

Title: Options for dealing with squatting IA No: MoJ114 Lead department or agency: Ministry of Justice Other departments or agencies: Department for Communities and Local Government, Home Office	Impact Assessment (IA)		
	Date: 26/10/2011		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Robin Edwards: 102 Petty France SW1H 9AJ Tel. 020 3334 5007			
Summary: Intervention and Options			RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£N/Am	£N/Am	£N/Am	No NA
What is the problem under consideration? Why is government intervention necessary? <p>The government has become increasingly concerned about the harm that can be caused by squatters following correspondence from property owners and members of the public and reports in the press. The government consulted publicly on this issue between 13 July and 5 October 2011 to gain a better understanding of the scale and nature of squatting and to invite views on whether the law should be strengthened.</p>			

What are the policy objectives and the intended effects? <p>Following the conclusion of the consultation exercise and consideration of consultation responses, the government has decided that decisive action needs to be taken to reassure owners and lawful occupiers of property that the law can and will protect them from squatters occupying their premises. The government is concerned about the serious direct financial and emotional impact squatting can have on the owner/occupiers of property and believe that measures should be taken to deal with this issue. .</p>

<p>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base). The following options have been considered:</p> <p>Option 0: Do nothing (base case). Option 1: Create a new criminal offence of squatting in all buildings. Option 1a: Create a new criminal offence of squatting in all residential buildings Option 2: Extend the offence in section 7 of the Criminal Law Act 1977 so that it is committed when trespassers refuse to leave any building when required to do so by or on behalf of the owner or lawful occupier or as an alternative when required to do so by the police Option 3: Widen the exemption to the offence in Section 6 of the Criminal Law Act 1977 to include all property owners or lawful occupiers who seek to gain entry to the property where the person who opposes the entry is a trespasser. Option 4: Leave the criminal law unchanged but work with the enforcement authorities to improve the enforcement of existing offences.</p> <p>The governments preferred option is 1a, as it will respond directly to concerns raised by residential property owners during the course of the consultation process. It will protect owners of residential property, regardless of whether they are displaced or about to move into the property.</p>
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Will the policy be reviewed? It will be reviewed. If applicable, set review date: Month/Year					
Does implementation go beyond minimum EU requirements?			Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes/No	< 20 Yes/No	Small Yes/No	Medium Yes/No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: Date:

Summary: Analysis & Evidence

Policy Option 1

Description: Create a new criminal offence of squatting in all residential and commercial buildings.

FULL ECONOMIC ASSESSMENT

Price Base Year 10/11	PV Base Year 10/11	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: N/K

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	£2m	Optional
High	Optional	£20m	Optional
Best Estimate	N/K	£10m	

Description and scale of key monetised costs by 'main affected groups'

The creation of a new criminal offence of squatting is likely to result in an increase in police, Crown Prosecution Service (CPS), legal aid, prison and probation costs, due to additional squatting cases going through the criminal justice system. It is difficult to estimate the precise impact as there is no consensus on the true extent of squatting. Our best estimate of costs to the Criminal Justice System is around £10m per year. However, given the many uncertainties, we have estimated a range of potential costs of between £2m and £20m per year.

Other key non-monetised costs by 'main affected groups'

Local authorities and homelessness (and other related) charities may face increased pressure on their services if more squatters are arrested/convicted and/or deterred from squatting. Local authorities may be required to provide alternative accommodation for these individuals and could also face costs related to increases in rough sleeping in their areas. An increase in demand for charities' services (food/shelter etc) may negatively impact current charity service users. It has not been possible to quantify these costs. There may also be a cost to society if this option is perceived to unfair and/or leads to increases in rough sleeping.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/K	N/K	N/K

Description and scale of key monetised benefits by 'main affected groups'

As a result of criminalisation, it is likely that cases that are currently heard in the civil courts (applications for Interim Possession Orders and Possession Orders) will instead go through the criminal courts. This will result in savings on the civil side. These savings have not been quantified, but it is likely that they will partially offset the estimated increase in criminal costs.

Other key non-monetised benefits by 'main affected groups'

The creation of a new offence should allow businesses, homeowners/occupiers, and other commercial property owners to regain possession of their property from squatters more quickly and easily, which should reduce costs for businesses and provide greater security for all property owners. This may reduce any serious direct financial and emotional impact suffered by property owners/occupiers, with potentially large benefits. Society may also prefer squatting to be more robustly tackled through criminal sanctions. It has not been possible to quantify these benefits, but they may be significant.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
<p>The offence will apply equally to England and Wales.</p> <p>We assume that 50% of squatters squat in residential properties and that there are 4 squatters per residential property and 6 per commercial property.</p> <p>Volumes of cases based on the average number of trespasser possession claims issued under Part 55 of the Civil Procedure Rules in the county courts.</p>		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	IN/OUT/Zero net cost

Summary: Analysis & Evidence

Policy Option 1a

Description: Create a new criminal offence of squatting, limited to residential properties

FULL ECONOMIC ASSESSMENT

Price Base Year 10/11	PV Base Year 10/11	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: N/K

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	£1m	Optional
High	Optional	£9m	Optional
Best Estimate	N/K	£5m	

Description and scale of key monetised costs by 'main affected groups'

The creation of a new criminal offence of squatting, limited to residential properties, would be less costly than option 1, but is still likely to result in an increase in police, CPS, legal aid, prison, and probation costs, due to additional squatting cases going through the criminal justice system. It is difficult to estimate the precise impact as there is no consensus on the true extent of squatting, or the proportion of squatting that is in residential buildings. Our best estimate of costs to the CJS is around £5m per year. However, given the many uncertainties, we have estimated a range of potential costs of between £1m and £9m per year.

Other key non-monetised costs by 'main affected groups'

Local authorities and homelessness (and other related) charities may face increased pressure on their services if more squatters are arrested/convicted and/or deterred from squatting. Local authorities may be required to provide alternative accommodation for these individuals and could also face costs related to increases in rough sleeping in their areas. An increase in demand for charities' services (food/shelter etc) may negatively impact current charity service users. There may also be a cost to society if this option is perceived to be unfair and/or leads to increases in rough sleeping. It has not been possible to quantify these costs. However, these costs are likely to be lower than in option 1.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/K	N/K	N/K

Description and scale of key monetised benefits by 'main affected groups'

As a result of criminalisation, it is likely that cases that are currently heard in the civil courts (applications for Interim Possession Orders and Possession Orders) will instead go through the criminal courts. This will result in savings on the civil side. These savings have not been quantified, but it is likely that they will partially offset the estimated increase in criminal costs.

Other key non-monetised benefits by 'main affected groups'

The creation of a new offence, limited to residential properties, should allow residential property owners to regain possession of their property from squatters more quickly and easily, which should reduce costs and provide greater security for residential property owners. This may reduce any serious direct financial and emotional impact suffered by residential property owners/occupiers, with potentially large benefits. Society may also prefer squatting to be more robustly tackled through criminal sanctions. It has not been possible to quantify these benefits, but they may be significant.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
<p>We assume that 50% of squatters squat in residential properties and that there are 4 squatters per residential property and 6 per commercial property.</p> <p>Volumes of cases based on the average number of trespasser possession claims issued under Part 55 of the Civil Procedure Rules in the county courts.</p>		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	IN/OUT/Zero net cost

Summary: Analysis & Evidence

Policy Option 2

Description: Extend the offence in section 7 of the Criminal Law Act 1977 so that it is committed when trespassers refuse to leave any building when required to do so by or on behalf of the owner or lawful occupier or as an alternative when required to do so by the police

FULL ECONOMIC ASSESSMENT

Price Base Year 10/11	PV Base Year 10/11	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: N/K

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	£1m	Optional
High	Optional	£5m	Optional
Best Estimate		£3m	

Description and scale of key monetised costs by 'main affected groups'

As in options 1&1a, the extension of the existing offence in section 7 could lead to increased costs for agencies across the CJS. The number of cases expected to be impacted by this proposal is estimated to be lower than in options 1 and 1a, as this will expand the circumstances in which a refusal to leave when required to do so will be made an offence, instead of criminalising the act of squatting itself. It is difficult to estimate the precise impact, for the same reasons outlined previously. Our best estimate is that costs to the CJS would increase by around £3m. However, given the many uncertainties, we have estimated a range of potential costs of between £1m and £5m.

If this option was pursued in conjunction with option 1a the estimated combined cost would be approximately £7m.

Other key non-monetised costs by 'main affected groups'

Local authorities and homelessness (and other related) charities may face increased pressure on their services if more squatters are arrested/convicted and/or deterred from squatting. Local authorities may be required to provide alternative accommodation for these individuals and could also face costs related to increases in rough sleeping in their areas. An increase in demand for charities' services (food/shelter etc) may negatively impact current charity service users. There may also be a cost to society if this option is perceived to be unfair and/or leads to increases in rough sleeping. It has not been possible to quantify these costs. However, these costs are likely to be lower than those in options 1 and 1a.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/K	N/K	N/K

Description and scale of key monetised benefits by 'main affected groups'

As a result of the extension of section 7, it is likely that cases that are currently heard in the civil courts will instead go through the criminal courts. This will result in savings on the civil side. These savings have not been quantified, but it is likely that they will partially offset the estimated increase in criminal costs.

Other key non-monetised benefits by 'main affected groups'

The extension of section 7, to include all residential and commercial property owners and lawful occupiers, should allow property owners to regain possession of their property from squatters more quickly and easily, which should reduce costs for businesses and provide greater security for all property owners and lawful occupiers. This may reduce any serious direct financial and emotional impact suffered by property owners/occupiers, with potentially large benefits. Society may also prefer squatting to be more robustly tackled through targeted criminal sanctions. It has not been possible to quantify these benefits.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
We assume that 50% of squatters squat in residential properties and that there are 4 squatters per residential property and 6 per commercial property.		
Volumes of cases based on the average number of orders granted under Part 55 in the county courts,		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs:	Yes/No	IN/OUT/Zero net cost
Benefits:		
Net:		

Summary: Analysis & Evidence

Policy Option 3

Description: Widen the exemption to the offence in Section 6 of the Criminal Law Act 1977 to include all property owners or lawful occupiers who seek to gain entry to the property where the person who opposes the entry is a trespasser.

FULL ECONOMIC ASSESSMENT

Price Base Year N/K	PV Base Year N/K	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: N/K

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/K	N/K	N/K

Description and scale of key monetised costs by 'main affected groups'

There are no costs that can be monetised due to a lack of reliable data.

Other key non-monetised costs by 'main affected groups'

A change in law to permit a wider range of property owners to break back into their properties against the wishes of someone inside the property may increase the likelihood of confrontation between property owners and squatters. The police may be called to deal with a greater number of public-order related offences. The extent to which this would be the case is unclear. Any increase in public order related prosecutions is likely to result in an increase in costs across the CJS. It has not been possible to quantify these costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/K	N/K	N/K

Description and scale of key monetised benefits by 'main affected groups'

There are no benefits that can be monetised.

Other key non-monetised benefits by 'main affected groups'

Amending the offence so that commercial property owners and non displaced/protected residential occupiers had the same rights as displaced residential occupiers and protected intending occupiers to re-enter their properties using force would make it quicker and easier for these individuals to regain possession of their property from squatters. This may reduce any serious direct financial and emotional impact suffered by property owners/occupiers. A change in the law to permit a wider range of property owners to break back into their properties may also reduce the number of prosecutions for section 6 offences, which may lead to savings across the CJS. It has not been possible to quantify these potential

Key assumptions/sensitivities/risks

The number of current Section 6 offences that relate to squatting and the frequency that squatters attempt to rely on so called 'section 6 notices' is not known. Therefore we are unable to fully estimate the potential impacts of this policy option.

Discount rate (%)

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO? Yes/No	Measure qualifies as IN/OUT/Zero net cost
Costs:	Benefits:	Net:		

Summary: Analysis & Evidence

Policy Option 4

Description: Leave the criminal law unchanged but work with the enforcement authorities to improve the enforcement of existing offences.

FULL ECONOMIC ASSESSMENT

Price Base Year N/K	PV Base Year N/K	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: N/K

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/K	N/K	N/K

Description and scale of key monetised costs by 'main affected groups'

There are no costs that can be monetised.

Other key non-monetised costs by 'main affected groups'

The police / Court Enforcement Officers may be required to use additional resources in order to enforce existing civil/criminal law more effectively. The precise impact on the police/ court enforcement officers is difficult to quantify. Any increase in civil/ criminal cases, due to more effective enforcement is likely to add additional pressure on the CJS. It has not been possible to quantify these impacts. However, it is likely that the cost of this non-legislative option would be low in comparison to the other policy options.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/K	N/K	N/K

Description and scale of key monetised benefits by 'main affected groups'

There are no benefits that can be monetised.

Other key non-monetised benefits by 'main affected groups'

The improved enforcement of existing offences could lead to a reduced risk of squatting which would benefit all property owners. This may lead to a fall in any serious direct financial and emotional impact suffered by property owners/occupiers. The precise benefit is difficult to quantify, and would depend on the extent to which enforcement could be improved.

An improvement in enforcement could lead to an increase in effectiveness and efficiency across the CJS. It is not possible to quantify these impacts.

Key assumptions/sensitivities/risks

It is difficult to assess how effective any measures to improve enforcement would be due to a lack of data.

Discount rate (%)

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO? Yes/No	Measure qualifies as IN/OUT/Zero net cost
Costs:	Benefits:	Net:		

Evidence Base (for summary sheets)

1 Introduction

Background

- 1.1 The government has become increasingly concerned by reports of squatting in buildings.
- 1.2 The main issue raised in relation to the existing law is that the act of squatting is not in itself currently a criminal offence (it is a form of trespass, which is normally regarded as a civil wrong). Residential occupiers who have effectively been made homeless by the actions of squatters have some protection under the existing criminal law - section 7 of the Criminal Law Act 1977 makes it an offence for a trespasser to refuse to leave a residential property when required to do so by a displaced residential occupier or a protected intending occupier of the property. However the offence does not extend to owners or occupiers of non-residential property (e.g. commercial property) or owners of residential property who are not displaced or intending occupiers. This would include, for example, landlords and local authorities who find squatters in their properties in between tenancies, but it could also include second home owners or people who find squatters in the properties of deceased relatives during probate.
- 1.3 In these circumstances, unless there is evidence that squatters have committed other offences, such as criminal damage or burglary, the police may not be able to intervene. Even where there are visible signs of a break in or damage to the property, it may be difficult for the police to prove that the squatters inside the property were responsible, particularly if there are no eye witnesses and the squatters claim the damage was caused by somebody else. The onus is therefore often on property owners to regain possession of their properties in the civil courts.
- 1.4 The government is concerned about the serious financial and emotional impact squatting can have on the owner or lawful occupier of a property. This prompted Ministers to consult publicly on options for addressing this issue. The consultation period ran from 13 July to 5 October 2011. The consultation document can be viewed on the Justice website¹. Following consideration of consultation responses, the government intends to include a new offence of squatting in residential property in the Legal Aid, Sentencing and Punishment of Offenders Bill at Commons Report. Of the respondents who had experienced difficulties in regaining possession of their property from squatters, the majority were residential property owners. Although the government does not propose to create a similar offence to protect non-residential property owners, it will continue to explore whether existing possession order processes and enforcement of criminal offences such as burglary and criminal damage could be improved to protect non-residential property owners.

Problem under consideration

- 1.5 The consultation process revealed that squatting was prevalent in large cities like London, Birmingham and Bristol in residential and non-residential buildings. Organisations and individuals who responded to the consultation were divided on whether squatting was a 'problem'. Property owners who had encountered squatters in their properties generally felt that tougher criminal sanctions were required to address this problem. Squatters and those responding to the consultation on their behalf argued that squatting was merely a manifestation of a housing crisis. They said that if the government did more to tackle the root causes of homelessness and to address the shortage of affordable homes, levels of squatting would decline.
- 1.6 Having considered the consultation responses, the government is persuaded that more needs to be done to protect owners and lawful occupiers of residential property from squatters, whilst continuing to address the root causes of homelessness, provision of affordable housing and social deprivation through existing policy initiatives.
- 1.7 There are already some offences in place to protect householders from squatters who refuse to leave. For example, section 7 of the Criminal Law Act 1977 includes an offence which is committed where a trespasser refuses to leave a residential property when required to do so by a displaced residential occupier or protected intending occupier. However, the government is not convinced

¹ <http://www.justice.gov.uk/consultations/dealing-with-squatters.htm>

Rationale for intervention

- 1.8 The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and redistribution reasons (e.g. to reallocate goods and services to the more needy groups in society).
- 1.9 In this case, intervention might be justified primarily on efficiency grounds. Currently, any property owner can report offences of for example criminal damage or burglary but there may not always be sufficient evidence to prove that the offence was caused by the squatter. Additionally displaced residential occupiers and protected intending occupiers of residential property can call the police to report an offence under section 7 of the Criminal Law Act 1977, but for property owners that do not fall into these categories, proceedings to regain possession of their property from squatters can be lengthy and costly. This can result in owners of residential property (including landlords, local authorities and private individuals who are not displaced or protected intending occupiers) spending considerable time and resources to regain possession of their property from squatters. Intervention which would make squatting in residential property a criminal offence would increase the efficiency of this process, as it should mean that squatters can be arrested soon after they have been detected. Regaining possession more quickly could minimise the amount of damage that has been done to the property. It would also help the property owners to put the properties back to the use for which they were intended more quickly.
- 1.10 Intervention may also be justified on equity grounds, as a toughening of the rules on squatting would re-balance the law in favour of owners and lawful occupiers of residential property against those who unlawfully occupy properties.
- 1.11 There is a risk that introducing a new offence of squatting in residential property, will have a negative impact on those who currently squat. An Equality Impact Assessment has been prepared to accompany this Impact Assessment. The government believes that the proposal to criminalise squatting in residential properties would be justified on the basis that the identified benefits outweigh these costs and risks.

Policy objective

- 1.12 The main issue raised in relation to the existing law is that the act of squatting is not in itself currently a criminal offence; it is a form of trespass, which is normally regarded as a civil wrong. Residential occupiers who have effectively been made homeless by the actions of squatters have some protection under the existing criminal law - section 7 of the Criminal Law Act 1977 makes it an offence for a squatter to refuse to leave a residential property when required to do so by a displaced residential occupier or a protected intending occupier of the property. But the offence does not extend to owners/occupiers of non-residential property (e.g. commercial property) or owners of residential property who were not occupying the property immediately before being excluded by the squatter and do not require the premises for occupation as a residence (e.g. some holiday home owners).
- 1.13 In these circumstances, unless there is evidence that squatters have committed other offences, such as criminal damage or burglary, the police may not be able to intervene. Even where there are visible signs of a break in or damage to the property, it may be difficult for the police to prove that the squatters inside the property were responsible, particularly if there are no eye witnesses

1.14 The government is concerned about the serious financial and emotional impact squatting can have on the owner/occupiers of a property. For example, members of a property litigation association reported costs incurred by their clients of between £3,000 and £8,000 to regain possession of their property from squatters in residential and commercial properties and those figures generally did not include the cost of repairing any damage to the properties. One respondent who claimed his property had been taken over by squatters said he had to spend over £20,000 on the case in total. The government believes that measures should be taken to deal with this issue.

Description of options considered (including do nothing);

Option 0: make no changes (do nothing). This is the status quo, resulting in no extra costs or benefits. This will form the baseline.

Option 1: Create a new criminal offence of squatting in all buildings.

Option 1a: Create a new criminal offence of squatting, limited to residential properties.

Option 2: Extend the offence in section 7 of the Criminal Law Act 1977 so that it is committed when trespassers refuse to leave any building when required to do so by or on behalf of the owner or lawful occupier or as an alternative when required to do so by the police (the existing offence is committed where squatters refuse to leave residential property when required to do so by a displaced residential occupier or a protected intending occupier)

Option 3: Widen the exemption to the offence in Section 6 of the Criminal Law Act 1977 to include all property owners or lawful occupiers who seek to gain entry to the property where the person who opposes the entry is a trespasser. This offence is committed where somebody uses or threatens violence to enter a property when somebody inside is opposed to their entry. The offence does not apply to displaced residential occupiers or protected intending occupiers of residential property. This option would extend the exemption to allow all owners or lawful occupiers to break back into their property when the only person inside who is opposed to entry is a trespasser.

Option 4: Leave the criminal law unchanged but work with the enforcement authorities to improve the enforcement of existing offences.

1.15 The government's preferred option is to introduce a new offence of squatting in residential property (Option 1a). The offence would be committed where a person enters a residential building as a trespasser (having entered as such), knows or ought to know that he or she is a trespasser, and lives (or intends to live) there for any period. The new offence should help to reassure residential property owners that the law is on their side. It will be wider than the existing offence in section 7 of the Criminal Law Act 1977, as it will protect owners of residential property who are neither displaced nor about to move into the property. This could include landlords whose properties are occupied in between lets, local authorities whose social houses are occupied while they are awaiting renovation or repair or private individuals who encounter squatters in second homes, holiday homes or the homes of deceased relatives during probate. The government recognises that this is a controversial area of policy and considers that its preferred option strikes the best balance: it will protect those who are likely to suffer most from squatting – home owners – whilst not bringing the criminal law to deal with all types of squatting. We will continue to explore options in respect of commercial property.

ONE-IN-ONE-OUT (OIOO)

1.16 These policies do not fall within the scope of one-in-one-out.

Affected stakeholder groups, organisations and sectors

1.17 The following individuals/sectors are likely to be affected by the proposals:

The Ministry of Justice, The Department for Communities and Local Government, Home Office, the Police, Crown Prosecution Service (CPS), Her Majesty's Courts and Tribunal Services (HMCTS), Prisons and Probation Services, Legal Services Commission (LSC), squatters, legal services providers, local authorities, homelessness (and other related) charities, bailiffs/enforcement firms, homeowners/home occupiers, commercial property owners, businesses, live-in-guardian industry, children of squatters, care system, NHS, mental health charities.

2 Costs and Benefits

- 2.1 This Impact Assessment attempts to identify both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of each option are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the proposal impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.
- 2.2 It has not been possible to monetise all the identified impacts in this Impact Assessment, in part due to a lack of data, and in part because the impacts are driven by a number of behavioural responses which are uncertain. Impacts have been quantified where possible.
- 2.3 Due to uncertainties around the true extent of squatting, as well as the extent to which any new measures will be applied in practice, we have presented a range of potential costs. The high end estimates are based on full possession order figures and it should be noted that these may include cases that are not in relation to squatting. Therefore the high end estimates should be treated with caution.
- 2.4 The costs to the CJS outlined in this IA assume that additional resources would be used to deal with an increase in squatting related offences. The estimates reflect the cost of these additional resources. If, however, the increase in cases was absorbed using current resources, the actual financial costs to the CJS could be significantly lower.

Option 0: Base case (do nothing)

- 2.5 If no legislative or non-legislative measures were taken, property owners (with the exception of displaced residential occupiers or protected intending occupiers of residential property) would continue to seek repossession of their properties in the civil courts and continue to bear the cost of associated with regaining possession of their property from squatters.
- 2.6 Because the do nothing option is compared against itself, its costs and benefits are necessarily zero, as is its Net Present Value (NPV).

Option 1: Create a new criminal offence of squatting

Description

2.7 Under this option, it would become a criminal offence to squat in any residential or non-residential building. Currently, it is a criminal offence for a person who enters residential premises as a trespasser to refuse to leave when required to do so by or on behalf of a displaced residential occupier or a protected intending occupier. However, squatting in itself is not a criminal offence it is normally regarded as a civil wrong.

Costs of Option 1

One-off costs

2.8 There would be some one-off costs for all affected parties associated with familiarisation with the new offence. In particular, there could be one-off costs to the police in training/issuing guidance on the new offence. These costs have not been quantified.

Ongoing costs

2.9 The creation of a new offence could lead to increased costs for agencies across the Criminal Justice System (CJS). In order to estimate the impact on the CJS, we have used the average number of trespasser possession claims issued under Part 55 in relation to both full possession orders (FPO's) and interim possession orders (IPO's) in the county courts of England and Wales between 2005 and 2010.

2.10 As the IPO process is specifically designed to deal with trespassing in premises, the number of IPO applications² would seem to be a reasonable estimate of the minimum number of squatting cases per year that would enter the criminal justice system. As IPO's are used by property owners who want to regain possession of their property from squatters as quickly as possible, it is reasonable to assume that, if squatting were to be criminalised, these property owners would in the future call the police and report an offence in order to regain possession of their property from squatters. This assumes that all current IPO applications would no longer follow the civil route in the future, but would now go through the criminal justice system. This could lead to around 340 incidents of squatting that enter the CJS.³

2.11 In the high case, application data on FPOs (including where an IPO is also applied for) is used. While IPOs give a good indication of the minimum extent of squatting, many responses to the consultation highlighted that, in practice, many property owners affected by squatters decide to apply directly for a FPO and often do not go down the IPO route. The IPO route is viewed by some to be strict given the very specific rules that apply to them and as a result they are not often applied for. Additional reasons for many using the FPO route are:

- a. A claim for damage to the property may be made together with the application if the application is for a FPO – but not if the application is for an IPO.
- b. In deciding whether to grant an IPO, the court will have regard (amongst other things) to whether the claimant has given, or is prepared to give, an undertaking that before the claim for possession is finally decided, he or she will not: damage the premises; grant a right of occupation to any other person; or damage or dispose of any of the defendant's property.
- c. If an IPO is granted and it is subsequently determined that the claimant was not entitled to the IPO, then the court can reinstate the defendant and ask the claimant to pay damages. This risk does not occur if a FPO is granted.
- d. The difference in time between the two processes is not large enough for many affected by squatters to apply for an IPO.

2.12 For the above reasons, the high case scenario assumes that all FPO applications are in relation to squatting. In reality, FPO's have a wider scope as they relate to trespassing on land as well as property. The data collected on applications does not distinguish between cases that are in relation

² The number of claims made for IPOs or trespasser possession orders are sourced from the main administrative systems in the County Courts.

³ based on average number of IPO applications from 2006-10

to properties versus those in relation to land. Hence the number of FPO applications may be an over-estimate of the potential number of squatting cases. However, there may be incidents of squatting which do not currently enter the civil justice route that may now enter the criminal justice system. Therefore, in the high case, we assume that there are 4200 criminal squatting cases per year⁴

- 2.13 It appears that squatters tend to squat in groups rather than in isolation. We assume that there will be, on average, 4 squatters per case in residential properties and 6 squatters per case in commercial properties. This is based on evidence gathered during the consultation period (including from the Metropolitan police) which suggests that commercial properties tend to have larger groups of squatters per building than is the case in residential squats and that there is an average of 4 squatters per residential property. We also assume that around half of squatters will be charged, with the other half being cautioned (or other out-of-court disposal). We estimate, therefore, that there will be between 850 and 10,600 defendants proceeded against for the new offence of squatting. When displaying the costs below, we outline the range of potential costs from the low to high scenario's we have described above.

Police

- 2.14 The police would be required to use additional resources to monitor and enforce the new offence. The precise impact on the police is difficult to quantify and as a result we have estimated a range of potential costs based on there being between 340 and 4200 criminal squatting cases across England and Wales. We assume that half of those arrested for squatting by the police will be cautioned /be given a warning and half will be charged with the offence of squatting. Based on evidence provided during the consultation on the costs per case for the police and assuming there would be no additional police costs for those cases that only involve a caution, it is estimated that costs to the police would be between £0.6m and £7m per year.

Crown Prosecution Service (CPS)

- 2.15 Any increase in the number of prosecutions would put pressure on the CPS. We estimate that the CPS would charge between 850 and 10,600 offenders of the new offence, at an estimated annual cost of around £0.1m- £1.5m

HM Courts and Tribunals Service (HMCTS)

- 2.16 Creating a new offence could lead to an increase in the demand for court resources. As set out above, creating a criminal offence could result in additional charges being brought against approximately 850 and 10,600 offenders. It is assumed that cases would be heard at Magistrates' Court (including the youth court) as the offence would be a summary only offence. Of those charged, it is assumed that 100% will be convicted. It is assumed that squatting defendants will generally have the court profile of other summary non-motoring defendants in terms of pleas, court time, and disposal outcomes. This suggests that implementation of this option could lead to an additional 300- 3,500 magistrates court sessions, at an estimated annual cost of between £0.6m and £7m.
- 2.17 It is assumed that cases would no longer go through the civil process and as a result there may be a loss in fee income to HMCTS relating to those cases. However as HMCTS civil fees are assumed to cover HMCTS civil costs in the long run, it can be assumed that this measure will have a neutral financial impact on the civil courts.

Prisons and Probation Services

- 2.18 Assuming a 3% custody rate and an average custodial sentence of 2.5 months (based on summary non-motoring offences averages), convictions under the new offence of squatting could lead to upward pressure of between 3 and 33 prison places at an estimated cost of between £0.1m and £1m. Costs to probation services are estimated to be up to £0.1m

⁴ based on average number of FPO applications from 2005-10

Legal Services Commission

2.19 As the new offence would result in criminal charges, it is assumed that all individuals would be entitled to legal aid. We assume that all defendants would receive legal aid representation based on the fact that they will pass both the means tests (as many squatters are homeless) and the Interest of Justice test (because the offence could lead to a custodial sentence) It is estimated that the proposal could increase legal aid spending by around £0.3m- £3.8m.

Squatters

2.20 The creation of a new offence would impose costs on those who currently squat. In response to the threat of conviction under the new offence, some squatters may continue to squat and ultimately be convicted under the new offence. Any convicted squatter is likely to be worse off under the proposals. However, in line with Impact Assessment guidance costs and benefits are not typically scored for parties that have broken the law. It should be noted, that if legislation is passed, that any adverse effects of criminalisation on squatters will only materialise if a squatter commits the offence once it is commenced. Steps will be taken to publicise the new law, in particular in relation to those who may be affected by it. Those affected will have a period before the new offence comes into force to change their behaviour.

2.21 Alternatively, some current squatters may be deterred from squatting as a result of a criminal offence. They could end up living in alternative accommodation which may result in additional costs to squatters. Another possibility raised by those opposed to the creation of a new offence is that squatters end up sleeping rough as a result of the proposal. In turn, this could have a negative impact on the health and well-being of such individuals. However, it has not been possible to quantify these potential impacts and they may be mitigated by ongoing government initiatives to address the root causes of homelessness.

Local Authorities

2.22 If the creation of a new offence deters people from squatting and/or some squatters are arrested and evicted from squats, there could be a cost for local authorities who may need to provide alternative accommodation. This could include providing temporary accommodation for those accepted as homeless. There may also be costs to local authorities associated with an increase in the numbers sleeping rough in particular areas. It has not been possible to quantify these impacts.

Homelessness (or related) Charities

2.23 Similarly, there may be an increase in the demand for the services provided by homelessness charities such as providing additional food/shelter. This could have an unquantifiable negative impact on current charity service users, assuming that there is no corresponding increase in charity funding.

Bailiffs/ Court Enforcement Officers

2.24 The creation of a new offence may have an impact on those organisations which currently enforce possession orders. If squatters are arrested by the police, the demand for the services of bailiffs to remove squatters would potentially decrease. It is not clear what proportion of a bailiff's workload consists of evicting squatters, although it is assumed to be negligible. It is therefore assumed that the cost of the proposal on bailiffs and court enforcement officers would not be significant and this cost has not been quantified.

Live-in-guardian industry

2.25 Some consultation responses suggest that property owners may use the services of live-in-guardian companies (such as Camelot) in order to prevent squatters from entering their properties, amongst other reasons. If squatting was criminalised, the demand for these services may fall. It has not been possible to quantify this cost.

Society

- 2.26 There may be economic welfare costs for society if the creation of a new criminal offence to tackle the problem of squatting is perceived to be unfair. There is a risk that criminalisation could lead to an increase in rough sleeping, which could in turn lead to negative health impacts. It is also possible that the creation of a new offence would lead to more buildings being unoccupied, which could lead to increased vandalism and deterioration. It has not been possible to quantify these costs due to a lack of evidence.

Benefits of Option 1

Commercial property owners and businesses

- 2.27 The current criminal law does not give commercial property owners the same rights as displaced residential occupiers or protected intended occupiers to deal with squatters in their properties. This means it can be particularly costly for businesses to evict squatters. The creation of a new offence should allow businesses to regain possession of their property from squatters more quickly and easily. This should reduce costs for businesses and allow commercial buildings to be put to their productive use, rather than being unlawfully occupied. This may reduce the serious direct financial and emotional impact suffered by commercial property owners/occupiers, with potentially large benefits.
- 2.28 The precise impact on commercial property owners and businesses is difficult to quantify. It is assumed that around 50% of all cases of squatting are in relation to commercial properties. The greater the extent of squatting in commercial properties is, the greater the benefits for businesses are likely to be.

Residential property owners/ occupiers

- 2.29 The current law already makes it an offence for a squatter to refuse to leave a residential property when required to do so by a displaced residential occupier or protected intending occupier. However, the creation of a new criminal offence of squatting could have a deterrence effect such that residential property owners/occupiers are able to avoid the costs incurred in regaining possession of property from squatters (legal fees etc). It may also make it easier for homeowners/home occupiers to regain possession of their property from squatters and they may also feel more protected by the law against squatters if potential criminal sanctions applied. This may reduce the serious direct financial and emotional impacts suffered by residential property owners/occupiers. It has not been possible to quantify these impacts, but they may be significant.

Police

- 2.30 If the offence acted as a deterrent, the instances of squatting might decrease. This might mean that there were fewer calls to police from concerned property owners. Even if the offence did not act as a deterrent, the fact that squatting was a criminal rather than a civil matter might mean that police would have to supervise fewer evictions carried out by bailiffs or court enforcement officers. It has not been possible to quantify this impact.

HMCTS

- 2.31 If those individuals/businesses impacted by squatters currently use existing civil routes to regain possession of their property from squatters, the creation of a criminal offence is likely to mean they no longer use those routes. There would, therefore, be a possible reduction in the demand for civil court resources alongside a simultaneous increase in demand for criminal court resources. There would also be a fall in fee remissions awarded as a result of the current civil route being used less frequently. It has not been possible to quantify any civil savings, but they may partially offset the increase in criminal costs. However, in the long run, as HMCTS civil fees are assumed to cover HMCTS civil costs, it can be assumed that this measure will have a neutral financial impact on the civil courts.

Legal Services Commission

2.32 As a result of the measures, there may be a fall in legal aid expenses in relation to the civil FPO/ IPO process. However, this has not been quantified as it is already accounted for in the baseline as the Legal Aid Reform Package proposes to remove squatting from the scope of civil legal aid. Hence any savings have already been accounted for elsewhere in the Legal Aid, Sentencing and Punishment of Offenders Bill.

Society

2.33 The creation of a new criminal offence may be perceived as strengthening the rights of property owners, which may generate economic welfare benefits. Society may also prefer squatting to be more robustly tackled through criminal sanctions as this could reduce the serious direct financial and emotional impact suffered by property owners/occupiers.

2.34 Furthermore, there is much confusion amongst the general public about the current rules on squatting. Criminalising squatting could help send a clear message that squatting is not acceptable under any circumstances, which could provide a benefit in terms of peace of mind for homeowners/home occupiers and commercial property owners in England and Wales.

Option 1a: Create a new criminal offence of squatting, limited to residential buildings

Description

2.35 Under this option, only squatting in residential buildings would be criminalised. Currently, it is a criminal offence for a person who enters residential premises as a trespasser to refuse to leave when required to do so by a displaced residential occupier or a protected intending occupier. However, squatting in itself is not a criminal offence it is normally regarded as a civil wrong.

Costs of Option 1a

One-off costs

2.36 There would be some one-off costs for all affected parties associated with familiarisation with the new rules. In particular, there could be one-off costs to the police of training/issuing guidance on the new offence. These costs have not been quantified

Ongoing costs

2.37 Based on evidence from the consultation responses we know that squatting occurs in residential and non-residential property. For the purposes of this Impact Assessment, we have assumed that approximately 50% of incidents of squatting are in commercial properties and 50% in residential properties. This will result in between 200 and 2100 additional cases, in relation to between 350 and 4200 defendants. There is a risk that the true proportion may be higher or lower which would result in increased or decreased costs, respectively.

2.38 Therefore, the option of criminalising squatting, but limiting the offence to residential properties, will result in estimated costs to the CJS of approximately half the amounts laid out in option 1.

2.39 The estimated costs are as follows:

- a. Police: £0.3- £3.6m
- b. CPS: £0.1m - £0.6m
- c. HMCTS: £0.2m- £2.8m
- d. LSC: £0.1m - £1.5m
- e. Prisons: £0- £0.4m
- f. Probation: £0- £0.1m

2.40 There may be additional costs imposed on commercial property owners/ occupiers under this option as they would not be protected in the same way as residential owner/occupiers. There is a possibility that some squatters may move to squat in commercial properties as a result of this proposal to criminalise squatting in residential properties. The extent to which commercial and residential properties are seen as substitutes will determine the magnitude of this cost. We have not been able to quantify these potential additional costs to commercial property owners.

Benefits of Option 1a

2.41 The benefits of option 1a are likely to be similar in nature to those outlined above in option 1. However, as the new offence will only apply to squatting in residential properties, any financial benefits are likely to be smaller in magnitude than those in option 1.

2.42 Specifically, the benefits to commercial property owners and business outlined in option 1 will not occur under option 1a.

2.43 The creation of a new criminal offence may be perceived as strengthening the rights of residential property owners, which may generate economic welfare benefits. Society may also prefer squatting to be more robustly tackled through criminal sanctions as this could reduce the serious direct financial and emotional impact suffered by residential property owners/occupiers. It has not been possible to quantify these impacts, but they may be significant.

Option 2: Extend the offence in section 7 of the Criminal Law Act 1977 so that it is committed when trespassers refuse to leave any building when required to do so by or on behalf of the owner or lawful occupier or as an alternative when required to do so by the police

Description

- 2.44 Currently, it is an offence for a squatter to refuse to leave residential property when required to do so by a displaced residential occupier or protected intending occupier. This option would extend the offence to include cases where squatters refuse to leave all property, including non-residential property (such as commercial property). It would also extend to those residential property owners/occupiers who are not displaced residential occupiers or protected intending occupiers such as holiday home owners or landlords.
- 2.45 This policy option could be designed so that the owner or lawful occupier, or someone on their behalf, could ask a trespasser to leave any building, and thus a refusal to leave would then be an offence. It could also be designed so that it is the police (instead of the owner or occupier) who ask a trespasser to leave, again refusal to leave would be an offence. We have not differentiated between who has the right to ask the trespasser to leave when identifying the potential impacts of this policy.

Costs of Option 2

One-off costs

- 2.46 There would be some one-off costs for all affected parties associated with familiarisation with the new rules. In particular, there could be one-off costs to the police of training/issuing guidance on the amended offence. These costs have not been quantified

Ongoing costs

- 2.47 As in options 1&1a, the extension of the existing offence in section 7 could lead to increased costs for agencies across the CJS. The number of cases expected to be impacted by this proposal is estimated to be lower than in options 1 and 1a as this option is narrower in scope than option 1. The offence would only be committed where squatters refused to leave a property when required to do so (i.e. the act of squatting itself would not be criminal). Squatters would have the opportunity to leave the property when asked, thereby not committing an offence, so we anticipate there would be fewer additional arrests and prosecutions for this extended offence than for the new criminal offence of squatting in options 1&1a. To gauge the potential magnitude of cases we have used data on the number of IPO's/FPO's actually granted⁵. These figures are considerably lower than IPO/FPO applications (used to estimate the number of cases for options 1&1a). The difference between applications and orders granted may be partially explained by the fact that squatters may leave a property when informed that a civil order has been applied for, meaning that the actual granting of an order is not required. It is reasonable to assume that these individuals would also leave if asked, were section 7 to be extended, thereby not committing a criminal offence under

• 5 The main administrative computer system used in the county courts (CaseMan) does not presently identify whether orders made in cases commenced for interim possession orders were for interim possession, were rulings on these, or were for other types of orders. Changing CaseMan to create specific order types for interim possession and rulings on interim possession orders would incur disproportionate cost. Statistical information about the numbers of Interim Possession Orders therefore consists of manual counts made by court staff which are collected on a monthly basis from all county courts. Since April 2009 these manual counts have been recorded into the HMCTS Performance Database, a web-based data monitoring system allowing direct inputting of performance data by court staff. Prior to April 2009 they were input onto county court stats module forms. These manually collected data are not quality assured as part of standard statistical processes. The only quality assurance has involved removing outliers from the data. In addition, the data cannot be verified by data from the main administrative systems in the county courts; this can only be done through contact with the courts. The figures exclude counts for Edmonton county court due to these being subjected to further quality assurance checks.

option 2. We have, therefore, used the number of orders granted as an indication of the number of 'persistent' squatters who would be likely to commit an offence if section 7 was extended. This would result in approximately between 80 and 530 additional cases flowing through the CJS.

Police

2.48 The police would be required to use additional resources to monitor and enforce the extended offence. The precise impact on the police is difficult to quantify, however, based on an estimate of an additional 80 to 530 cases, the police would incur costs of between £0.3m - £1.8m.

CPS

2.49 Any increase in the number of prosecutions would put pressure on the CPS. It is estimated that the CPS would charge approximately 400-2500 additional defendants at an annual cost of around £0.1m- £0.4m.

HMCTS

2.50 The extension of the existing offence could lead to an increase in the demand for court resources. As set out above, extending the existing offence could result in an additional 400-2500 charges being made. It is assumed that cases would be heard at the Magistrates' Court and that squatting defendants will generally have the court profile of other summary non-motoring defendants, in terms of pleas, court time, and disposal outcomes. This suggests that implementation of this option could lead to an additional 130-900 magistrates court sessions, at an estimated annual cost of between £0.3m and £1.8m.

2.51 If there is a fall in the number of civil cases then there would potentially be a fall in HMCTS fee income for the services it provides. However as HMCTS civil fees are assumed to cover HMCTS civil costs in the long run, it can be assumed that this measure will have a neutral financial impact on the civil courts.

Prisons and Probation Services

2.52 Additional convictions under the extended offence in section 7 could lead to upward pressure on prison places and probation services. Again, it is anticipated that there will be fewer additional convictions than under the new criminal offence of squatting in options 1 and 1a. Therefore, the upward pressure on prison/probation services is likely to be less than in option 1. We estimate that there will be an upward pressure on prison places of 1-10 places, at an estimated annual cost of between £0 and £0.3m.

Legal Services Commission

2.53 As outlined above, the extension of the offence in section 7 is estimated to lead to around 400-2,500 additional criminal charges being brought. We assume that all defendants would receive legal aid representation based on the fact that they will pass both the means tests (as they are likely to be homeless and the Interest of Justice test (because the offence could lead to a custodial sentence)). It is estimated that the proposal could increase legal aid costs by between £0.1m and £0.9m

Squatters

2.54 The extension of the offence in section 7 would impose costs on those who currently squat in commercial properties and those that squat in residential properties where the person seeking their removal is not a displaced residential occupier or a protected intending occupier. In response to the threat of conviction under the extended offence, some squatters may continue to squat and ultimately be convicted. Any convicted squatter is likely to be worse off under the proposals. However, in line with Impact Assessment guidance costs and benefits are not typically scored for parties that have broken the law. It should also be noted that if legislation is passed, any adverse effects of criminalisation on squatters will only materialise if a squatter commits the offence once it

2.55 Alternatively, some current squatters may be deterred from squatting as a result of the extension of the offence. They could end up living in alternative accommodation which may result in additional costs to squatters. Another possibility raised by those opposed to the creation of any new offence is that squatters end up sleeping rough as a result of the proposal. In turn, they have said this could have a negative impact on the health and well-being of such individuals. As this option impacts only on those who squat in non-residential properties and those that squat in residential properties not already covered by existing criminal law, the overall costs for squatters are likely to be less than in option 1. However it has not been possible to quantify these potential impacts and they may be mitigated by ongoing government initiatives to address the root causes of homelessness.

Local Authorities

2.56 If the extension of the offence in section 7 deters people from squatting and/or some squatters are arrested and can no longer live in squats, there could be a cost for local authorities who may need to provide alternative accommodation. This could include providing temporary accommodation for those accepted as homeless. There may also be costs to local authorities associated with an increase in the numbers sleeping rough in particular areas. It has not been possible to quantify these impacts.

Homelessness (or related) Charities

2.57 Similarly, there may be an increase in the demand for the services provided by homelessness charities, such as providing additional food/ shelter. This could have an unquantifiable negative impact on current charity service users, assuming that there is no corresponding increase in charity funding.

Bailiffs/Court Enforcement Officers

2.58 The extension of the existing offence to include those who refuse to leave all buildings may have an impact on those organisations which currently enforce possession orders. If squatters are arrested by the police, the demand for the services of bailiffs to remove squatters would potentially decrease. It is not clear what proportion of a bailiff's workload consists of evicting squatters, although it is assumed to be negligible. It is therefore assumed that the cost of the proposal on bailiffs would not be significant and this cost has not been quantified.

Live-in-guardian industry

2.59 Some consultation responses suggest that property owners (especially commercial property owners) may use the services of live-in-guardian companies (such as Camelot) in order to prevent squatters from entering their properties, amongst other reasons. If section 7 was extended to cover all properties, the demand for these services may fall. It has not been possible to quantify this cost

Society

2.60 There may be economic welfare costs for society if the extension of Section 7 to tackle the problem of squatting is perceived to be unfair. There is a risk that extending Section 7 could lead to an increase in rough sleeping, which could in turn lead to negative health impacts. It is also possible that the extension of Section 7 would lead to more buildings being unoccupied, which could lead to increased vandalism and deterioration. It has not been possible to quantify these costs due to a lack of evidence.

Benefits of Option 2

Commercial property owners, businesses, and residential property owners/occupiers

- 2.61 The current criminal law does not give commercial property owners (or residential owners/occupiers that are not considered to be displaced residential occupiers or protected intended occupiers) the same level of protection as displaced residential occupiers/ protected intended occupiers of residential buildings to deal with squatters in their properties. This means it can be particularly costly for businesses and non displaced residential occupiers/ protected intended occupiers to regain possession of their property from squatters. The extension of the existing offence in section 7, to include those who refuse to leave any property, should allow businesses to regain possession of their property from squatters more quickly and easily. This should reduce costs for businesses and non displaced residential occupiers/ protected intended occupiers and allow commercial buildings and other properties to be put to their productive use, rather than being unlawfully occupied. This may reduce the serious direct financial and emotional impacts suffered by property owners/occupiers. It has not been possible to quantify these impacts, but they may be significant.
- 2.62 As outlined in Option 1, it is assumed that approximately 50% of squatters squat in commercial properties. The greater the proportion of squatting that is in commercial properties, the greater the benefits for businesses are likely to be. However, as this adjustment to the law is likely to be less effective at reducing squatting than the creation of a new offence of squatting, the benefits to businesses are likely to be less than in option 1.

Police

- 2.63 The police may no longer have to deal with as many civil squatting cases and there maybe some potential savings from this. It has not been possible to quantify this impact.

HMCTS

- 2.64 If individuals currently use existing civil routes to regain possession of their property from squatters, the extension of an existing criminal offence is likely to mean they no longer use those civil routes. There would, therefore, be a possible reduction in the demand for civil court resources, alongside a simultaneous increase in demand for criminal court resources. There would also be a fall in fee remissions awarded as a result of the current civil route being used less frequently. It has not been possible to quantify any civil savings, but they may partially offset the increase in criminal costs. However, in the long run, as HMCTS civil fees are assumed to cover HMCTS civil costs, it can be assumed that this measure will have a neutral financial impact on the civil courts.

Legal Services Commission

- 2.65 As a result of the measures, there may be a fall in legal aid expenses in relation to the civil FPO/ IPO process. However, this has not been quantified as it is already accounted for in the baseline as the Legal Aid Reform Package proposes to remove squatting from the scope of civil legal aid. Hence any savings have already been accounted for elsewhere in the Legal Aid, Sentencing and Punishment of Offenders Bill.

Society

- 2.66 The extension of the existing criminal offence, to include those who refuse to leave non-residential properties, may be perceived as strengthening the rights of property owners, which may generate economic welfare benefits. Society may also prefer squatting to be more robustly tackled through criminal sanctions as this could reduce the serious direct financial and emotional impacts suffered by property owners/occupiers.
- 2.67 Furthermore, there is much confusion amongst the general public about the current rules on squatting. Providing the same protection to businesses and additional residential property owners/occupiers that is currently given to displaced residential occupiers/ protected intended occupiers of residential premises would send a clear message that squatting was not acceptable under any circumstances, which could provide a benefit in terms of peace of mind for businesses and homeowners in England and Wales.

Option 3: Widen the exemption to the offence in Section 6 of the Criminal Law Act 1977 to include all property owners and lawful occupiers who seek to gain entry to the property where the only person who opposes the entry is a trespasser.

Description

2.68 Under this option, the exemption in Section 6 of the Criminal Law Act 1977 would be amended. Section 6 currently makes it an offence to use violence or threats of violence to gain access to premises when there is someone on the premises who opposes such entry, but the offence does not apply to displaced residential occupiers or protected intending occupiers of residential premises. This option would widen the exemption so that the owner or lawful occupier of any building could break back into their property if the only person opposed to entry is a trespasser.

Costs of Option 3

One-off costs

2.69 There would be some one-off costs for all affected parties associated with familiarisation with the new rules. In particular, there could be one-off costs to the police of training/issuing guidance around Section 6. These costs have not been quantified.

Ongoing costs

2.70 It is difficult to estimate the impacts of this policy as it is not clear how frequently the offence in section 6 catches property owners (who are not displaced residential occupiers or protected intending occupiers) who are trying to break back into properties that are occupied by squatters. Evidence gained through the consultation period from the enforcement agencies indicated that a significant number of convictions for the offence under section 6 related to disputes between ex-partners – e.g. a partner or a spouse forcing their way back into a home against the will of those inside. Despite this, other respondents to the consultation suggested that the police/ property owners/ lawful occupiers were often reluctant to confront squatters if a so-called ‘Section 6’ or ‘squatter’s rights’ notice had been placed on the door of the property. If we were to amend Section 6 in the way proposed, it might be safe to assume there would be at least some property owners/lawful occupiers who would be encouraged to break back into their properties. While the changes to the law would mean they would not be committing an offence, the police may be called to resolve associated public order issues.

Legitimate Tenants

2.71 This offence was introduced to prevent people from using or threatening violence to break into a property against the will of those inside. The offence prevents, for example, unscrupulous landlords from using violence or intimidation to evict legitimate tenants. The offence does not currently apply to displaced or protected intending occupiers who break back into their own homes, but if this exemption were amended so that a wider range of property owners could break back into properties that had been occupied by squatters, some people might say this could put legitimate tenants at greater risk (for example, if a landlord claimed his or her tenants were in fact squatters). These potential costs have not been quantified. Even if the law were changed, a landlord who falsely accused a legitimate tenant of being a squatter may be guilty of the offence of perverting the course of justice.

Police

2.72 Permitting a wider range of property owners to break back into their properties may increase the likelihood of confrontation between property owners and squatters. The police may be called to deal with a greater number of public-order related offences which may partially offset any benefit derived from amending the section 6 offence. The extent to which this would be the case is unclear and as a result these potential costs have not been quantified.

2.73 Any increase in public order related prosecutions could result in an increase in costs across the CJS. It has not been possible to quantify these costs.

Squatters

2.74 This change in the law may impose costs on those who currently squat by making it harder to squat, easier to be removed from all properties, including commercial property, or reducing the likelihood of squatting. Some current squatters may be deterred from squatting as a result of a threat that property owners/ occupiers may break back into their properties and the risk of potential confrontation between parties. They could end up living in alternative accommodation which may result in additional costs to squatters. Another possibility raised by those opposed to strengthening the law in this area is that squatters could end up sleeping rough as a result of the proposal. They say that in turn, this could have a negative impact on the health and well-being of such individuals. However, it has not been possible to quantify these potential impacts and they may be mitigated by ongoing government initiatives to address the root causes of homelessness. Squatters may also be worse off if the changes increased the threat or use of violence by property owners to re-enter their properties.

Local Authorities,

2.75 If tightening up the use of so called 'section 6 notices' deters people from squatting as they feel less protected by the law, there could be a cost for local authorities who may need to provide alternative accommodation. This could include providing temporary accommodation for those accepted as homeless. There may also be costs to local authorities associated with an increase in the numbers sleeping rough in particular areas. It has not been possible to quantify these impacts

Homelessness (or related) Charities

2.76 Similarly, there may be an increase in the demand for the services provided by homelessness charities such as providing additional food/shelter. This could have an unquantifiable negative impact on current charity service users, assuming that there is no corresponding increase in charity funding

Bailiffs/ Court Enforcement Officers

2.77 The amendment to section 6 may have an impact on those organisations which currently enforce possession orders. If property owners were more confident about re-entering their squatted properties, the demand for the services of bailiffs to remove squatters would potentially decrease. It is not clear what proportion of a bailiff's workload consists of evicting squatters that currently make use of so called 'section 6 notices', although it is assumed to be negligible. It is therefore assumed that the cost of the proposal on bailiffs and court enforcement officers would not be significant and this cost has not been quantified.

Live-in-guardian industry

2.78 Some consultation responses suggest that property owners may use the services of live-in-guardian companies (such as Camelot) in order to prevent squatters from entering their properties amongst other reasons. If there was a fall in squatting as a result of this policy proposal, the demand for live-in-guardian services may fall. It has not been possible to quantify this cost.

Society

2.79 There may be economic welfare costs for society if the tightening of the use of so called 'section 6 notices' to tackle the problem of squatting is perceived to be unfair. There is a risk that amending Section 6 could lead to an increase in rough sleeping, which could in turn lead to negative health impacts. It is also possible that any associated reduction in level of squatting would lead to more buildings being unoccupied, which could lead to increased vandalism and deterioration. It has not been possible to quantify these costs due to a lack of evidence.

Benefits of Option 3

Commercial property owners and businesses

2.80 Commercial property owners do not currently have the right to use force to gain entry into their own properties when they have been occupied by squatters. Amending the offence so that commercial property owners were exempt from the section 6 offence in the same way that displaced residential occupiers and protected intending occupiers of residential premises are exempt would make it quicker and easier for businesses to regain possession of their property from squatters and reduce costs for businesses. This may reduce the serious direct financial and emotional impact suffered by commercial property owners/occupiers. It has not been possible to quantify these benefits.

Residential property owners/ occupiers

2.81 Those residential property owners/ occupiers that are not considered to be displaced residential occupiers and protected intending occupiers (for example holiday or second home owners), would be able to use force to gain entry into their own properties when they have been squatted under this policy option. As a result, it would become quicker and easier for them to regain possession of their property from squatters. This may reduce the serious direct financial and emotional impacts suffered by residential property owners/occupiers. It has not been possible to quantify these benefits.

CPS/HMCTS/Prison and Probation Services/Legal Services Commission

2.82 In 2008 there were 512 prosecutions for the offence in section 6 of the criminal law act 1977. If the offence were amended so that the exemptions were widened, the number of prosecutions would potentially fall. This would reduce pressure on the police to enforce this offence and there would potentially be fewer prosecutions, reducing pressure on the CPS. In addition, there would be a fall in associated costs across the CJS. It is however not clear how many of the section 6 offences that currently flow through the CJS are in relation to squatting cases. As a result it has not been possible to quantify these benefits.

Society

2.83 Amending the exemption in section 6 of the Criminal Law Act 1977 may be perceived as strengthening the rights of property owners, which may generate economic welfare benefits. Society may also prefer that squatting was being more robustly tackled as this could reduce the serious direct financial and emotional impacts suffered by property owners/occupiers.

2.84 Furthermore, there is much confusion amongst the general public about the current rules on squatting. Making it clear that squatters could not use so called 'section 6 notices' could help send a clear message that it was acceptable for property owners to re-enter their own properties, which could provide a benefit in terms of peace of mind for homeowners/ home occupiers and commercial property owners in England and Wales.

Option 4: Leave the criminal law unchanged but work with enforcement authorities to improve enforcement of existing offences

Description

2.85 This option would not involve any substantive changes to the law, but would involve working with the Home Office and the enforcement authorities to improve the way existing offences are enforced. There are a range of offences that may be committed by squatters, such as criminal damage, burglary and abstraction of electricity, and it may be that many squatters could be dealt with by enforcing these offences more effectively.

Costs of option 4

One-off costs

2.86 There would be some one-off costs for all affected parties associated with familiarisation with the new processes. In particular, there could be one-off costs to the police of training/issuing guidance on improving enforcement. These costs have not been quantified

Ongoing costs

2.87 A drive to improve the way existing offences are enforced could lead to increased costs for agencies across the CJS.

Police

2.88 The Police may be required to use additional resources in order to enforce existing offences more effectively. The precise impact on the police is difficult to quantify. However, it is likely that the cost of this non-legislative option would be low in comparison to the other policy options.

CPS

2.89 If there is an increase in criminal cases, due to more effective enforcement, this could put additional pressure on the CPS. The precise impact on the CPS is difficult to quantify. However, it is likely that the cost of this non-legislative option would be low in comparison to the other policy options.

HMCTS

2.90 Improving the enforcement of existing offences could lead to an increase in charges related to squatting which would increase demand for court resources. There may also be an increase in the number of criminal and civil proceedings going through the courts. The precise impact on HMCTS is difficult to quantify. However, it is likely that the cost of this non-legislative option would be low in comparison to the other policy options.

Prisons and Probation Services

2.91 Additional convictions, due to more effective enforcement of existing offences, could lead to upward pressure on prison places and probation services. The precise impact on prison/probation services is difficult to quantify. However, it is likely that the cost of this non-legislative option would be low in comparison to the other policy options.

Legal Services Commission

2.92 As outlined above, improved enforcement may lead to an increase in prosecutions for offences related to squatting, such as criminal damage. If more cases enter the CJS there may be an increase in legal aid costs if defendants are entitled to legal aid. The precise impact is difficult to

Squatters

- 2.93 The improved enforcement of existing offences is likely to impact negatively on squatters. A greater number may be arrested and ultimately convicted for offences such as criminal damage. Any convicted squatter is likely to be worse off under the proposals. However, in line with Impact Assessment guidance costs and benefits are not typically scored for parties that have broken the law.
- 2.94 In addition, some current squatters may be deterred from squatting as a result of more effective enforcement measures. They could end up living in alternative accommodation which may result in additional costs to squatters. Another possibility raised by those opposed to any increase in the level of enforcement activity is that squatters end up sleeping rough as a result of the proposal. In turn, they say this could have a negative impact on the health and well-being of such individuals. It has not been possible to quantify these potential impacts and they may be mitigated by ongoing government initiatives to address the root causes of homelessness.

Local Authorities

- 2.95 If the threat of more effective enforcement of existing offences deters people from squatting and/or some squatters are arrested (for existing offences) and evicted from squats, there could be a cost for local authorities who may need to provide alternative accommodation. This could include providing temporary accommodation for those accepted as homeless. It has not been possible to quantify this impact.

Homelessness (or related) Charities

- 2.96 Similarly, there may be an increase in the demand for the services provided by homelessness charities such as providing additional food/shelter. This could have an unquantifiable negative impact on current charity service users, assuming that there is no corresponding increase in charity funding.

Bailiffs/ Court Enforcement Officers

- 2.97 The improvement of enforcement of existing offences could potentially impact those organisations which currently enforce possession orders. If enforcement measures are better handled by the police, the demand for the services of bailiffs to remove squatters would potentially decrease. It is not clear what proportion of a bailiff's workload currently consists of evicting squatters, or how better enforcement actions by the police would change this. It has not been possible to quantify this impact.

Benefits of Option 4

Commercial property owners and businesses/ Residential property owners/ occupiers

- 2.98 The improved enforcement of existing offences could lead to a reduced risk of squatting which would benefit all property owners. This may reduce the serious direct financial and emotional impacts suffered by property owners/occupiers. The precise benefit is difficult to quantify, and would depend on the extent to which enforcement could be improved.

Bailiffs/ Court Enforcement Officers

- 2.99 The improvement of enforcement of existing offences would potentially benefit those organisations which currently enforce possession orders. Demand for services from bailiffs may rise, or they may see an improvement in the quality or speed of services they provide. It is not clear what proportion

Police

2.100 The police may benefit from clearer guidance on how best to deal with squatting cases. This may benefit their effectiveness and efficiency. It has not been possible to quantify this impact.

CPS/HMCTS/Prison and Probation Services, Legal Services Commission

2.101 As a result of better enforcement of existing offences, there may be an increase in effectiveness and efficiency across the CJS. It is not possible to quantify these impacts.

Society

2.102 The improved enforcement of existing criminal/civil offences relating to squatting may be perceived as strengthening the rights of property owners and occupiers, which may generate economic welfare benefits. Society may also prefer squatting to be more robustly tackled through tougher enforcement and use of existing criminal / civil sanctions as this could reduce the serious direct financial and emotional impacts suffered by property owners/occupiers.

2.103 Furthermore, there is much confusion amongst the general public about the current rules on squatting. Better enforcement of current laws could help send a clearer message about the rules around squatting, which could provide a benefit in terms of peace of mind for homeowners/ home occupiers and commercial property owners in England and Wales.

3 Risks and assumptions

3.1 The following risks and assumptions apply to the analysis:

	Assumption	Risks
Volume of squatting cases	It is assumed that between 80 and 4,000 squatting cases will enter the CJS per year. This is based on data on application and orders granted data on cases that go through the civil courts (IPO's/FPO's).	We do not know the true scale of squatting and as a result there is a risk that the true number of cases entering the CJS could be higher or lower. This may be because cases that currently do not use the civil process may enter the new system; alternatively, the scale of the issue may be over/understated by using IPO/FPO data and hence less/more cases may flow through the CJS.
Squatting in residential versus commercial properties	It is assumed that approximately half of squatting occurs in residential properties and half in commercial properties.	Due to a lack of data this could be higher/ lower.
Number of squatters per property	We assume that there is on average 4 squatters per case in residential properties and 6 squatters per case in commercial properties.	There is a risk that the average number of squatters per property could be higher/ lower.
Cautions	Under option 1, we assume that half of those arrested for squatting by the police will be cautioned /be given a warning and only half will be charged with the offence of squatting.	In reality, this may be higher/ lower and will be dependant on how the police choose to enforce the new criminal offence in practice.
Custody	No squatters will be remanded in custody, due to the small likelihood of custodial sentences being given. Some may be provided with bail accommodation by the Bail Accommodation and Support Services (BASS). However we do not quantify any impacts as it is expected that there will be zero/minimal additional costs to MoJ.	There is a risk that costs for remand and BASS could be higher.
Convictions	We assume that of those charged, 100% will be convicted.	The conviction rate is expected to be lower in reality than modelled, however due to a lack of data this was not modelled. There is a chance that some defendants may be acquitted, which would result in lower costs than those modelled. In addition, fewer defendants may be successfully prosecuted as the offence would have to meet a criminal standard of proof "beyond reasonable doubt".
Plea; court time; disposal outcomes	Squatting defendants are assumed to have the court profile of other summary non motoring defendants in terms of pleas, court time, and disposal outcomes. This results in the following assumptions, based on the Criminal Justice Framework and sentencing tables averages for 'summary non-motoring' offences: (1) 55% plead guilty before trial (based on the table 26, "Tried and sentenced in magistrates' court, Criminal Justice Framework) (2) Magistrates court sitting time is assumed to be 0.16 hours per defendant for guilty pleas before trial, and 1.67 hours per defendant for other guilty plea or not guilty plea (3) Disposal breakdown is assumed to led to 3% in immediate custody.	Squatting defendants may not have a court profile in line with that of other summery non- motoring defendants. As a result, plea rates could be higher/ lower' court time higher/ lower, and the breakdown of offenders by disposal type different. This could lead to a higher/ lower % sentenced to immediate custody. Costs/ benefits of suspended sentences; community sentences, fines and other disposals have not been quantified and as a result the costs/ benefits to the CJS could be higher/ lower.
Average custodial sentence length	The average custodial length is assumed to be 76 days (2.5 months), based on the average custodial sentence length for all summary non-motoring offences sentenced at the magistrates court in 2010 (sentencing statistics 2010, table A5.2). This would result in 38 days served in prison, based on the assumption that half the sentence is served, on average.	The true custodial sentence length could be lower or higher than assumed, which would result in lower/higher costs.
Civil cases	It is assumed that where a criminal offence is created or amended, current civil cases would flow through the CJS. There would therefore be a fall in cases flowing through the civil courts.	There is a risk that the use of any new / amended criminal route is negligible and instead the cases continue to flow through the civil courts.
Legal aid	We assume that at the Magistrates Court, 100% of defendants are eligible to legal aid as all defendants pass the Interest of Justice test and Means tests.	However in reality fewer defendants maybe entitled to legal aid and the cost implication may be lower, as some defendants may have to contribute towards the legal aid cost of their defence.
Definition of new offence	We have made simplifying assumptions over what any new / amended offence may look like for modelling purposes.	However in reality this could be different and may result in higher/ lower costs.
Appeals	We have not quantified the cost of any appeals.	There is a risk that there could be appeals, which could increase costs.
Criminal Justice System costs	We have identified a range of potential costs that maybe imposed on the CJS.	There is a risk that these costs would not be realised in practice as they could be absorbed within existing resources or through reprioritisation. Cases may take longer to flow through the CJS or there may be a change in quality. As a result actual costs may be lower.

4 Wider impacts

4.1 An equalities impact assessment is being undertaken to more fully understand the impact of the proposals on groups which share protected characteristics under the Equality Act 2010.

5 Summary and Recommendations

5.1 The government's preferred option is to introduce a new criminal offence of squatting, limited to residential buildings (Option 1a). The offence would be committed where a person is in a residential building as a trespasser having entered as such, knows or ought to know that he or she is a trespasser, and is living or intends to live there for any period.

5.2 The new offence should help to reassure residential property owners that the law is on their side. It will be wider than the existing offence in section 7 of the Criminal Law Act 1977 which protects displaced residential occupiers and protected intending occupiers who have asked a trespasser to leave, as it will protect owners of residential property who are neither displaced nor about to move into the property. This could include landlords whose properties are occupied in between lets, local authorities whose social houses are occupied while they are awaiting renovation or repair or private individuals who encounter squatters in second homes, holiday homes or the homes of deceased relatives during probate. .

5.3 The new offence is to be tabled as an amendment to the Legal Aid, Sentencing and Punishment of Offenders Bill at Report in October 2011. Royal Assent is expected in spring 2012, with implementation to follow at a later date. Once implemented, the government will keep this area of the law under review. As with any criminal offence, data will be recorded on the number of prosecutions and convictions on the MOJ's Court Proceedings Database. Government officials are in regular contact with the police and the CPS, who will highlight any practical difficulties in enforcing the new offence. Formal post-legislative scrutiny will also take place (usually three to five years after implementation of a new provision)