- (c) has been a resident of a women’s refuge in the previous year
- (d) has been found rough sleeping by a local authority or voluntary sector outreach team or by a statutory agency in the previous year
- (e) has received mental health treatment in a residential setting in the previous year
- (f) is a care leaver”

This amendment would exempt from committing a criminal offence when squatting in a residential building a number of groups whose housing in the previous year suggests particular vulnerability or homelessness. It also exempts care leavers.

Explanation

We know that 40% of single homeless people have squatted at some point and there is a real risk of criminalising a vulnerable group who are squatting as it is their only alternative to sleeping rough. For this reason Crisis is supporting an amendment that would exempt a number of groups who have been homeless or who are at a high risk of homelessness because of their vulnerability.

Briefing

Squatting and homelessness

Squatting is a **common response to homelessness**. As many as 40% of single homeless people have squatted with 6% of the homeless population squatting on any given night. Research has found no evidence of homeless squatters occupying people’s homes but as homeless squatters do sometimes live in derelict and abandoned residential buildings they are likely to be affected by the proposed new law.

Crisis research shows that 41% of homeless squatters report mental health needs, 34% have been in care, 42% have physical ill health or a disability, 47% have experienced drug dependency and 21% sometimes self harm. 15% of homeless squatters also report having a learning disability. On all of these measures **homeless squatters are more vulnerable than the single homeless population as a whole** and 90% have also slept rough.

When considering the impact of criminalising squatting it is important to appreciate that **homeless squatters often have no alternative**. Squatting is far from a desirable tenure. Squats are often buildings in a very poor state of repair and can be little better than rough sleeping. Yet 78% of homeless people who squat have approached their local authority for help and have been turned away. Single homeless people are usually not entitled to social housing and although local authorities do have a duty to offer advice and assistance we know that too often this does not happen. It is in this context of vulnerable single homeless people being left without support that some resort to squatting.

We believe that this amendment could criminalise an extremely vulnerable population and force them into more dangerous situations, such as rough sleeping or sex work. This amendment could also have serious implications for overall levels of rough sleeping, which is often the only other option available to homeless squatters.

Enforcement of the current law

It is already a criminal offence to refuse to leave someone's home or a house they are about to move into when asked. Crisis believes that it would be better for the Government to focus on ensuring the current law is enforced than on creating a new criminal offence. This position has also been taken by the Law Society, the Criminal Bar Association and the Metropolitan Police Service (MPS). Annington Holdings Plc, one of the largest owners of private property in the UK also describes enforcement as "the crux of the problem". The MPS furthermore accepted in its consultation response that "the lack of training and practical knowledge regarding the law regarding squatting, particularly Section 7, may be a barrier to effective enforcement" and that it is conducting further training to address this.

Enforcement of the law has been further hampered by the fact that the current legal framework has been misrepresented by elements of the media and some politicians. This reached such a point in recent months that 160 housing lawyers wrote an open letter in September accusing ministers and politicians of distorting public debate by making inaccurate statements about the law with regard to cases in which people's homes are squatted.

Criminalising vulnerable homeless people is counterproductive

There is little point in criminalising squatters who have nowhere else to go. Amendment NC26 and the Government's response to the consultation suggest that little thought has been given to the impact that criminalisation will have on homeless people. No new solutions have been offered as to how homeless squatters could be protected or helped and while the Government says that it will be important to "put those found squatting in touch with relevant support agencies", such support is likely to be too late for a homeless person facing prosecution.

Homeless people are very unlikely to have the resources to pay a fine, and so may instead be faced with a lengthy prison sentence. Far from addressing their housing need and the reasons why they have become homeless in the first place, prison is likely to further marginalise homeless people. We also know that one third of prisoners have no home to go to on release – therefore imprisonment stands only to compound the cycle of homelessness.

Procedural concerns & evidence

Crisis is concerned that the amendment to criminalise squatting was rushed in without notice at Report stage of the bill. This has left little time for parliamentarians or others to consider the impact that this measure will have or to table amendments. This has been compounded by the fact that the Government's proposal is not one of

the options that was consulted on. Additionally, we question whether the three weeks since the consultation closed was sufficient for the Ministry of Justice to analyse the 2,217 responses received to the consultation. It is worth noting that over 96% of the responses were concerned about the impact of criminalising squatting.

There has also been a real lack of evidence produced by the Government about the extent of squatting, what problems are caused by it and about the impact that criminalisation will have on vulnerable people. This point has been raised by the Magistrates' Association who are reluctant to see new laws being created without proper analysis of why the existing powers may not be working satisfactorily.

Joe's story

In 1995 Joe suffered a severe head injury which affects his memory and personality. He has been homeless many times. In the winter of 2005 he was living with friends but did not want to outstay his welcome. When he left he had nowhere to live.

The council told him that as a single person he was not entitled to housing and there would be a two month wait for help getting a flat. He slept rough until he was invited to live in a squat in east London. The squat was one of a number of empty houses on a run-down street. He squatted for two months while he waited for help from the council. For Joe, "the alternative to living in the squat was sleeping in a tent in the middle of winter".

Joe opposes the Government's plans:

"I don't think that criminalising squatting will stop it in places like London - the reason that people squat is that they can't get housing."

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