



Squatters' Action For Secure Homes

Homes, Not Jails

28-Month Review of Section 144 of the
Legal Aid, Sentencing, and Punishment of Offenders Act
April 2015

Executive Summary

Squatters' Action for Secure Homes (SQUASH) undertook a six-month review of Section 144 of the Legal Aid, Sentencing, and Punishment of Offenders Act (s144 LASPOA) in March 2013, in a report entitled "The Case Against Section 144"¹. The report filled a huge void in information on the implementation of the new law which criminalised squatting in residential properties, since no such report was forthcoming from any Government department.

SQUASH was concerned that s144 LASPOA was disproportionately affecting homeless and vulnerable people, by sending unhoused people to prison during an escalating housing crisis. "The Case Against Section 144" had four key messages, that s144 LASPOA was:

- 1) **Undemocratic** since this new criminal law had an unusually short parliamentary process, and the consultation process was ignored;
- 2) **Unjust** since it ignored the irrefutable link between squatting and homelessness;
- 3) **Unnecessary** since displaced residents were already protected under the Criminal Law Act 1977; and
- 4) **Unaffordable**, because it transferred the social and financial costs of eviction from private owners to the ever-shrinking public purse.

Two and a half years into the implementation of s144 LASPOA, SQUASH has undertaken a 28-month evidence review of the new law, in order to ascertain how it is affecting squatters and the homeless. SQUASH has found that **s144 LASPOA is being used to summarily evict people suspected of squatting**, resulting in a high number of arrests with very few convictions.

Evictions are highest during the winter months when the weather is coldest. Those being prosecuted under the new law are mainly people who find themselves most affected by the housing crisis: so-called "generation rent", namely men and women aged between 21 and 38. There have been *at least* **588 arrests, 200 prosecutions and 51 convictions** under s144 LASPOA in the 28 month period, while **the situation faced by squatters has become more dangerous and unstable.**

¹ "The Case Against Section 144", Squatters Action for Secure Homes, March 2013, <http://www.squashcampaign.org/docs/SQUASH-Campaign-Case-Against-Section-144.pdf> (accessed 9 April 2015)

Since the introduction of s144, there have been ongoing attempts by some politicians to **extend the ban to commercial properties**, despite there having been no assessment of how the law was working. SQUASH's research shows that, in fact, the law is working only to force the most vulnerable into ever greater deprivation. Thus, SQUASH demand that s144 LASPOA be repealed.

Background to s144 Legal Aid, Sentencing and Punishment of Offenders Act

The Ministry of Justice's consultation '*Options for Dealing with Squatting*'² first appeared in 2011. The consultation was a mere formality to the criminalisation of squatting, since the policy was pursued despite 96 percent of consultation respondents stating their opposition. Those responding to the consultation included many homelessness charities and organisations, such as Crisis, Shelter, Homeless Link, Thames Reach and The Simon Community, who objected to criminalising a highly vulnerable group. Similarly, the Criminal Bar Association, Law Society, Metropolitan Police, and The Magistrates Association all expressed concern, saying the existing law was adequate.

Nevertheless, the Ministry of Justice formulated Clause 26 (which became Section 144), introduced as an amendment into the LASPO bill only three days before the bill's third and final reading in the House of Commons, with no committee stage examination. It was debated by MPs for the first time at report stage, leaving no time for proper scrutiny. This highly irregular procedure was much noted by MPs at the time.

All debates on the clause in the Commons and in the House of Lords were held late at night, resulting in low turnouts. The wording of s144 was left vague, with key terms such as "residential" remaining undefined. The routine misinformation provided by government ministers and spokespeople concerning the nature of squatting and the necessity of the proposed offence was roundly condemned by legal practitioners, with a letter signed by 160 legal experts and lawyers published in *The Guardian*³. The law, criminalising squatting in residential premises, was eventually passed in the House of Lords in September 2011, and came into force one year later on the 1st September 2012.

Implementation of s144 LASPOA since September 2012

SQUASH has pieced together various pieces of information to provide a 28-month overview of the effect s144 LASPOA has had in England and Wales from when the law was introduced on 1st September 2012 to January 2015. Data and evidence has come from a variety of sources, primarily Freedom of Information requests, online blogs and forums for people who squat, and our own tracking of media and parliamentary comments on squatting. This information has been used to build a picture of how the new law is working in reality (arrests, charges, convictions, sentences); the events that have shaped its working (legal cases, politics, media); the perceptual effect it has had on those dealing with squatters (police, bailiffs, landlords); and who is being affected (demographics, regions).

The SQUASH Freedom of Information responses from 26 police forces in England and Wales, varying in quality and depth, represent a fraction of the prosecutions of squatters in the period. The data shows that there have been *at least* **588** arrests for s144 LASPO for the period, with around 108 people charged, 123 given cautions, 16 released without charge, with the remaining 58% of disposals unknown. The Crown Prosecution Service (CPS) has prosecuted **200** cases under s144 LASPO, leading to *at least* 51 convictions (Appendix 1). A police blitz on squatting in the last four months of 2012 led to some 174 arrests, falling off in 2013, only to rise again in 2014 to over 190, suggesting that arrests of homeless people taking shelter in empty buildings will increase in the future. Monthly arrests data shows that more arrests and evictions take place in the winter months (October – March) when the weather is coldest and danger of death by

2 <http://www.justice.gov.uk/downloads/consultations/options-dealing-squatting-response.pdf> (accessed 9 April 2015)

3 "Media and politicians are misleading about law on squatters"; *Guardian*, 25 September 2011;

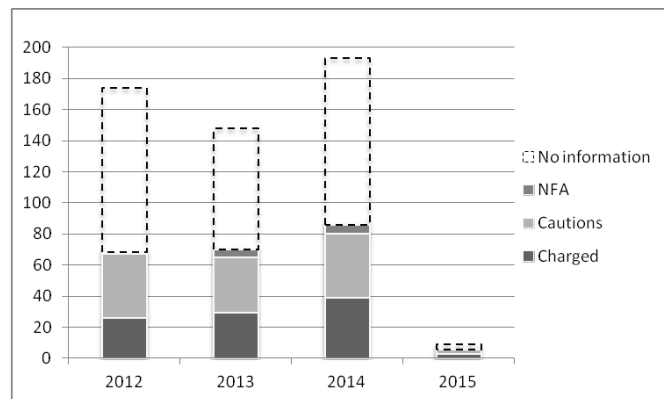
<http://www.theguardian.com/society/2011/sep/25/squatting-law-media-politicians> (accessed 9 April 2015)

hypothermia is highest (Appendix 1.1).

Table 1: Total Arrests, Disposals and Convictions for s144 LASPO in England & Wales for 28 Months (26 Police Forces)

| | TOTAL No. | % of Arrests |
|--------------------|------------|--------------|
| Arrests | 588 | |
| Charged | 108 | 18% |
| Cautions | 123 | 21% |
| NFA | 16 | 3% |
| Unknown | 341 | 58% |
| Convictions | 51 | 9% |

Graph 1: Arrests & Disposals by Calendar Year (26 Police Forces)



Source: SQUASH FOI (2015)

The enforcement of s144 LASPOA across England varies. London has by far the highest level of arrests in the country for s144 LASPOA offences, accounting for 75% of arrests in the period (441). Regions outside London reported smaller, but not insubstantial arrests for the period, with the South East being the highest (50 arrests), followed by the Midlands (39), the North (32) and the South West (23). In some areas, arrests have been falling since 2012 (the South East, the North), while in others, arrest have been rising (the South West, Midlands).

Disposal of arrests varies across the regions, with those charged ranging from 75% of arrestees (the North) to 28% in the Midlands. The use of simple **cautions** has been low (3-16% of arrests), except in London where it makes up 18% of disposals. The number of arrests in which disposals are unknown is high, especially in London (272) and the Midlands (27). This suggests that s144 LASPOA arrests are used to evict people, rather than prosecute crimes (Appendix 2.2.1), and raises key questions of accountability in police enforcement of the law. **Convictions** range from 21-43% of arrests, while the conviction rate of those already charged is much higher at between 58%-83%, highest in the Midlands and the South West (73% and 83% respectively) where arrests are also increasing.

The police regularly misuse s144 LASPOA and other offences to evict individuals or assist with evictions, and often fail to uphold laws which should protect such people. Case studies in Appendix 3 show that the police:

- Do not follow their own procedural guidelines, which are themselves contradictory (Appendix 2.4), and many do not record s144 LASPOA offences adequately (Appendix 1). They also use a number of **alternative offences** to force entry, evict and arrest those inside buildings (Case studies HoB, ER, BM).
- Summarily evict properties and arrest people inside **without evidence** that a property is “residential” (Case studies ASS, RR), without contacting the owner to find out if those inside have a license to occupy (Case studies TD, ASS), and often **make uncertain charges**, only identified later by legal professionals (Case study TD)
- Are arresting people from vulnerable groups under s144 LASPOA, such as those with mental and learning disabilities, as feared by campaigners before the law was introduced (Appendix 1.4.2)
- Generally **take the side of landlords**, builders, and security in disputes, such as during illegal evictions, without requiring identification, ignoring court judgements and allowing unlawful activity such as forced entry (Case studies 195, HoB, ER) and **violent assaults** on squatters (Case studies WF, ER)
- Dedicate a **large amount of resources** both to enforcing s144 LASPOA and to assisting commercial-building evictions, including using helicopters, dog units and officers (Case studies RR, ER, BM),

- Go **beyond their statutory duties in prosecuting squatting cases**, harassing squatters with threats, surveillance and cutting off utilities (Case studies HoB, ER), making false claims in court (Case study RR), and providing politically-opportune information to the media (Appendix 2.1).

The prosecution of s144 LASPOA offences is increasing. The Crown Prosecution Service (CPS) prosecuted **200** s144 LASPOA offences to September 2014, with prosecutions having risen by a **factor of four** over the period (Appendix 1.5), encouraged by political pressure in Parliament (Appendix 4, P4). Those being charged with s144 LASPOA offences in a magistrates' court are **4.6 times more likely to be men**, aged between 28-38 years old.

Women are less likely to be prosecuted, but tend to be younger with a median age of 27. This demographic represents those most affected by the housing crisis, those who have been evicted from their homes, have had their benefits cut, or cannot afford rent or get a mortgage (Appendix 2.2.2). **Sentencing** of s144 LASPOA convictions is varied, inconsistent and largely unknown, with the median – most common - sentences during 2012 being **9.5 weeks in prison and/or £100 fine**, or 7 month conditional discharge (Appendix 2.3). All convictions mean a criminal record.

Legal cases involving s144 LASPOA raise a number of important issues around the new law, evidenced in the case studies in Appendix 3:

- **Magistrates** do not have the legal training to interpret key terms such as “residential”, “living” or “intending to live.” They are often biased against defendants, and tend towards summary convictions (Case studies TD, RR).
- Defining buildings as “**residential**” is often complicated and requires a comprehensive review of the evidence. This needs to be decided by a professional judge, and not a magistrate or police officer. (Case studies RR, ASS).
- The Appeal Courts set the evidence threshold to prove “**living**” or “**intending to live**” in a residential property requires 1) Observation, 2) Forensics, 3) Detailed Interviews, and 4) The normal requirements of residence (Case study RR).
- The threat of high legal fees and offers of acquittals are used by the Crown Prosecution Service and the courts to **deter s144 LASPOA cases going to the higher courts**, for examination and setting precedent. (Case studies TD, BEST)
- **Section 144 LASPOA does not prevent acquisition by adverse possession**, as set by precedent in the case of *Best, R (On the Application Of) v The Secretary of State for Justice (2015)*, making the retrospective nature of the new law contradictory, which interferes with existing property law (Case study BEST)

Evictions are becoming more frequent, violent and outside the bounds of the law, as evidenced by the case studies in Appendix 3:

- **Surprise evictions** – using Interim Possession Orders (IPO) and High Court Bailiffs - are now common, preventing squatters moving out in a timely manner, leading to stress, uncertainty and loss of essential possessions (Case studies WF, HoB). The speed of evictions means that squatters are continually forced to move, leading to **overcrowding** in fewer and fewer buildings.
- **Evictions** by bailiffs, builders, private security and the police are becoming more **violent, aggressive and dangerous**, especially now that squatters are commonly viewed as “criminals” due to s144 LASPOA (Case studies WF, 195, HoB, ER)
- **Illegal and unlawful evictions** are becoming more common. Security firms offering “common law evictions” have no paperwork and forcibly evict properties⁴, while non-police agencies, such as London Fire Brigade use Prohibition Orders to evict buildings (ASS).
- The view that “squatting is a **crime**”, widely circulated by the media and politicians, mean that squatters face more intimidation, harassment and threats of violence (Case studies 195, HoB)

4 Advisory Service for Squatters; <http://www.squatter.org.uk/2015/01/stopping-some-dodgy-evictions/>

Commercial Premises are now the only empty buildings open for occupation, which tend to be unsuitable for living in, and uncertain with continuous calls to extend criminalisation:

- Now that empty residential premises cannot be squatted, people have been forced to move into **inappropriate commercial buildings**, which are often dilapidated and lack basic living facilities.
- Politicians, both Conservative and Labour, with the assistance of mainstream media (MSM) outlets like the London Evening Standard, the Daily Mail and Brighton Argus, have been calling for s144 LASPOA to be extended to commercial premises since its introduction in September 2012 (Appendix 4: P1, P2, P3, P5). **These demands are not backed by any evidence or need, and mirror the misinformation campaign in the lead-up to the introduction of s144 LASPOA.**

Squatters Action for Secure Homes (SQUASH) Demands

SQUASH demand the following to put an end to the unjust persecution of those residing in empty residential properties:

1] Section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act (2011) must be **repealed** by an Act of Parliament. The law is unclear, contradictory, harmful and open to arbitrary enforcement.

2] Cases of squatting should *not* be dealt with by the police or magistrates as a “criminal” matter, as they do not have adequate training or resources. Possession claims must return to being a “**civil**” matter that requires a proper examination of the evidence in the presence of a trained judge.

3] An **end to illegal and unlawful evictions** by private and public agencies. All evictions must have the appropriate paperwork from a court of law, give adequate notice, allow reclamation of possessions and be executed in a non-violent manner.

4] The use of s144 LASPOA, and alternative offences, by the police to **arbitrarily force entry**, evict and prosecute those occupying empty premises must end, and cases must be open for public scrutiny.

Until section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act is repealed, SQUASH demand:

- That police **follow the Appeals Court guidance** set out in Appendix 3, Case Study RR, for collecting sufficient evidence of “living” or “intending to live” before commencing s144 LASPOA enforcement.
- The police must be **mandated to record and report all enforcement** of s144 LASPOA and alternative offences, including arrests, disposals and crime-related incidents, made publicly available.
- The police fulfil their statutory obligation to **stop all criminal or unlawful activity**, including that done by owners, bailiffs and security. This includes stopping forced entry under section 6 of the Criminal Law Act 1977, and violent assaults on squatters.
- Section 144 LASPOA cases must be **tried in the higher courts to set precedents**, obtain guidance and test the new law, and prosecutions heard by a trained judge, rather than a magistrates, who do not adequately understand the new law.
- Calls to extend criminalisation to commercial premises to be dropped by politicians and the media until a **full examination of the effect of s144 LASPOA** on vulnerable groups has been assessed by an independent stakeholder committee.
- A **moratorium on winter evictions (October to March)**, which endanger the life and well-being of those made homeless during the coldest months, and squatters informed of eviction dates beforehand so as to vacate in an orderly and timely manner.



Appendices can be found in a separate document:

Appendix – Evidence Base for *Homes, Not Jails*

SQUASH (Squatters Action for Secure Homes) is a campaigning organisation which, since the early 1990s, has worked to protect squatters and other vulnerably housed people. We undertake extensive research into the impacts of squatting criminalization, releasing reports “Can We Afford to Criminalise Squatting?” (2012) and “The Case Against Section 144” (2013). We campaign to raise awareness of these impacts and give voice to squatters and others experiencing insecure housing. SQUASH is in a unique position as one of the only organisations researching squatting in the UK from within the diverse world of squatting itself. SQUASH research quoted extensively, from the Home Office Research Paper 94/1 (1994) to Professor Danny Dorling’s book “All That is Solid” (2015). Our broader aim is to provide resources for the achievement of secure housing for all.

Contact Information

Website: www.squashcampaign.org

Email: info@squashcampaign.org

Media Enquiries: press@squashcampaign.org