



Newcastle Tenants Federation

# **Options for dealing with squatting: Ministry of Justice consultation**

## **Briefing Note**

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**The Ministry of Justice has issued a consultation paper on dealing with squatting. The consultation ends on 5 October 2011.**

The government makes clear that it intends to uphold the rights of property owners against claims that squatting is a response to homelessness and despite the number of empty properties.

The law on squatting is currently as follows:

- ◆ Squatting is a civil offence against the landlord/owner of the property, which to all intents and purposes means that it is an unlawful practice, but not illegal.
- ◆ It is a criminal offence if a residential occupier has been displaced (i.e. come back from holiday to find squatters in their home) or an intended occupier can no longer move in.
- ◆ Squatters can be convicted of a criminal offence if they have caused damage to the property by gaining entry, covered under the Criminal Justice Act 1994.
- ◆ Use of electricity etc is also a crime as it is theft.
- ◆ The landlord/owners are well within their rights to evict squatters, but they must go to a civil court in order to gain a possession order.

The consultation puts forward three controversial options for change (out of a total of five options) that seem particularly aimed at protecting owners of empty commercial property. They propose either to make squatting in buildings a criminal offence or to extend the current criminal law to make it apply to displaced or intended commercial occupiers, as well as residential ones, or to allow the police to direct squatters to leave when a property owner has complained. Option 3 would allow property owners to use force to recover their property from squatters.

**How does this affect tenants?**

In asking for responses to these options, the Ministry of Justice says it particularly wants to hear from organisations working with homeless people or people who might be affected by an increase in property-owners' rights – particularly tenants.

Tenants receive some protection from the current laws surrounding squatting since they have protection from unscrupulous landlords breaking into their property, and are also protected from unjust eviction (by landlords pretending that their tenants are squatting or landlords fraudulently issuing tenancy agreements).

Options 1 to 3 in the consultation paper might undermine protection for tenants as well as making squatters more vulnerable to arrest or assault. Questions in the consultation specifically ask for views in these areas. A change to Section 6 of the Criminal Justice Act 1977 (Option 3) for instance could allow landlords to use violence to break-in to tenants homes.

Option 1 to create a new criminal offence of squatting would mean the police might have to decide whether someone was really the landlord, or making false claims, and whether someone was really a tenant. Given that there is no legal requirement on a landlord to issue a written tenancy agreement, there is room for false claims and landlord fraud against tenants which this change to the law might encourage

Squatters Action for Secure Homes (SQUASH [www.squashcampaign.org](http://www.squashcampaign.org)) points out that we are in the middle of a housing crisis of affordability and mortgage default with little new housing being built and that Coalition policy on housing benefit is set to increase the numbers of homeless people by 40,000 (according to its own figures).

It argues that squatters are 'hidden homeless', and are squatting in direct response to the unavailability of affordable housing and the large number of empty properties. It points out that enforcement of new criminal offences will be an extra drain on police resources and that depriving people of their homes without a court hearing is a breach of human rights. It argues that the real agenda for the government is to help commercial property owners to leave blocks vacant while prices rise.