Home Office: Strengthening police powers to tackle unauthorised encampments

Response from AXA

About AXA

1. AXA UK (AXA) is part of the AXA Group, a worldwide leader in financial services, operating in 57 countries with over 160,000 employees and 108 million customers. AXA has around 11 million customers in the UK and operates through specific operating companies – AXA Insurance and AXA PPP healthcare.

Commercial Squatting

2. Vacant commercial premises are increasingly under threat from trespass, fly-tipping and criminal damage by organised mobile criminal groups. As a leading insurer of commercial property, AXA is acutely aware of the significant damage that can be done by these groups. Since 2013, AXA has seen a five-fold increase in claims frequency and an eight-fold increase in the sum of total incurred costs from these types of claims.

3. Organised groups profit illegally through making these business premises (both buildings and wider grounds) unofficial tips, with waste travelling far and wide across the UK and in some cases even from Ireland. Whilst the rapid rise can be seen across the UK, areas particularly affected include London and the South East, Birmingham, Manchester and Liverpool. Moreover, AXA's data highlights that proximity to the motorway network often places premises at an increased risk.

4. Unlike residential squatting (made illegal in September 2012 through the Legal Aid Sentencing and Punishment Offenders Act) it is not a criminal offence. Therefore, police will only act if squatters commit other crimes whilst in the property, which in practice is difficult to prove and once noticed is often too late. Whilst police forces across the country regularly attend these events, current powers limit their actions.

5. In many cases it can take over a week for landlords to remove trespassers from commercial premises via civil litigation. But in just 24-48 hours, the costs incurred because of the damage and clean-up, can reach the millions and the waste left-behind is often hazardous including asbestos, used syringes, chemicals and flammable materials. Ultimately, the current legislative gap is being exploited by organised criminal groups to access commercial premises, dump waste, sometimes over several days, and strip properties for metal and other materials. AXA consider this activity to have wide ranging impacts to communities, local authorities and businesses.

    a. Communities - Commercial squatting is often linked to increased local crime including fly-tipping, graffiti and theft and it can often be the case that those involved in fly-tipping visit homes and businesses in the local area offering to dispose of materials for a small fee, which then end up on commercial sites. The impact on businesses can also have knock on effects for the community, including negatively impacting local jobs.

    b. Local authorities - In 2017/18, local authorities in England prosecuted 2,243 fly-tipping offences, an increase of 43% on 2016/17. Other impacts can include a depreciation in surrounding property value, loss of business rates and the environmental impacts associated with fly-tipping hazardous waste.

c. Businesses - On top of the significant costs to evict squatters, remove waste and repair the property, local businesses often face losses of rental income while these actions take place. This is a particular problem for SMEs who are often about to become tenants in the affected premises; commercial squatting impacts their business continuity and ultimately, leaves them without a building from which to trade. In the last three years, AXA has seen a number of individual claims reaching over £1 million, some of the largest in the UK insurance industry, with commercial properties unable to be used for up to six months. If building owners do not have a signed agreement in place for future rental, they can find themselves losing considerable sums of money in loss of rent. Even if landlords and businesses haven't experienced an incident, they are spending significant sums proactively securing premises, particularly when they are searching for new tenants, which is reducing their ability and propensity to invest in more effective business activity.

6. Owing to the size of this issue, AXA work with specialist partners and clients to adopt risk management measures for our customers to prevent commercial squatting, including using data and technological solutions to identify or protect 'at risk' locations and practical measures such as increased perimeter security. Ever-improving data collection and analytics is improving AXA's ability to target risk management appropriate, AXA would be willing to support the authorities, where appropriate, to assist their approach to the issue. Whilst AXA consider our risk management measures as market leading in improving business resilience to commercial squatting, AXA is still seeing an increase in the frequency and severity of these types of claims.

Criminalising Unauthorised Encampments

7. Unlike residential squatting (made illegal in September 2012 through the Legal Aid Sentencing and Punishment Offenders Act) it is not a criminal offence. Therefore, police will only act if squatters commit other crimes whilst in the property which in practice is difficult to prove and once noticed is often too late. AXA believe that it is necessary for the UK to bring in tougher anti-squatting legislation for commercial properties to protect businesses and local communities.

8. As outlined in the Irish Republic's Housing (Miscellaneous Provisions) Act 2002, AXA strongly agree that legislation should criminalise encampments that meet one of the following conditions:

- Prevent people entitled to use the land from making use of it.
- Causes or is likely to cause damage to the land or amenities.
- Otherwise render the land or any amenity in respect of the land, or the lawful use of the land or any amenity in respect of the land, unsanitary or unsafe.

9. AXA also agree and would like further consideration from government on whether legislation should make it an offence if those on the encampment have demanded money from the landowner to vacate the land or are involved, or are likely to be involved, in anti-social behaviour.

10. AXA believe the provisions outlined in the consultation paper would be effective in criminalising trespassers who occupy land without consent and intend to damage or interfere with that land, ultimately preventing the scourge of commercial squatting and the accompanying issues of fly-tipping, metal theft and the dumping of hazardous waste.

11. The trespassers intention of residing on the property is an important consideration to determine whether a criminal offence is being committed. However, the definition of 'reside' needs to be made clear. As a property insurer, AXA has seen a number of impacts resulting from commercial squatting, where organised criminal groups takeover vacant commercial premises in order to conduct criminal activities. There are a number of cases where groups have only been on-site for 24 hours or less, but the damage caused has been significant, interrupting businesses, fuelling local crime and dumping waste hazardous to the environment. In Southall, West London, AXA recently dealt with a case of commercial squatting where groups had caused estimated damage of over £1 million within just 24 hours. These types of cases need to be captured in the criminalisation of unauthorised encampments to provide sufficient protection for property owners across England and Wales. Legislation should not inhibit the ability of police forces to act proactively in preventing damage from taking place.

12. AXA strongly disagree that the act of knowingly entering land without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it with vehicles. AXA believe that this measure would leave open the possibility of land being occupied by individuals or groups when they leave their vehicles in proximity to but outside the boundary of land. Moreover, AXA believe the Home Office should consider how groups utilise vehicles to initially enter premises, often vehicles are used to remove or destroy security equipment. Further measures on this particular activity would help support police forces to carry out their jobs.

13. AXA believe that it should not be up to the landowner or the landowner's representatives to take reasonable steps to ask persons occupying the land to remove themselves and their possessions before occupation can be considered a criminal offence. This proposal could result in confusion over defining what is considered 'reasonable' and the time-frame over when these actions should be taken. Moreover, often land can be occupied without the landowner being aware, particularly when the land is vacant. As an insurer, AXA is aware of numerous examples where organised criminal groups have caused significant damage over a short period of time, in some cases in just 24 hours. It would not be a practical provision to expect landowners to be taking steps prior to unauthorised encampments.

Criminal Justice and Public Order Act 1994

14. The proposed amendments to section 61 and 62A of the Criminal Justice and Public Order Act 1994 are appropriate measures to tackle the public disorder issues associated with unauthorised encampments but will not be as effective as criminalisation. AXA believe the proposals will go some way towards improving the current problems seen from unauthorised encampments, particularly those associated with commercial squatting. Importantly, the proposals look at both strengthening legislation as well as providing the police with relevant enforcement powers and resources to take quick and decisive action.

15. AXA agree with the provision that police should be given the power to direct trespassers to suitable authorised sites. Current police powers considerably limit the ability of the police to utilise the current legislation. Further legislation needs to be accompanied by strengthened police powers to ensure that appropriate enforcement arrangements are in place. AXA believe this power would assist in the ability of the police to act quickly and effectively. Moreover, AXA believe that police provisions to direct trespassers to suitable authorised sites should not be subject to conditions around agreements being in place, as this would be counterproductive to the purpose of the legislative proposals. AXA appreciate that the

current shortage of transit sites prevents police for exercising their existing powers and therefore, would urge government to provide support to ensure local authorities can collaborate effectively to address current availability issues.

16. Regarding a maximum distance that a trespasser can be directed across, AXA believe this measure would also be counterproductive to the purpose of the legislative proposals. However, given that the current shortage of transit sites prevents police for exercising their existing powers, AXA believe there needs to be further collaboration between local authorities to ensure there is a sufficient number of transit sites available for police to exercise their powers under the Criminal Justice and Public Order Act 1994.

17. AXA strongly agree that the period of time in which trespassers directed from land would be unable to return should be increased to twelve months. The increase to twelve months would provide increased protection to land targeted by the same groups on a regular basis. Landlords are spending vast sums of money, often millions per year, on protecting properties from commercial trespass and associated criminal damage. By implementing this provision as part of the wider criminalisation of unauthorised encampments will allow these funds to be better utilised elsewhere, supporting the local community and the wider UK economy. Moreover, the proposal would reduce administrative burden on pubic authorities and allow resources deployed in these scenarios to aide and assist the wider community.

18. Moreover, AXA strongly agree that the number of vehicles present before police powers can be exercised should be lowered from six to two. The reduction would greatly assist in allowing quick and decisive action by the police. In AXA's experience with cases of commercial squatting, the police are currently hampered by the regular movement of vehicles into and out of encampments blurring whether they can exercise their powers.

19. AXA strongly agree that the police should have the power to remove trespassers from land that forms part of the highway. The revised power would assist police in tackling these types of unauthorised encampments whilst also providing further protections for local communities who can be adversely impacted. Keeping highways and kerbsides free from unauthorised encampments will increase public safety for motorists, particularly those that require lay-bys and kerbsides for breakdowns and fatigue.

20. AXA believe the proposal to grant police the power to seize property, including vehicles, from trespassers who are on land with the purpose of residing on it would assist in tackling persistent offenders and organised criminal groups by restricting their ability to move around the country freely.

21. The police should be able to seize the property of:
    - i) Anyone whom they suspect to be trespassing on land with the purpose of residing on it;
    - ii) Anyone they arrest for trespassing on land with the purpose of residing on it; or
    - iii) Anyone convicted of trespassing on land with the purpose of residing on it?

    AXA believe the measures would assist in tackling persistent offenders and organised criminal groups by restricting their ability to move around the country freely. AXA believe this provision could have the same positive effect as seen from Proceeds of Crime legislation by creating additional disruption for organised groups.

Case Studies

Distribution centre in North London

22. In August 2017, an organised mobile criminal group broke into a distribution centre and accompanying offices in North London where they stayed for six days. A tenancy was in place, but the business had vacated the building. The damage to the premises included the stripping of copper pipes and cables, dismantling alarms systems and electrical installations and fly-tipping across the site. Although there were a number of security measures in place to prevent loss, the incurred cost of the damage caused by this group was just below £1.3 million.

Distribution centre in Leicestershire

23. A Leicestershire distribution centre was vacant, awaiting a new tenant, until in March 2018, trespassers cut through telescopic bollards protecting the perimeter of the site and forced entry through secure roller shutter doors. The group had 23 vehicles in total on the site. Cabling was stolen, and significant damage caused especially to the doors and equipment such as the internal distribution board resulting in a claim of approximately £130,000 from just three days of the trespassers being on site.

Industrial Estate, North London

24. In 2016, a warehouse and office accommodation in North London had only recently found a new tenant. During refurbishment works prior to the move in, an organised mobile criminal group forcibly entered the site and proceeded to claim squatters' rights prior to eviction. The trespassers were on site for 14 days removing metal, cables and pipes applying graffiti on walls and fly-tipping across the open plan warehouse – 75% of the space was covered up to a depth of one metre. Totalling the loss of rent on the site with the extensive damage resulted in costs of approximately £500,000.

If you need to get in touch regarding the information in this submission, please get in touch with Public Affairs Executive, Jonathon Murphy, at jonathon.murphy@axa-uk.co.uk or on 07866032309.