The Criminalisation of Squatting

Overview

In September, new legislation came into effect which made it a criminal offence for someone to occupy property or land without the permission of the owner or the person legally entitled to occupy it. This briefing examines the likely impact of this legislation and the wider issue of empty housing in London.

In September, new legislation came into effect that made it a criminal offence for someone to occupy property or land without the permission of the owner or the person legally entitled to occupy it. If convicted, a person could face a maximum penalty of six months imprisonment, or a fine of £5,000, or both.

In the first month of the legislation being enacted, a young man aged 21 was jailed for squatting after pleading guilty to the offence of squatting in a housing association owned property in Pimlico. He was jailed for 12 weeks. Another person arrested along with him awaits sentencing and a possible jail term and another was fined £100.

Use of this legal provision by local authorities, housing associations and homeowners, will provide a tool to fast track the repossession of the squatted property. Government estimates have indicated that the criminalisation of squatting could result in up to 4,200 squatters prosecuted in the courts.

This new legal provision is being implemented, in part, in response to a number of very high profile cases concerning squatters occupying empty family homes in some expensive parts of London, which have left the homeowners with expensive civil costs and high clean up and repair bills.

Specifically boroughs now no longer have to go through the civil courts to apply for an interim or possession order (under Part 55 of the Civil Procedure Rules) where it must be proved that the individuals involved had trespassed first before an eviction can take place.

Previously, the act of squatting was not in itself deemed a criminal offence. However, there are activities under Section 7 of the Criminal Law Act 1977 that deem some of the actions and outcomes associated with squatting to be illegal and have been used; such as when someone breaks into a property causing criminal damage, commits burglary or accesses electricity supplies illegally.
Another remedy (which has been used for a number of years by boroughs) is to allocate and sign up a tenant as swiftly as possible, in order that the tenant is deemed to be a protected intended occupier (PIO); in such cases it is a criminal offence for a squatter (usually defined as a trespasser) to remain in a property after they have been advised that the home has a secure tenant.

There are no clear statistics available on the number of people currently squatting, but a national estimated figure of 20,000 has been commonly used. Although it is unclear how many squatters there are currently in London, there is anecdotal evidence that it is increasing. In the 1960s squatting was usually associated with young people who were wishing to move away from what was viewed as traditional lifestyles and those who squatted very often undertook this activity as some form of protest. They would claim ‘squatter rights’ believing that the criminal justice system could not touch them. This has now been removed and can no longer be used.

It is often suggested that squatters prevent home owners from enjoying their properties, but recent research from the homeless charity Crisis suggests that homeless people, in the main, squat empty properties which are usually disused or abandoned buildings, and in a poor state of repair. This research revealed that 40 per cent of single homeless people have squatted as a direct response to their homeless situation. The choice of properties that are illegally occupied is usually determined by what is available rather than the identification of a particular type of property and the decision to squat is often driven by desire to avoid rough sleeping. The Crisis research further found that the profile of those squatting tend to be male, white British and aged between 21-40 years old, while those aged over 40 tend to belong to BME groups. As expected, these individuals find themselves squatting because they have been unsuccessful at finding affordable private rented housing and would not be deemed to in a statutory homeless category. Very often they are likely not to have access to public funds and have encountered difficulties accessing hostel provision; some may have asylum application pending or be A8 nationals.

However, many remain unconvinced that a link exists between homelessness and squatting and this is an area where more work is needed in order to gain a better understanding of the primary drivers of squatting.

**Empty Homes**

Very often discussions around squatting are linked to the level of empty homes and specifically landlords’ failure to turn around voids, an issue which disproportionately is the case in the private rented sector. According to figures from the Empty Homes Agency (November 2011) there are 74,811 empty homes in London, of which 7,595 are borough owned and 7,762 are properties owned by housing associations. However, the vast majority (58,677) of empty properties are in private ownership. These figures do not include properties due for demolition, those that are inhabitable and flats above shops. Many of these properties are owned by landlords who own a few rental properties which have fallen into disrepair, others remain empty as a result of a pending regeneration scheme or new developments that have stalled or properties have remained unsold.

The government’s response to this has been to support bringing these properties into use with a programme which saw an investment of £60 million used to bring back 4,145 empty homes over three years 2009-2011. Boroughs have also been working with the GLA to undertake an empty homes audit so that properties that are vacant for more than six months can be easily identified and targeted. A further allocation of £684,480,000 for the 2012 – 2015 programme has been allocated to 14 boroughs in London who will work with others to reduce the number of empty properties in their local areas.
Inevitably, the issues of squatting, homelessness and empty housing in London must be viewed through the prism of the capital’s growing housing crisis. There is evidence showing that the number of households accepted as statutory homeless has risen from 2,640 (Quarter 2, 2011) to 3,350 (Quarter 2, 2012); that 630,000 are people living in overcrowding conditions and waiting lists for social housing have now reached 366,660. A growing concern has been the rising numbers in temporary accommodation, which increased from 35,620 in Quarter 2, 2011 to 37,190 in Quarter 2, 2012. These figures indicate that housing demand is increasing and will continue to do so as London’s population rises and the full impact of welfare reform unfolds.

The Ministry of Justice (in its Circular No. 2012/04 22 August 2012) suggests that the “Police will need to work with local authorities and other agencies to develop protocols for dealing with persons arrested for squatting who claim they are homeless”. There is also a suggestion that boroughs should have prior notice from the police when enforcement action is to be taken, in order to provide appropriate advice on the housing options available. The MoJ advocates joint working to ensure an effective response. This obviously could have an impact on resources for local authorities.

If the criminalisation of squatting in London is to be effective it will require the full support of the Metropolitan Police. They will need to take a proactive approach to enforcement by removing squatters and supporting the required legal criminal action.

Whether or not the new laws in relation to squatting will provide a solution to the issue of squatting remains to be seen. In the meantime boroughs will continue to:

- actively reduce the number of empty homes in their areas
- support joint working with the police and other agencies to criminalise squatting in social housing properties
- respond proactively to people who have been squatting and where possible provide advice and assistance
- continue to maintain and gather intelligence from residents who believe people may be squatting illegally
- take swift action in cases where illegal squatting has been identified.

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Links:
Advice on Dealing With Squatters in Your Property (MoJ/CLG)
Squatting: A Homelessness Issue (Centre for Regional Economic and Social Research and Crisis)
Offence of Squatting in a Residential Building (MoJ circular)
Empty Homes - November 2011 statistics

This member briefing has been circulated to:
Portfolio holders and those members who requested policy briefings in the following categories: Housing and Planning