



# Can We Afford to Criminalise Squatting?

A Full Cost Analysis of the Criminalisation of Squatting, under Clause  
136 of the Legal Aid, Sentencing and Punishment of Offenders Bill

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## FOREWORD

The housing crisis facing the UK is severe. The Coalition Government's recent housing strategy paints a stark picture, with unaffordable prices facing first-time buyers, and ever-rising rents (especially in urban centres) consuming a huge proportion of average wages.<sup>1</sup> 5 million people are languishing on social housing waiting lists in England alone.<sup>2</sup> Official homeless numbers in England are rising month by month, with the latest quarter figures for October to December 2011 showing an 18 per cent rise on the same quarter in 2010.<sup>3</sup>

Clause 136 of the Legal Aid, Sentencing and Punishment of Offenders Bill proposes to criminalise squatting in residential buildings in England and Wales. Highly respected independent research by Kesia Reeve and Elaine Batty from the Centre for Regional and Economic Research (CRESR) at Sheffield Hallam University has conclusively demonstrated the connection between homelessness and squatting.<sup>4</sup> A recent study by Reeve suggests that 40 per cent of homeless people have relied on squatting for off-the-street housing.<sup>5</sup> In other words, the government intends to criminalise homelessness during one of the worst housing crises the country has ever experienced.

Squatters' Action for Secure Homes (SQUASH) is a campaign group that opposes further criminalisation of squatting, and works towards secure housing for all. Our campaign has strong support. 96 per cent of respondents to the Ministry of Justice's consultation on squatting voiced opposition to criminalisation. Numerous groups, including the Law Society, the Metropolitan Police, and the Criminal Bar Association, have stressed that criminalisation is also unnecessary as people displaced from their homes by squatters are already fully protected by the existing 1977 Criminal Law Act.<sup>6</sup>

In this report, we focus specifically on the enormous and unnecessary financial costs to the UK taxpayer implied by the criminalisation of squatting element within the Legal Aid Bill.

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<sup>1</sup>HM Government (2011), *Laying the Foundations: A Housing Strategy for England* (<http://www.communities.gov.uk/documents/housing/pdf/2033676.pdf>) Accessed 12 March 2012

<sup>2</sup> Department of Work and Pensions (2011); *Additional £30m for local authorities to support tenants in adapted accommodation and foster carers*, (<http://www.dwp.gov.uk/newsroom/press-releases/2011/dec-2011/dwp145-11.shtml>) Accessed 11 March 2012

<sup>3</sup> DCLG (2012), *Statutory Homelessness: October - December Quarter 2011, England*, <http://www.communities.gov.uk/publications/corporate/statistics/homelessnessq42011> Accessed 11 March 2012

<sup>4</sup> Reeve, K., and Batty, E. (2011) *The hidden truth about homelessness: Experiences of single homelessness in England*, Crisis and CRESR.

<sup>5</sup> Reeve, K. (2011), *Squatting: A Homelessness Issue, an evidence review*, Crisis and CRESR

<sup>6</sup> Ministry of Justice, *Options for Dealing With Squatting, Summary of Responses* (Response to Consultation CP12/2011)

According to the government's Final Impact Assessment, these costs are estimated at **£25m over 5 years**,<sup>7</sup> and paid for out of the £350m savings the Bill is intended to achieve.<sup>8</sup>

However, our report shows conclusively that the government has seriously underestimated the financial implications of Clause 136 by failing to quantify some of the key and inevitable costs of criminalisation, such as increased take-up of housing benefit and homelessness rehabilitation. Using government data, conservative cost estimates and a methodology endorsed by a range of academics and legal practitioners (see Endorsements, section 7), we calculate that the true cost to the taxpayer of criminalising squatting in England and Wales could reach a shocking **£790m over five years** – far in excess of the saving intended by the Bill.

Beyond this, Clause 136 as it stands does not clearly define a 'residential property': broadly construed, it could potentially criminalise a further sector of the squatting population in commercial buildings 'adapted' for living. This would act as a significant multiplier for costs outlined here.

SQUASH believes the hidden costs of criminalisation raise serious questions about the reliability of official cost estimates for the rest of the Legal Aid Bill and throw the economic arguments for intervention into serious jeopardy. Without a complete understanding of costs, and a serious attempt to model the likely impact on squatting populations, arguments about economic efficiency are misleading, and all that remains in the Impact Assessment is unevidenced conjecture.

As one of the academic endorsees of this report, Professor Danny Dorling (University of Sheffield) says: 'This report demonstrates how easy it is for government to propose ideologically driven changes to the law without a good idea of how much the huge cost would be.'

What our report also shows is that in a period of austerity, when the 2011-15 budget for building new social housing has been almost halved from the previous four years, the government could be about to divert **£100s of millions taxpayers' money** into criminalising the victims of a housing crisis when it could be spent relieving the waiting list.

The report is divided into two distinct sections. The first section covers the failings of the government's own impact assessment. The second section explores:

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<sup>7</sup> Ministry of Justice (2011), *Options for Dealing with Squatting, Impact Assessment* (IA No: MoJ114) (<http://www.justice.gov.uk/downloads/publications/bills-acts/legal-aid-sentencing/squatting-ia.pdf>) Accessed 8 March 2012

<sup>8</sup> Ministry of Justice (2011) *Reform of Legal Aid in England and Wales: the Government Response*. (<http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-government-response.pdf>) Accessed 12 March 2012. Proposed savings of £350m are mentioned on p.7, para. 3

- i) the estimated savings to the state resulting from squatters using empty homes and subsequently not claiming housing benefit and other government services, and,
- ii) the financial implications of enacting Clause 136 of the Legal Aid, Sentencing and Punishment of Offenders Bill.

In addition to this report, SQUASH have submitted a number of amendments to Clause 136. We outline our two key recommendations at the end of the Executive Summary.

## 1. EXECUTIVE SUMMARY

Clause 136 of the Legal Aid, Sentencing and Punishment of Offenders Bill proposes to criminalise squatting in residential buildings in England and Wales. This report by SQUASH focuses specifically on the enormous and unnecessary financial costs to the UK taxpayer implied by the criminalisation of squatting. We analyse the shortcomings and methodological flaws of the government assessment, estimate the real costs of criminalisation of squatting, and apply those costs to three potential post-criminalisation scenarios. Our conclusions demonstrate an enormous hidden cost to enacting the clause, and our research is endorsed by a range of leading housing academics and legal practitioners (see Endorsements, section 7.)

### 1.1 The government's flawed cost analysis

According to the government's Final Impact Assessment, the costs of criminalising squatting in residential buildings are estimated at **£25m over 5 years**, and paid for out of the £350m savings the Legal Aid Bill is intended to achieve.<sup>9</sup>

However, as we detail in Section 2, SQUASH has found serious flaws, inaccuracies and errors in the methodology and data used in the Impact Assessment that render its cost estimates deeply unreliable and a huge under-statement of the true financial costs. These include:

- A failure to quantify ongoing costs across the public sector caused by squatters being deterred from squatting e.g. costs from the likely mass entry of current squatters into the welfare system, and specifically Housing Benefit take-up.
- Highly dubious estimates of minimum and maximum squatting cases likely to proceed through the Criminal Justice System.
- The absence of a robust model of the population of squatters, including the ability to account for inflow and outflow of that population from squatting over time, and the factors that drive people to squat.

### 1.2 Bringing the hidden costs of criminalisation back in

Accurately modelling the possible cost impacts of as yet unknown behavioural changes from criminalisation is impossible, but as we set out in Section 3, we can create a methodological framework for estimating some of the potential hidden costs of

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<sup>9</sup> Ministry of Justice (2011) *Reform of Legal Aid in England and Wales: the Government Response*. (<http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-government-response.pdf>) Accessed 12 March 2012. Proposed savings of £350m are mentioned on p.7, para. 3

criminalising squatting uncoded or undervalued by the government's impact assessment. For example:

- A relatively simple estimate of the increased costs of housing benefit payments for every squatter deterred from squatting can be derived from the current average national housing benefit award of **£86.98 per week**.<sup>10</sup>
- An approximate increased year-on-year cost to the Criminal Justice System per individual residential squatter criminalised of **£1071.43 per year** can be derived from totalling up the MoJ's estimated total annual costs and dividing by the original number of cases and then again by the presumed number of squatters arrested
- An approximate cost of **£24,950** to rehabilitate each squatter who becomes a rough sleeper as a result of criminalisation can be derived from taking an average of three separate studies

### 1.3 Three post-criminalisation scenarios: best-case, worst-case and most probable

Using the individual costs of criminalisation worked out in section 3, we outline three possible post-criminalisation scenarios for squatting populations of low (20,000 people) and high (50,000 people) magnitude. In the first ('best-case') criminalisation is entirely effective in eradicating residential squatting, resulting in mass entry into the formal housing and welfare system. In the second ('worst-case') criminalisation is entirely ineffective at deterring residential squatting and incurs a large annual cost to the Criminal Justice System. The third, the model we consider most likely, outlines the cost of multiple consequences, including some entry into the welfare system, some squatters displaced into rough sleeping and rehabilitation programmes, and some prosecuted and incurring costs to the Criminal Justice System.

We arrive at some important estimates for the costs of criminalisation through these models:

- Squatting currently saves **£36-90m** a year in housing benefit claims, which would now be claimed if residential squatters were forced into the formal housing market.
- The costs to the Criminal Justice System of full prosecution of squatters in residential properties would be between **£8.6 – £21.4m**, a bill that would recur annually if criminalisation had little deterrent effect.

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<sup>10</sup> DWP (2012), *Housing Benefit and Council Tax Benefit caseload, February* ([http://research.dwp.gov.uk/asd/asd1/stats\\_summary/stats\\_summary\\_feb12.pdf](http://research.dwp.gov.uk/asd/asd1/stats_summary/stats_summary_feb12.pdf)) Accessed 11 March 2012

- Our calculations for the most probable scenario (including costs to CJS, housing benefit, and rehabilitation services for rough sleepers) puts the true annual cost of criminalisation as between **£63.2m** and **£158.1m** annually. Over five years, this amounts to a bill of between **£316.16m** for a low population of squatters, and **£790.39m** for a high population.

## 1.4 Conclusions and Recommendations

The Ministry of Justice's Impact Assessment appears to fundamentally underestimate the burden of enacting Clause 136 on the taxpayer, and this report's suggested **upper costs of £790m** implies a disproportionate financial burden to the public purse considering the scale of the issue. The lack of clarity in the clause over what constitutes a 'residential' property could also act as a significant multiplier on costs outlined here, which work with a narrow definition of its meaning. These true costs suggest that criminalisation solves no problem and simply multiplies the expense to the taxpayer, without tackling the underlying problems of homelessness, shortage of housing stock and increasing house prices, which are the root causes of squatting.

*The recommendations of this report are therefore that:*

- Before proceeding with criminalisation, the government undertake a **full** assessment of associated costs to the public purse, considering especially those areas not adequately addressed in the initial assessment
- In order for costs not to multiply beyond those outlined in this report, that the definition of 'residential' be clearly defined in law to mean Planning Use Categories C3 (dwellings, houses, flats, apartments) and C4 (houses of multiple occupation).

## 2 The Costs of Criminalisation: why the government's sums don't add up

In this section, we discuss the government's Impact Assessment of the costs of criminalising squatting. We first outline the government's assessment, and then explain the cost factors overlooked and not quantified in the assessment, as well as its methodological weaknesses.

### 2.1 The Ministry of Justice's Impact Assessment

Between 13 July and 5 October 2011, the government consulted on five options for 'dealing with squatting' in England and Wales.<sup>11</sup> SQUASH has noted previously that the government ignored that over 90% of responses were opposed to taking any action, and criticised the failure of government to properly acknowledge the avenues of legal redress available to property owners.<sup>12</sup> By way of summary, these five options were as follows:

**Option 0:** Do nothing

**Option 1:** Create a new criminal offence of squatting in all 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 the enforcement of existing offences

The government subsequently made clear its preference for an amended Option 1a - creating a new criminal offence of squatting in all residential buildings.

On 26 October 2011, the Ministry of Justice produced its final Impact Assessment setting out the estimated costs and savings of pursuing these various forms of criminalisation.<sup>13</sup> The government's preferred option 1a to criminalise squatting in residential buildings would result in **increased costs to the Criminal Justice System of between £1m (low) and £9m (high) per year, with a best estimate of £5m per year. This would amount to between £5m (low) and £45m (high) over 5 years, with a best estimate of £25m.**

These figures were arrived at using the following main assumptions and break downs:

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<sup>11</sup> Ministry of Justice (2011), *Options for Dealing with Squatting, Consultation Paper* (CP12/2011)

<sup>12</sup> SQUASH Campaign, 'Government 'bypasses democracy' to sneak through anti-squatting laws' (October 26 2011) (<http://www.squashcampaign.org/2011/10/government-bypasses-democracy-to-sneak-through-anti-squatting-laws/>) Accessed 11 March 2012

<sup>13</sup> Ministry of Justice (2011), *Options for Dealing With Squatting, Impact Assessment* (IA No: MoJ114)

Table 1

	Squatters criminalised per year	Costs on Criminal Justice System per year
Low Estimate (£1m)	680 squatters in residential buildings are arrested per year of which 50% are cautioned (or other out-of-court disposal) and 50% are charged, prosecuted and convicted	Police: £0.3m Crown Prosecution Service: £0.1m HM Courts & Tribunals Service: £0.2m Legal Services Commission: £0.1m Prisons: negligible Probation: negligible
High Estimate (£9m)	8400 squatters in residential buildings are arrested per year of which 50% are cautioned (or other out-of-court disposal) and 50% are charged, prosecuted and convicted	Police: £3.6m Crown Prosecution Service: £0.6m HM Courts & Tribunals Service: £2.8m Legal Services Commission: £1.5m Prisons: £0.4m Probation: £0.1m

In summary, the Impact Assessment identified that criminalisation would have both one-off costs across the CJS to ensure “familiarisation with the new offence” such as training and guidance, and ongoing year-on-year costs over 10 years in terms of more police time and resources to carry out evictions, arrests, detention and providing evidence, an increased caseload for the CPS, an increased demand for Magistrate court services, a larger prison population and take-up of post-sentence probation services, and more squatters receiving legal aid to contest their prosecution.

As a rule, final Impact Assessments must represent “a fair and reasonable view of the expected costs, benefits and impact of the policy” and demonstrate that “the benefits justify the costs”.<sup>14</sup> Moreover, departmental chief economists must also sign off Impact Assessments for the robustness and accuracy of the costs, benefits and impact analysis at the different stages of policy development. In short, the Impact Assessment of criminalising squatting is supposed to contain evidence-based analysis of the feasibility of pursuing legislative intervention.

However, SQUASH has found serious flaws, inaccuracies and errors in the methodology and data used in the Impact Assessment that render its cost estimates deeply unreliable and a huge under-statement of the true financial costs. As we set out in section 4, SQUASH believes these costs are likely to run to between **£316m and £790m** over 5 years.

## 2.2 Missing cost factors in the Impact Assessment

<sup>14</sup> HM Government (2011), Impact Assessment Guidance: When to do an impact assessment <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1111-impact-assessment-guidance.pdf>, accessed 8 March 2012

There are four main types of increased direct monetary costs to the public purse as a result of criminalisation that the Impact Assessment does not quantify and makes no attempt to:

- one-off costs for all affected parties associated with familiarisation with the new offence e.g. to the police in training/issuing guidance on the new offence
- ongoing costs across the public sector (local authorities, GP services, the police and the NHS) caused by squatters being forced to become rough sleepers with adverse effects on their health and well-being
- ongoing costs to local authorities in terms of providing alternative accommodation and/or voluntary or statutory homelessness services to squatters that are deterred from squatting and declare themselves to be homeless or in need of social housing
- ongoing costs to the social security budget as a result of squatters now claiming housing benefit and other benefits

The most significant absence in the Impact Assessment is a cost estimate of the likely mass entry of current squatters into the welfare system, and specifically Housing Benefit take-up. Over the past decade, the housing benefit bill has doubled, from approximately £11bn in 2000/01 to £22bn in 2010/11. This increase underpins the government's justification for reforms to housing benefit and, in particular, Local Housing Allowance (LHA).<sup>15</sup>

Squatting currently represents a **substantial saving** for the Housing Benefit bill. If, as intended, criminalisation leads either to deterrence or rehabilitation, the Housing Benefit bill will inevitably increase. We have calculated this cost to be between **£36 million and £90 million a year**. While such costs may not be unwarranted, they are entirely uncoded in either the impact assessment of criminalising squatting or in the DWP's Impact Assessment of Housing Benefit reforms.<sup>16</sup>

So, by how much could housing benefit costs increase as a result of criminalisation?

As we detail in section 3, a relatively simple and conservative estimate of increased housing benefit awards per squatter can be derived using the national average housing benefit award – currently £86.98 per week as of February 2012.<sup>17</sup>

In addition, criminalisation could also place increased costs on charities in terms of food, shelter and other services that could eventually feed through into increased demands on the Exchequer. Again, none of these costs are quantified.

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<sup>15</sup> DWP (2010), *Housing Benefit: Changes to the Local Housing Allowance Arrangements, Impact Assessment* (<http://www.dwp.gov.uk/docs/lha-impact-nov10.pdf>) Accessed 8 March 2012

<sup>16</sup> DWP (2010), *Housing Benefit: Changes to the Local Housing Allowance Arrangements, Impact Assessment, November* (<http://www.dwp.gov.uk/docs/lha-impact-nov10.pdf>) Accessed 11 March 2012

<sup>17</sup> DWP (2012), *Housing Benefit and Council Tax Benefit caseload, February*

These omissions in the Impact Assessment partly reflect the difficulties in predicting the likely behavioural responses of squatters, property owners and the general public to a post-criminalisation environment, and partly reflect the Ministry of Justice’s own ‘uncertainties around the true extent of squatting, as well as the extent to which any new measures will be applied in practice’.<sup>18</sup>

However, as we show in relation to housing benefit, SQUASH believes that costs can be estimated for many of these omissions, and we do so in sections 3 and 4 of this report.

## 2.3 Methodological flaws in the official impact assessment model

The failure of the Ministry of Justice to quantify already-identified costs is only part of the problem with the model used in the official impact assessment.

### *Unreliable squatter population estimates*

The impact assessment bases its estimated costs to the Criminal Justice System on a highly dubious estimate of the minimum and maximum number of individual squatters likely to be arrested and either cautioned or prosecuted and convicted per year under the new law. Table 2 sets out the MOJ’s main methodology.

Table 2

	Squatters criminalised per year	MOJ Assumptions
Low Estimate (£1m)	680 squatters in residential buildings are arrested per year of which 50% are cautioned (or other out-of-court disposal) and 50% are charged, prosecuted and convicted	This estimate is based on the assumption that 170 residential squatting incidents would be brought into the CJS per year. This figure is arrived at by first taking the average annual number of Interim Possession Orders (IPO) applied for by property owners in the county courts of England and Wales between 2006 and 2010 – 340 – and then assuming that 50% of these IPOs relate to residential property. It is further assumed that for every residential squat there will be an average of 4 squatters. In sum, 170 cases x 4 squatters = 680 squatters criminalised per year

<sup>18</sup> Para.2.3, Ministry of Justice (2011), *Options for Dealing with Squatting, Impact Assessment* (IA No: MoJ114) (<http://www.justice.gov.uk/downloads/publications/bills-acts/legal-aid-sentencing/squatting-ia.pdf>) Accessed 8 March 2012

<p>High Estimate (£9m)</p>	<p>8400 squatters in residential buildings are arrested per year of which 50% are cautioned (or other out-of-court disposal) and 50% are charged, prosecuted and convicted</p>	<p>This estimate is based on assumption that 2100 residential squatting incidents would be brought into the CJS per year. This figure is arrived at by first taking the average annual number of Final Possession Orders (FPO) applied for by property owners in the county courts of England and Wales between 2005 and 2010 - 4200 - and then assuming that 50% of these FPOs relate to residential property. It is further assumed that for every residential squat there will be an average of 4 squatters. In sum, 2100 cases x 4 squatters = 8400 squatters criminalised per year.</p>
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There are **four** main problems with a model that predicts the number of future criminal squatting cases using existing possession order applications by property owners.

**First**, as the MOJ itself states, the ‘impacts are driven by behavioural changes which are uncertain’ (IA 2.2). This behavioural uncertainty extends beyond squatters to the reaction of landlords, the police and the general public, and thus makes it almost impossible to use existing trends as a guideline for future action.

**Second**, under the proposed new legal environment governing residential squatting, property owners will no longer be the central actor in initiating legal proceedings. By making squatting a criminal offence, the police will be expected to evict and/or arrest squatters independently of the property owner, and a variety of other actors, including the general public, will be able to report squatters to the police, initiating action. A model which depends upon the current actions of owners to calculate future CJS costs where owner actions will not be as decisive is unreliable and bound to understate future cases. In short, the number of squatting cases likely to be brought before the criminal justice system will be far higher than the current possession order data suggests.

**Third**, following on from this point, the only logical conclusion to draw about the future effects of criminalisation is that, for the first time, the entire residential squatter population in England and Wales could be brought into the Criminal Justice System at some point in time. The size of this population is currently unknown due to a lack of official data and research. The government says the extent of squatting is unknown but has frequently referred to an estimate of 20,000 squatters in England and Wales at any one time largely concentrated in major urban areas.<sup>19</sup> Other studies dating back to the early 1990s put forward estimates of 50,000 squatters<sup>20</sup>, while one academic response to the recent

<sup>19</sup> Ministry of Justice (2011), *Options for Dealing with Squatting, Consultation Paper* (CP12/2011)

<sup>20</sup> See Wilson, W (1994) ‘*Policy on Squatting in the Criminal Justice and Public Order Bill [Bill 9 of 1993/4]*’, (House of Commons Library Research Paper 94/2) for an overview. The high population estimate is cited in multiple studies as a maximum estimate, and is first used in Moore, Jeanne (et al.) (1991), *Faces of Homelessness* (University of Surrey)

consultation on squatting suggested that at least 12,000 single homeless people could be squatting at any one time, a figure that some homeless charities believed to be an underestimate.<sup>21</sup> Additionally, the Metropolitan Police suspect the number of squats in London to be 'significantly higher than the reported figure.'<sup>22</sup> Whatever the figure – 12,000, 20,000 or 50,000 – these numbers would create a significant multiplier on the costs borne by the taxpayer under criminalisation than at present.

**Fourth**, the MOJ's assumption that incidents of squatting divide evenly between residential and commercial buildings is not justified by any evidence and appears an arbitrary and unsafe proposition. In reality they may skew disproportionately in either direction. Earlier research has demonstrated a high incidence of squatting in residential properties, but redevelopment, rent rises, repair of housing stock and changes in urban landscape make it difficult to adequately assess the types of buildings currently squatted (and thus accurately model costs) without further research.

Beyond this, the clause as it stands does not clearly define a 'residential property': broadly construed, it could potentially criminalise a further sector of the squatting population in commercial buildings 'adapted' for living. This would act as a significant multiplier for costs outlined here.

### *The absence of a dynamic population-based model*

What the above shows conclusively is that using existing possession order applications by property owners is not a sufficient evidentiary basis for assessing the outcomes of a change in the law: it is not a reliable indicator for the likely incidence of criminal charges, nor does it shed any light on the costs incurred on the public purse by former squatters when they move into the rental market, onto social housing waiting lists, or onto the streets.

This weakness links to a more fundamental problem with the government's impact assessment methodology, namely the absence of a robust model of the population of squatters, including the ability to account for inflow and outflow of that population from squatting over time, and the factors that drive people to squat. Squatters are not a static population. Rather, squatting is a response to a housing issue. Without addressing the causes of squatting and the supply dynamics, it is impossible to model the economic consequences of a legislative intervention to criminalise squatting.

To be truly evidence-led, an assessment ought to look at the concentration of squatters in urban centres, the impact of criminalisation on welfare bills and service provision, the costs of eviction operation, legal proceedings, rehabilitation and rehousing per squatter

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<sup>21</sup> p.15, Ministry of Justice (2011), *Options for Dealing with Squatting*. Response to the Consultation (CP12/2011), (<http://www.justice.gov.uk/downloads/consultations/options-dealing-squatting-response.pdf>), accessed 10 March 2012

<sup>22</sup> Ministry of Justice, *Options for dealing with squatting, Response to Consultation*. (October 2011) p.16

and be able to demonstrate trends in squatters' behaviour over time. These would be the minimum sufficient criteria for a clear explanation of the costs of criminalisation. Only a model of costs that is scalable between population estimates, and takes into account broad social and economic trends in its costing can truly claim to have fully analysed the likely expense to taxpayers and the strain that could be put on existing service provision.

### 3 Towards the true costs of criminalisation

Accurately modelling the possible cost impacts of as yet unknown behavioural changes from criminalisation is impossible, and SQUASH does not have the resources to undertake research of this scale. However, having consulted with academics and practitioners in the field of housing and property law, SQUASH believes that the best way to model population trends in a case where no comprehensive data exist on that population is to estimate a potential cost per individual, and scale that figure into broader population scenarios, taking into account potential limiting factors for each scenario. To this end, we have created a methodological framework for estimating some of the potential hidden costs of criminalising squatting uncostered or undervalued by the government's impact assessment. This section explains how we have estimated these individual costs in three key areas - housing benefit, eviction and prosecution, and rehabilitation and rehousing.<sup>23</sup> The figures

#### 3.1 Estimating increased Housing Benefit costs per ex-squatter

As explained above, one probable impact of criminalisation will be to increase the number of ex-squatters claiming housing benefit, a cost factor that has not been quantified by government.

A relatively simple estimate of the increased costs of housing benefit payments per squatter can be modelled using the current average national housing benefit award of £86.98 per week.<sup>24</sup>

Table 3

Average Weekly Housing Benefit Awards per claimant, UK	Monthly Cost per claimant (Individual, per month)	Annual cost per claimant (individual, per year)
£86.98	£376.91	£4522.92

<sup>23</sup> Figures may not add up exactly due to rounding.

<sup>24</sup> DWP (2012), *Housing Benefit and Council Tax Benefit caseload, February* ([http://research.dwp.gov.uk/asd/asd1/stats\\_summary/stats\\_summary\\_feb12.pdf](http://research.dwp.gov.uk/asd/asd1/stats_summary/stats_summary_feb12.pdf)) Accessed 11 March 2012

While not perfect, the national weekly average award helps to average out variations across regions, tenure and specific claimant groups (e.g. single under-35s who receive lower housing benefit to rent in the private sector than other households). The reforms to LHA will affect this average but there is no evidence yet available to suggest by how much.

Furthermore, the average weekly award is likely to **significantly underestimate the eventual housing benefit awards to ex-squatters** given the concentration of squatters in higher rental areas<sup>25</sup> and the high probability that they will qualify for maximum benefit given their low income levels. This estimate also does not include the likely receipt of Council Tax Benefit nor the administrative costs to both local authorities and the DWP of an increased caseload.

### **3.2 Estimating increased costs on the Criminal Justice System per squatting case**

The Impact Assessment only assesses the costs of criminalisation to the Criminal Justice System on a per-case rather than per-squatter basis.<sup>26</sup> Although not ideal, we have derived an approximate figure of the increased year-on-year costs to the Criminal Justice System per individual residential squatter criminalised from the government's own cost assumptions in its high-end estimate of 2100 criminal residential squatting cases per year.

The MoJ assumes that on average 4 squatters live in a residential squat, which would result in 8400 arrests, and that this would lead to 4200 cautions and 4200 successful prosecutions of which 3% lead to an average prison sentence of 2.5 months.

No attempt to calculate initial one-off costs (impacting the Police most significantly) has been made.

By totalling up the MoJ's estimated total annual costs and dividing by the original number of cases, we arrive at a crude but still useful average cost per residential squatter criminalised of **£1071.43**.

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<sup>25</sup> Wilson, Wendy, *Policy on Squatting in the Criminal Justice and Public Order Bill [Bill 9 of 1993/4], Research Paper 94/2*, 1994, p.3 – gives 90% of total squats as being located in London, with Southwark, Lambeth and Hackney accounting for 65% of the national total.

<sup>26</sup> The cost estimations provided by each part of the CJS to the consultation have not been available for review, and it has been difficult for SQUASH to provide individual costing per squatter on this basis. Given the variable numbers of occupants in a residential property, it would be impossible to calculate a reasonable figure per defendant without access to further data. This means there may be single or multiple defendants per case, with varying costs. However, this averages out between cases.

Table 4: Criminal Justice System costs

CJS Agency	Total Annual Costs	Number of cases	Average cost per squatting case	Average cost per squatter arrested
Police	£3.6m	2100	£1714.29	£428.57
Crown Prosecution Service	£0.6m	2100	£285.71	£71.43
HM Courts & Tribunal Service	£2.8m	2100	£1333.34	£333.34
Legal Services Commission	£1.5m	2100	£714.28	£178.57
Prisons and Probation Services	£0.5m	2100	£238.10	£59.53
<b>TOTAL</b>	<b>£9m</b>	<b>2100</b>	<b>£4285.71</b>	<b>£1071.43</b>

### 3.3 Estimating rehabilitation costs

The Impact Assessment makes little attempt to quantify the costs of an increase in rough sleeping and associated rehabilitation costs to local authorities (IA 2.22, 2.26) or increased demand on homelessness charities (IA 2.23) lacking a concomitant rise in charitable funding. Squatting currently reduces demand on these services: 40 per cent of those currently homeless have squatted in order to have off-street housing.<sup>27</sup>

SQUASH has arrived at an approximate cost of **£24,950** of rehabilitating each rough sleeper using the sources tabulated below.

Table 5: Costs of Rehabilitation

Source	Cost per person	Includes
'Work it out – barriers to employment for homeless people', New Economics Foundation, 2009.	£26000	Cost of benefits, hostel accommodation, and care of children.

<sup>27</sup> Reeve, Kesia (2011) *Squatting: A Homelessness Issue, an evidence review*; Crisis and CRESR

Source	Cost per person	Includes
'MEAM: a four-point manifesto for tackling multiple needs and exclusions', MEAM, 2009	£24350	Broken down into hospital costs £150; drug treatment £3,000; medication £400; day centre services £1,800; and accommodation and support £19,000)
'How Many, How Much'; New Policy Institute, 2003	£24500	Cost of a failed tenancy, temporary accommodation, outreach and advice services, health and criminal justice services, and resettlement.
Average (used in the SQUASH analysis)	<b>£24950</b>	

#### 4 Three post-criminalisation scenarios.

As outlined in Section 2.3 above, SQUASH believes it is impossible to accurately model the costs of criminalisation without an adequate model of squatting populations, including a model of population flows into and out of squatting over time. To treat squatting as an activity of a static population, rather than a function of other housing factors leading to homelessness, is to fail to account for the likely costs of criminalisation, and its impact on benefit, criminal justice and rehabilitation services. It is impossible to produce such a complex model without further research.

However, SQUASH has provided three scenarios drawing on our analysis of the hidden costs of criminalisation. These scenarios are not attempts at deriving a perfect, dynamic model of the squatting population, but present a best-case scenario, a worst-case scenario and a most probable scenario based on our current understanding of squatting.

Our scenarios use government assumptions about the proportionality of residential to commercial squatting, caution vs. prosecution and custody rates (see Table 2). They each offer a low estimate – based on a population of 20,000 squatters in England and Wales at any point in time – and a high estimate – based on a population of 50,000 squatters. These low and high estimates are the best-recognised and most widely cited population estimates.<sup>28</sup>

<sup>28</sup> See Section 2.3 above.

Our scenarios are designed to present threshold costs so as to focus the discussion of criminalisation in terms of its possible consequences for the public purse. We have not factored in several intangibles, which include (but are not limited to): the likelihood of increased squatting in commercial rather than residential properties, the effect of criminalisation on a disproportionately young population and subsequent lost opportunities, the efficacy and capacity of policing and prosecution services, the possibility of resistance to eviction, the likelihood of benefit claims during the initial prosecution period, the effect of cuts to Local Housing Allowance in increasing the number of rough sleepers and those seeking rehabilitation services. We have also assumed that all government agencies act with perfect efficiency.

Note that all of these scenarios also assume a relatively constrained, narrow definition of 'residential' property. Clause 136 as it stands does not define the meaning of 'residential', and it is possible (if the meaning is construed broadly) that squatting in buildings 'adapted' for living could also result in criminal charges. Were this to be the case, it would act as a significant multiplier to the costs outlined here. We have chosen, however, to remain conservative in our estimates and present scenarios under a narrow definition of 'residential'.

#### **4.1 Best-case scenario – criminalisation eradicates residential squatting and pushes all squatters into the formal housing and welfare system**

In our best-case scenario, we assume that the government's legislation achieves its objectives in full with the following outcomes: all current squatters in residential buildings are evicted, arrested and either cautioned or prosecuted in Year 1; all current residential squatters move into rented accommodation where they are likely to claim full Housing Benefit; and further squatting in such buildings is deterred after Year 1. We use the following assumptions:

- The increased costs to the Criminal Justice System are incurred only in Year 1 as all future squatting in residential property is assumed to be deterred.
- The increased Housing Benefit costs are smaller for Year 1 than compared to Years 2-5. We assume that in each month of Year 1 (the first year of the squatting law) a 12<sup>th</sup> of the residential squatters are evicted and begin claiming housing benefit at the start of the following month, meaning that the housing benefit bill will rise each month, and that squatters evicted in Month 12 will start claiming in Year 2. For Years 2-5, the previously constant residential squatter population size is now assumed to be claiming housing benefit.
- There are no rehabilitation costs because residential squatters are assumed to pass from squats into the formal housing system and not become rough sleepers.

- We assume a relatively static population of squatters. This assumes that those who would cease claiming housing benefit are replaced by an influx of people who would squat in the present legal landscape, but are forced under criminalisation to claim housing benefit instead.
- Our costs rest on the framework of costs set out in section 3 which include MoJ assumptions (see 3.3 above).

This model is then applied to low and high estimates of the squatting population.

*Table 6: Best-case scenario (low population – 20,000 squatters)*

Costs	Y1	Y2	Y3	Y4	Y5	Total
CJS	£8.57m	nil	nil	nil	nil	£8.57m
Housing Benefit	£16.59m	£36.18m	£36.18m	£36.18m	£36.18m	£161.32m
<b>TOTAL</b>	<b>£25.09m</b>	<b>£36.18m</b>	<b>£36.18m</b>	<b>£36.18m</b>	<b>£36.18m</b>	<b>£169.89m</b>

*Table 7: Best-case scenario (high population – 50,000)*

Costs	Y1	Y2	Y3	Y4	Y5	Total
CJS	£21.43m	nil	nil	nil	nil	<b>£21.43m</b>
Housing Benefit	£41.46m	£90.46m	£90.46m	£90.46m	£90.46m	<b>£403.3m</b>
<b>TOTAL</b>	<b>62.89m</b>	<b>£90.46m</b>	<b>£90.46m</b>	<b>£90.46m</b>	<b>£90.46m</b>	<b>£424.72m</b>

In summary, if squatting in residential property is criminalised, and legislative intervention achieves the stated aim of deterring squatters from squatting residential properties, then the potential costs to the criminal justice system and housing benefit can be expected to rise, depending on the population of squatters by between **£169 million** to **£424 million** over five years.

## **4.2 Worst-case scenario – criminalisation has no impact on residential squatting**

In our worst-case scenario, we assume that the government’s legislation fails entirely in its objectives with the following outcomes: all residential squatters are evicted, arrested and either cautioned or prosecuted in Year 1; this fails to deter squatters from occupying

residential property and they return to squatting after prosecution and punishment, resulting in a repeat cycle of criminalisation and an ongoing annual increase in costs to the Criminal Justice System. We use the following assumptions:

- The increased costs to the Criminal Justice System are incurred every year after criminalisation because squatting in residential property is not deterred.
- There are no increased Housing Benefit costs because squatters remain in squats and do not enter the formal housing and welfare system
- There are no rehabilitation costs because residential squatters are assumed to remain in squats and not become rough sleepers
- We assume a relatively static population of squatters. This assumes that those who would cease squatting are replaced by a new influx of squatters undeterred by criminalisation.
- Our costs rest on the framework of costs set out in section 2 which include MoJ assumptions (see 2.3 above).

This model is then applied to low and high estimates of the squatting population.

*Table 8: Worst-case scenario (low population – 20,000 squatters)*

Costs	Y1	Y2	Y3	Y4	Y5	Total
CJS	£8.57m	£8.57m	£8.57m	£8.57m	£8.57m	£42.86m

*Table 9: Worst-case scenario (high population – 50,000)*

Costs	Y1	Y2	Y3	Y4	Y5	Total
CJS	£21.43m	£21.43m	£21.43m	£21.43m	£21.43m	£107.14m

In summary, if criminalisation does not deter squatters from squatting in residential buildings, then we model a rise in costs to the the Criminal Justice System, recurrent year-on-year, of between **£42 million** to **£107 million** over five years.

### **4.3 Most probable scenario: residential squatting is reduced but not eradicated and squatters respond in different ways**

In reality, it is highly unlikely that either the best-case or the worst-case scenarios would follow criminalisation. Instead, in SQUASH's view, a view backed by academics and legal experts, a more probable scenario is one in which criminalisation brings *some* residential squatters into the Criminal Justice System but not *others* due to the short-term mobile nature of squats and squatters and a lack of detection. Similarly, while *some* squatters will be deterred from squatting residential buildings and might enter the formal housing and welfare system, *others* will continue to squat and *others* still will be displaced on to the streets as rough sleepers.

In order to give a sense of how these various behavioural patterns might feed into increased costs to the taxpayer, below we set out what SQUASH sees as the 'most probable scenario' from criminalisation.

We assume that in each year, 50 percent of the residential squatting community is criminalised and enters into the Criminal Justice System, while 50 percent evade detection. Of the total population of squatters in residential buildings, we further assume that:

- 25% (half of those detected) are deterred from squatting again and enter the formal housing and welfare system claiming housing benefit
- 25% (half of those detected) become rough sleepers and are rehabilitated within 1 year
- 50% are undeterred and continue squatting
- Our costs rest on the framework of costs set out in section 2 which include MoJ assumptions (see 2.3 above).

**NOTE:** We do not believe this to be a perfect, dynamic model of the squatting population. People move into and out of squatting frequently, and we do not account for possible fluctuation in population. We have assumed a constant latent squatting population in order to model the financial consequences of deterrence. In this respect, the model could overstate some of the costs. However, we have also used a conservative estimate of the housing benefit costs (not accounting for the multiple other allowances former squatters are likely to claim) and disincluded a number of other costs likely incurred by former squatters. This means it is likely our probable scenarios below ultimately understate the total costs.

Table 10: Most probable scenario (low population – 20,000 squatters)

Costs	Y1	Y2	Y3	Y4	Y5	Totals
CJS	£4.29m	£4.29m	£4.29m	£4.29m	£4.29m	<b>£21.43m</b>
Housing Benefit	£9.05m	£9.05m	£9.05m	£9.05m	£9.05m	<b>£45.23m</b>
Rehabilitation	£49.9m	£49.9m	£49.9m	£49.9m	£49.9m	£249.5m
<b>TOTAL</b>	<b>£63.23m</b>	<b>£63.23m</b>	<b>£63.23m</b>	<b>£63.23m</b>	<b>£63.23m</b>	<b>£316.16m</b>

Table 11: Most probable scenario (high population – 50,000)

Costs	Y1	Y2	Y3	Y4	Y5	Total
CJS	£10.71m	£10.71m	£10.71m	£10.71m	£10.71m	£53.57m
Housing Benefit	£22.62m	£22.62m	£22.62m	£22.62m	£22.62m	£113.07m
Rehabilitation	£124.75m	£124.75m	£124.75m	£124.75m	£124.75m	£623.75m
<b>TOTAL</b>	<b>£158.08m</b>	<b>£158.08m</b>	<b>£158.08m</b>	<b>£158.08m</b>	<b>£158.08m</b>	<b>£790.40m</b>

In summary, this scenario (which SQUASH considers a model of the most probable consequences of criminalisation) takes into account the likely concurrence of some of the potential costs outlined above: certain portions of the squatting population deterred from squatting and thus likely to either claim housing benefit, or become rough sleepers and then enter into rehabilitation programmes. At the same time, some squatters are undeterred from squatting and continue to squat in residential buildings, thus incurring an added annual cost to the Criminal Justice System. Depending on estimates of the squatting population, this costs the public purse **£316 million** to **£790 million** over five years.

#### 4.4 What do these scenarios tell us about the true costs of criminalising squatting?

The scenarios explained above demonstrate clearly the inadequacy of the government's assessment of the cost of criminalising squatting. The failure to model squatting populations as people with housing needs, and squatting as a response to a housing and

homelessness problem, means there are substantial costs to criminalisation unaccounted for in the government's impact assessment. According to our models, squatting currently **saves** the taxpayer **£36 million to £90 million** annually in housing benefit costs (Section 4.1). According to SQUASH's most probable scenario (Section 4.3), which draws on the figures reached by considering both best- and worst-case scenarios, and models the squatting population as likely to respond in *multiple* ways to criminalisation, the true costs of criminalising squatting are likely to range between **£316 million** and **£790 million** over five years. This figure is vastly in excess of the annual **£5m** suggested by the Impact Assessment. The upper ceiling of possible costs, further, only applies if the law is constrained strictly to a narrow definition of 'residential' properties; however, the clause as it stands could (if broadly construed) extend the category of 'residential' to any property 'adapted' to living. If this were to be the case, the costs in this report would be significantly multiplied. SQUASH has consistently argued that squatting is a consequence of a crisis in housing, and the criminalisation of squatting can be seen to inflict the cost of that crisis on the public purse.

We continue to believe that this legislation has been rushed, improperly costed and poorly thought-through. The two chief recommendations of this report are therefore as follows:

- Before proceeding with criminalisation, the government undertake a **full** assessment of associated costs to the public purse, considering especially those areas not adequately addressed in the initial assessment
  
- In order for costs not to multiply beyond those outlined in this report, that the definition of 'residential' be clearly defined in law to mean Planning Use Categories C3 (dwellings, houses, flats, apartments) and C4 (houses of multiple occupation).

## 5. SQUASH's Scenario calculations

This section should be read in conjunction with sections 3 and 4 of the report.

### 5.1 Key cost assumptions used in our calculations

Housing benefit costs

Average Weekly Housing Benefit Awards per claimant, UK	Monthly Cost per claimant (Individual, per month)	Annual cost per claimant (individual, per year)
£86.98	£376.91	£4522.92

Criminal Justice System costs

Total Annual Costs	Number of cases	Average cost per squatting case	Average cost per squatter arrested
£9m	2100	£4285.71	£1071.43

Costs of Rehabilitation

Source	Cost per person
Average of three studies - New Economics Foundation (2009), MEAM (2009) and New Policy Institute (2003)	£24950

### 5.2 Calculations in each scenario

#### Best-case scenario (low population - 20,000 squatters)

40% are assumed to be residential = 8000 squatters

Year 1 CJS costs = £8,571,440 (8000 x £1071.43)

Year 1 Annual Housing Benefit Cost = £16,584,039.99

- No. of new squatters who claim housing benefit each month =  $8000 / 12 = 666.6$
- Additional monthly housing benefit bill (months 2-12) = £251,273.3 ( $[666.6 \times £376.91]$ )
- Total over Year 1 =  $([666.6 \times £376.91] + [666.6 \times 2 \times £376.91] + [666.6 \times 3 \times £376.91] + [666.6 \times 4 \times £376.91] + [666.6 \times 5 \times £376.91] + [666.6 \times 6 \times £376.91] + [666.6 \times 7 \times £376.91] + [666.6 \times 8 \times £376.91] + [666.6 \times 9 \times £376.91] + [666.6 \times 10 \times £376.91] + [666.6 \times 11 \times £376.91]) = £16,584,039.99$

Years 2-5 Annual Housing Benefit Bill = £36,183,360 (8000 x £4522.92)

**Best-case scenario (high population - 50,000 squatters)**

40% are assumed to be residential = 20,000 squatters

Year 1 CJS costs = £21428600 (20,000 x £1071.43)

Year 1 Annual Housing Benefit Cost = £41460099.97

- No. of new squatters who claim housing benefit each month = 20,000 / 12 = 1666.6
- Additional monthly housing benefit bill = £628158.21 (1666.6 x £376.91)
- Total over Year 1 = ([1666.6 x £376.91] + [1666.6 x 2 x £376.91] + [1666.6 x 3 x £376.91] + [1666.6 x 4 x £376.91] + [1666.6 x 5 x £376.91] + [1666.6 x 6 x £376.91] + [1666.6 x 7 x £376.91] + [1666.6 x 8 x £376.91] + [1666.6 x 9 x £376.91] + [1666.6 x 10 x £376.91] + [1666.6 x 11 x £376.91]) = £41460099.97

Years 2-5 Annual Housing Benefit Bill = £90458400 (20000 x £4522.92)

**Worst-case scenario (low population - 20,000 squatters)**

40% are assumed to be residential = 8000 squatters

Annual CJS costs = £8,571,440 (8000 x £1071.43)

**Worst-case scenario (high population - 50,000 squatters)**

40% are assumed to be residential = 20,000 squatters

Annual CJS costs = £21428600 (20,000 x £1071.43)

**SQUASH's Most Probable Scenario (low population - 20,000 squatters)**

40% are assumed to be residential = 8000 squatters

50% are detected = 4000 squatters (8000 x 0.5) enter CJS.

Annual Criminal Justice Cost = £4285720 (4000 x £1071.43)

25% become rough sleepers and are rehabilitated within one year = £49900000 ([8000 x 0.25] x £24950)

25% claim Annual Housing Benefit = £9045840 ([8000 x 0.25] x 4522.92)

**SQUASH's Most Probable Scenario (high population - 50,000 squatters)**

40% are assumed to be residential = 20,000 squatters.

50% are detected = 10,000 squatters enter Criminal Justice System

Annual Criminal Justice Cost = £10714300 (10000 x £1071.43)

25% become rough sleepers and are rehabilitated within one year = £124750000 ([20000 x 0.25] x £24950)

25% claim Annual Housing Benefit = £22614600 ([20000 x 0.25] x 4522.92)

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## 7. Endorsements

"This report demonstrates how easy it is for government to propose ideologically driven changes to the law without a good idea of how much the huge cost would be. This is not just the cost in raising aggregate human misery, but also in direct extra financial penalties to the exchequer. If considered carefully, spending so much government money to help what are mostly very affluent organisations keep buildings empty is not justifiable."

– **Professor Danny Dorling**, University of Sheffield

"This report presents overwhelming and robust evidence that the Coalition's criminalisation of squatting is misguided, illogical and likely to cause significant social suffering. I urge policy officials to read it carefully and think of squatting within the wider context of a long-term affordable housing crisis in the UK."

– **Dr Tom Slater**, Edinburgh University

"I have absolutely no hesitation in endorsing the evidence and conclusions of the SQUASH report. If this Bill is passed, never will so much public money have been spent attempting – and failing - to solve such an innocuous social phenomenon. At a time of eye-watering cuts to public budgets and welfare, and an unprecedented crisis of affordability in the housing system, why risk wasting £790m on criminalising 50,000 homeless people? Think what £790m could do if allocated to the local authorities to spend on new social rented housing."

– **Dr Stuart Hodkinson**, University of Leeds

"This critique of the government's Impact Assessment of the likely costs of criminalising squatting is thorough and robust, based on detailed and up to date data. It exposes the poor analysis which unfortunately we have come to expect from many of the Coalition's populist policy initiatives. Failure to factor in the costs of welfare benefits and rehabilitation for those who squat as an alternative to sleeping on the streets, results from a failure to appreciate their circumstances. Not only is criminalisation an inappropriate response, the SQUASH report reveals that the true cost will be many times more expensive than the government's estimate."

–**Dr Sarah Blandy**, Reader in Property Law, School of Law, University of Leeds

"This report sets out a convincing financial argument against the criminalisation of squatting, adding compelling new evidence to the case against this unnecessary and damaging piece of legislation"

– **Dr Quintin Bradley**, Associate Senior Lecturer in Housing Studies, Leeds Metropolitan University

"Criminalising squatters penalises the homeless and puts more people on the streets. That's sufficient reason to oppose the proposal. It's also a false economy as this report shows."

– **Liz Davies**, barrister and co-author, *Housing Allocation and Homelessness, Law and Practice*