

13/8/11

Response of Liberal Democrat ALTER on:

Ministry of Justice Consultation Paper CP12/2011:

Options for dealing with squatting

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This is the response of Liberal Democrat ALTER (Action on Land Taxation and Economic Reform) to Ministry of Justice Consultation Paper CP12/2011, "[Options for dealing with squatting](#)". It contains general observations and two annexes.

In England and Wales, criminal law prevents a primary place of residence from being taken over by squatters. Other properties are protected only by civil law. The Justice Minister Crispin Blunt is proposing that squatting in any building should automatically become a criminal matter, regardless of how it is used. Since the basic duty of society is to protect the person and property of its members, surely this change is in our best interests?

ALTER believes the answer is no, this change is not in the interests of the vast majority of UK taxpayers. The government is proposing to provide a state funded benefit, at considerable expense to the ordinary taxpayers, to a rich and influential group of tax avoiders and offshore property owners. There are far cheaper ways of protecting UK taxpayers.

ALTER recognizes that governments have an absolute duty to enforce the law and prevent assault and dispossession. Society has evolved an extensive range of institutions and systems to protect its citizens and their property from internal and external threats. Society pays for this through taxation, and citizens have the absolute right to expect that, as a quid pro quo, their person and property will be protected.

Extending criminal law to all cases of squatting will benefit many foreigners who own property in the UK but pay no taxes in the UK (and perhaps elsewhere). The influx of hot money from Russia into the UK property market is a case in point. Is there really a compelling social or economic argument that the taxpayer should pay to protect the property of tax avoiders?

The proposal to extend criminal law to cover all types of squatting will benefit three broad categories of owner. First, persons who are taxed abroad but use a residence in Britain as a *pied a terre*; for example a notorious retail magnate who operates in the UK but pays tax in Monaco. The value of the rule of law to him is immense, since it protects expensive residences he owns in the UK. But he, as individual taxpayer and property owner, makes no contribution to the UK exchequer. The UK exchequer should not be taking on additional costs on behalf of such persons.

Second, it will benefit foreign property speculators who own property in the UK, often leaving it empty. Already 60% of London properties worth over £2.5m belong to offshore owners¹. One report estimated there are 1 million empty homes in the UK². The same report found that within a five-minute walk of Park Lane, there are 21 empty properties, with estimated worth between £6m and £50m. Of these, seven are registered to British Virgin Island companies, with others owned by firms incorporated in Jersey, Guernsey and Switzerland. Their owners avoid capital gains tax when they sell, so the property value provides no benefit to the exchequer. The owners cynically leave the buildings empty, exacerbating the housing shortage. By ensuring there are no tenants to inconvenience them, they maximize the liquidity of their investment and ensure they can sell at the best possible rate. If squatters take over one of these properties, the owners should have to pay the costs of removing them themselves. The UK taxpayer has no duty to minimize civil litigation risks of owners who choose to be taxed offshore while leaving valuable residences empty.

Third, it will benefit the UK citizen who is the owner of multiple homes, for example holiday homes, who pays income tax in the UK and who registers ownership of the property in the UK. This citizen is making a full contribution to the exchequer, owns properties legally, and is taxed on capital gains if the property is sold; yet if a property is taken over by squatters will have to pay for civil proceedings. There is a strong case that such persons should be helped using the full force of the law; if one pays taxes in Britain, one is entitled to full protection of person and property by the state. There are however ways of supporting UK taxpayers in the event of squatting, without giving a free ride to tax avoiders. For example, the full cost of civil proceedings could be reimbursed via legal aid, if it is shown that the ownership of the residence is registered in the UK; alternatively it could be deducted pound for pound from UK income tax. In the case of a property owned by a UK business, the cost could be offset against UK corporation tax.

The consultation paper is long on emotion, explaining how the Government has become increasingly concerned about the distress and misery that squatters can cause. When it comes to costs, it is vague to the point of amateurism; the authors seem not to have realized that law enforcement costs money, and seem happily unaware of the current government austerity drive. Not a single hard figure is provided.

Squatting is a form of trespass and not a legitimate or justified response to housing shortage. It does lead to distress and misery. However under the present property taxation system, property owners should *not* be relieved *en masse* from the costs of civil litigation against squatters by the UK taxpayer. Civil law procedures should be

¹ Tim Adams The Observer, Sunday 7 August 2011

² Helen Pidd, guardian, Friday 16 October 2009

simplified and expedited, and ways should be found for homeowners who pay UK taxes to repossess the property in hours, not weeks, provided their ownership is registered in the UK. If the ownership of a property is registered in the UK, the land registry should be mandated to produce evidence of ownership in hours, not days. The solution is imposing a culture of service and efficiency on the civil justice system, rather than an expensive extension of criminal law.

Property taxation in the UK is relatively low compared to many countries, and consists of council tax, stamp duty, and capital gains tax. While in theory the capital gains could be significant, in practice it is avoided by registering ownership offshore. The remaining taxes do not deliver a large enough contribution to the exchequer to compensate society for the services that it provides that make UK property such an attractive investment. Only property owners who also pay income or corporation tax in Britain merit favourable treatment.

If the taxpayer does take on the costs of dealing with squatters, it will reduce the business risks to those that leave residential premises empty for speculative gain, and have the perverse effect of increasing the number of empty properties. This will lead to increased squatting, and even greater costs to the exchequer.

Liberal Democrat ALTER has long called for the introduction of a land value tax. It would be levied on each parcel of land, which cannot be taken offshore. This tax would be impossible to avoid: regardless of ownership structure, if a cheque for the tax owed did not arrive at the tax office, the ownership of the land would revert to the state. If this tax were set at a level where the tax paid by land owners covered the costs of providing the social structures that maintain property value, then they would have just cause to demand protection from the criminal justice system. Until such time, there is no social, economic or moral justification for the exchequer taking on additional costs on behalf of both offshore and UK land owners

[END]

Annex 1: SUMMARY of comments on “Option 1 to 5” of the consultation

This annex summarizes the viewpoint of ALTER regarding “Options 1 to 5” in the report. The options are:-

Option 1 – Create a new offence of squatting in buildings

Option 2 – Expand existing offence in section 7 of the Criminal Law Act 1977

Option 3 – repeal or amend section 6 of the Criminal Law Act 1977

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

Option 5 – Do nothing: continue with existing sanctions and enforcement activity

We favour option 4, for the reasons discussed above.

Annex 2: Answers to Questionnaire

This annex contains point by point responses to the questionnaire in the consultation document.

1.

Is squatting a particular problem in your area and where does it occur the most, e.g. in residential or non-residential property? Were these properties empty/abandoned/derelict before they were occupied, or were they in use?

No.

2.

Please provide any evidence you have gathered on the number of squats and the nature of squatting in your area or nationwide?

None available.

3.

Do you have any data or other information on the demographic profile of people who squat - e.g. do they share any of the protected characteristics set out in the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)? Do they live alone or with others?

None available.

4.

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

Yes. Residential occupiers are protected by criminal law.

5.

If you have taken steps to evict squatters from your properties, what difficulties have you encountered (if any) in removing squatters from your property using existing procedures? Have you had any positive experiences of using existing procedures?

N/A

6.

Do you think there is a need for a new criminal offence of squatting?

no

7.

If so, do you agree with the basic definition of squatting set out in paragraph 21 (i.e. the unauthorised entry and occupation of a building)?

n/a

8.

How should the term 'occupation' be defined? Should it cover those who occupy a building for a short period (e.g. a couple of hours)?

No comment

9.

What buildings should be covered by the offence? Should it cover all buildings or only some (e.g. should it cover public and private buildings, outbuildings, abandoned or dilapidated buildings, or buildings that have been empty for a long time)?

There should be no offence.

10.

Do you think there should be any exemptions to any new offence of squatting? If so, who should be exempt and why?

There should be no offence.

11.

Do you agree that the existing law provides adequate protection against false allegations?

No comment

12.

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

There should be no offence thus no malicious allegations are possible.

13.

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

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Those profits (taxable in the UK) lost due to the deprivation of usage of the property.

14.

In your experience (e.g. as a displaced residential occupier or protected intending occupier or as a law enforcer), how effective is the existing offence in section 7 of the Criminal Law Act 1977?

No information available.

15.

How does the definition of 'displaced residential occupier' and 'protected intending occupier' work in practice?

No information available.

16.

If we were to expand section 7 so that it covered squatters who refused to leave other types of building when required to do so by the rightful occupier, what type of buildings and what types of occupier should be specified?

There should be no offence

17.

If section 6 were amended to exempt additional categories of people from the offence, which categories should be exempted? Are there any categories of people that should not be exempted?

There should be no offence

18.

Do you know of circumstances where the section 6 offence has been used – was it used to protect a tenant from forcible entry by a landlord or was it used for other reasons, e.g. to stop a violent partner from breaking back into his home? Please describe the circumstances.

No

19.

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

No comment

20.

Are you aware of the Government's new guidance on evicting squatters under existing laws? If so, is it helpful? Do you think the guidance could be improved in any way?

No information available.

21.

If any of the proposals in this document were to be adopted, what impact would this have on you, your organisation or those whose welfare you promote?

- **There would be a considerable increased cost burden to the taxpayer, in direct contradiction to the present efforts to decrease expenditure.**
- **The increase in empty properties, which would be encouraged by these proposals, would increase housing shortage.**

22.

Do respondents who identify themselves as having a protected characteristic (listed in paragraph 39) or who represent those with protected characteristics think any of the proposals would have a particular impact on people who fall within one of the protected characteristics? If so why?

Thank you for participating in this consultation exercise.

No comment