

Police, Crime, Sentencing and Courts Bill 2021

Shelter Briefing

Overview

Part 4 (unauthorised encampments) of the Policing, Crime, Sentencing and Courts Bill is of great concern to a wide range of organisations, including Shelter.

As the country's leading housing and homelessness charity we are concerned that in its current drafting this section of the Bill will lead to the criminalisation of homeless people in certain situations. And, in particular, will lead to the criminalisation of specific homeless groups, most notably individuals from the Gypsy and Traveller communities.

It is Shelter's view that given this risk of criminalisation – and given wider concerns with Part 3 of the Bill – that the government should not proceed with the legislation.

However, should the government take this Bill forward, urgent clarification is needed around the intent of the powers contained within Part 4.

Shelter supports amendments to Part 2 of the Bill, which would ensure housing authorities assist families and young people at risk of neighbourhood (e.g. gang) violence with the same understanding and urgency as families and young people at risk of domestic violence and abuse.

Potential impact of Part 4 on homeless individuals

It is Shelter's view that, right now, Part 4 of this Bill put homeless people at risk of criminalisation, purely because they are homeless. Specifically, we believe there are issues relating to:

1. [The new Section 60C offence: residing on land without consent or in a vehicle.](#)
2. [Ambiguity in the definition of 'residing'.](#)
3. [Risk to homeless individuals in encampments.](#)
4. [Risk that homelessness itself is deemed to lead to damage, disruption or distress.](#)
5. [Risk of application to vehicles on public roads.](#)

1. New Section 60C¹ offence: residing on land without consent in or with a vehicle

This section of the Bill creates a criminal, imprisonable offence where a person:

- is residing, or intending to reside, on land without the consent of the occupier
- has, or intends to have, at least one vehicle with them on the land
- has caused, or is likely to cause, significant damage or significant disruption as a result of their residence or conduct – or significant distress as a result of offensive conduct
- has been requested to leave by the occupier, their representative or the police

¹ This clause of the Bill amends the [Criminal Justice and Public Order Act 1994](#), Part 5: Power to remove trespassers on land

- has failed to comply with this request as soon as reasonably practicable and has no reasonable excuse for doing so.

Part 4 of the Bill is intended to criminalise unauthorised traveller encampments.² This is of great concern, given the housing needs of Gypsy and Traveller communities, who need access to suitable sites for their homes. Travelling for cultural purposes (such as to fairs and funerals) is a fundamental part of life for most members of the Gypsy and Traveller communities. People whose usual home is a vehicle, but who have nowhere they're entitled to reside in it, are legally homeless.³ It is vital that we tackle racial and cultural inequality in housing and homelessness systems.

Part 4 also of great concern to a wider group of homeless people. As currently drafted, the legislation puts any homeless person who resorts to living in a car, van or other vehicle – or indeed has a vehicle parked near where they may be sleeping rough – at risk of arrest and imprisonment if they have been asked to leave by the landowner or police. While this could apply in rural areas it could also apply in city centre car parks, a public road or private driveway.

2. Definition of 'residing'

We are concerned about the interpretation of 'residing'. Older case law concerning residential tenancies suggests that a person can only be considered to 'reside' if they have settled or intend to settle in a place, not if they were compelled to stay there on an emergency or short-term basis.

However, in the new clause 60C itself, subsection (9) states:

“For the purposes of this section a person is to be considered as residing or having the intention to reside in a place even if that residence or intended residence is temporary, and a person may be regarded as residing or having an intention to reside in a place notwithstanding that the person has a home elsewhere.”

Likewise, in the Criminal Justice and Public Order Act 1994 itself (which the PCSC Bill is amending) police powers arise where *“two or more persons are trespassing on land and are present there with the common purpose of residing there for any period...”*

It is very concerning that even emergency or temporary residence, for example because a family or individual are homeless, desperate and have nowhere suitable to stay, could lead to criminalisation.

3. Risk to homeless people in encampments

On the basis of a broad interpretation of 'reside', individuals or groups of homeless people could be at risk if they are camping in tents, benders or makeshift encampments in woods, parkland or fields and have a vehicle with them, are deemed to be causing damage, disruption or distress and have failed to comply with a request to leave, perhaps because they have nowhere else to go.

4. Risk that homelessness in itself is deemed to lead to damage, disruption or distress

Depending on how these terms are interpreted, a person's homelessness could result in them being deemed to cause damage, disruption or distress. For example, simply by sleeping in a vehicle or tent, they might be viewed by the landowner as a disruption to their business, an eyesore to residents or a health hazard (e.g. if they have no access to a lavatory).

5. Risk of application to vehicles on public roads

Shelter believes that Part 4 of the Bill could, as drafted, apply to vehicles parked on public roads.

² See chapter 5 of the [House of Commons Library briefing paper](#) on Parts 3 and 4 of the Bill

³ Housing Act 1996, Section 175, Homelessness and Threats of Homelessness

The New section 60C confirms that a person commits an offence if they are residing on land without the permission of the occupier. 'Occupier' is defined as being 'the person entitled to possession of the land by virtue of an estate or interest held by the person.'

In law a 'person' can be a legal entity such as a private corporation or public body (such as a local authority). The practical effect therefore would be that if a vehicle were parked on a public road (which are normally owned by local authorities or Highways England), and somebody were sleeping in it, if the other conditions of section 60C listed above were met, then the offence could be committed in respect of that vehicle.

It is quite common for homeless people, including people with children, to sleep in cars, caravans, campervans etc. Sometimes this will be on a public road outside the home of friends or family, who may allow them to use bathroom facilities. As an example, in one case, Shelter advised a multi-generational family who were so cramped in their one-room emergency accommodation that their adult son spent some nights sleeping in their car outside.

Amending and improving the Bill

Given the broader restriction on the right to campaign set out in Part 3 and explained in other briefings and the risk to homeless people in Part 4, Shelter believes the government should not proceed with this Bill.

If, however, the government does decide to proceed, then the intention around Part 4 must be clarified. Specifically, if it is not the government's intention for Part 4 to catch homeless people then an amendment to Clause 61 is needed to clarify that the new section 60C of the Criminal Justice and Public Order Act 1994 does not apply to a person whose reason for being on land in or with a vehicle is that they are homeless or there is insufficient provision of permanent and transit pitches, or offer of negotiated stopping arrangement, in that local authority area.

Such an amendment would ensure that the government's intent for the implementation of the powers contained within the Bill is not misunderstood.

Part 2: Duties to prevent serious violence

Shelter also supports proposed amendments to Part 2 of the Bill intended to ensure housing authorities are part of the process in reducing and preventing serious violence, and assist families and young people at risk of neighbourhood (e.g. gang) violence with the same understanding and urgency as families and young people at risk of domestic violence and abuse.

Some young people have been murdered, including 14-year olds Jaden Moody and CJ Davis, without their families receiving suitable offers of rehousing out of the area where they are at risk.

Young people and their families at risk of grooming or violence by criminal gangs face considerable challenges in accessing suitable rehousing to escape. The role that housing authorities and social landlords could play in preventing incidents of serious violence has been highlighted in several serious case reviews into the murders of young people following child criminal exploitation.

Shelter therefore supports amendments NC28 and NC29, which would ensure victims, and those at risk, of serious violence have automatic priority need status for emergency rehousing, and that the Homelessness Code of Guidance for Local Authorities is updated to include specific guidance on assisting people who are homeless because of risks of neighbourhood violence. Shelter also supports amendments to Part 2 of the Bill, which would ensure social landlords and local housing authorities have duties and powers to reduce serious violence and protect those at risk.