

The Rt Hon Priti Patel MP
Secretary of State for the Home Department
Home Office
2 Marsham Street
London
SW1P 4DF

Cc: The Rt Hon George Eustice MP, Defra
The Rt Hon Robert Buckland QC, Ministry of Justice

Monday 18 January 2021

Dear Secretary of State,

Re: Proposal to criminalise trespass

We write to share our grave concerns about the Government's proposals to make trespass a criminal, instead of a civil, offence. Our organisations responded to the Home Office consultation in March 2020: **'Strengthening police powers to tackle unauthorised encampments'** and unite to reinforce our shared alarm about this proposal, and any measure that would deter people from accessing the countryside.

While we recognise that the Government's manifesto stated 'we will make intentional trespass a criminal offence' it is our view that this is an extreme, illiberal and unnecessary attack on ancient freedoms. This would have a negative effect on how people can access and enjoy the countryside and green spaces, which is ever more important in light of the Covid-19 pandemic. We raise these key points:

1. It would **send a signal that the countryside is not an open resource accessible to all**, but a place of complex rules and regulations, where stepping off a public path could lead to a criminal sentence. We strongly believe that the exercise of **recreational activities**, such as walking, cycling, climbing or canoeing in the countryside, **should not put you at risk of committing a crime**.
2. **Government should be considering how to improve access to the countryside** and simplifying rules surrounding this. In England and Wales, the Countryside and Rights of Way Act 2000 (CRoW Act) established a right to roam over registered common land and mapped areas of mountain, moor, heath and down, as well as parts of the 'coastal margin' identified through the creation of the England Coast Path. In the longer term, the UK government should be considering how it can enable more people to benefit from the freedom to explore our green and blue spaces, not introducing barriers to access.
3. An **unintended consequence** of changes to legislation, if framed insufficiently tightly, may be to give landowners the chance to criminalise harmless and often accidental trespass. This should not apply, for instance, to

walkers who stray off a public right of way or to those who cross private land to pass an obstruction. Where there is already a lack of clarity regarding access rights, the legislation may further threaten the freedom of recreational users of waterways, such as paddlers and swimmers, and their freedom to enjoy this activity.

4. **A compelling case for changing trespass rules has not been made.** For example, of the Police Forces and Police and Crime Commissioners that submitted views to the Government's 2018 consultation on this, three-quarters stated that their current powers in relation to unauthorised encampments are sufficient and proportionate, while 84% are opposed to the criminalisation of unauthorised encampments. These views were repeated in the 2020 Home Office consultation, with only 21% of police bodies agreeing with the Home Office proposals to criminalise unauthorised encampments and 93% of police bodies calling for site provision as the solution. It would also, according to the National Police Chiefs Council and the Association of Police and Crime Commissioners, likely breach the Human Rights Act 1998 and the Equality Act 2010.¹
5. **The proposals are unclear in scope and reach, which risks criminalising other activity,** such as wild camping or the legitimate right to protest. Rights of access to the countryside were won through the legitimate protest of previous generations. Criminalising trespass 'with intent to reside' would clearly have negative ramifications for protest camps, closing down space for peaceful protest.
6. **Gypsies and Travellers are already amongst the most marginalised communities in the UK,** criminalising trespass or increasing police powers of eviction would compound the inequalities experienced. If the Government is committed to addressing race inequality, the Home Office proposals need to be considered in terms of the impact it could have on groups with protected characteristics.
7. Extending the definition of 'unauthorised encampment' would have the effect of **criminalising the increasing numbers of rough sleepers living in makeshift shelters or tents.** With 4,266 people estimated to be sleeping rough on a single typical night in 2019, up by 141% since 2010, and the Government's commitment to end rough sleeping by 2024, it would be a significant backwards step to facilitate an enforcement approach over the well-evidenced support interventions endorsed in the 2018 Rough Sleeping Strategy.²

The Government's 25 year Environment Plan states: *'One of the most ambitious ways we are opening up the natural world is through the England Coast Path. When it is complete it will be the longest such path in the world, giving hikers, walkers and*

¹ Haroon Siddique, 'Revealed: police oppose Traveller and Gypsy camp crackdown', *The Guardian*, 14 November 2019, <https://www.theguardian.com/world/2019/nov/14/police-oppose-traveller-and-gypsy-camp-crackdown-foi-shows>

² MHCLG, Policy Paper: The Rough Sleeping Strategy, August 2018, <https://www.gov.uk/government/publications/the-rough-sleeping-strategy>

joggers public access rights to foreshore, beaches, dunes and cliffs for a distance of 2,700 miles... However, there is more to do. The number of people who spend little or no time in natural spaces is too high. Recent data from the Monitor of Engagement with the Natural Environment survey tells us that some 12% of children do not visit the natural environment each year.' To criminalise trespass would be a retrograde step, and has the potential to discourage new people getting out into the countryside for fear of unintentionally trespassing.

We believe that if the government chooses to criminalise trespass, it would be completely out of touch with the public mood, particularly as more people are visiting the countryside and green spaces due to Covid-19. A petition 'Don't criminalise trespass'³ on the UK Government and Parliament website gained 134,928 signatures, showing the level of public opposition. MPs were due to debate this on 25th January 2021; this has just been postponed owing to the suspension of Westminster Hall sittings, but we look forward to the rescheduled debate in the near future.

We understand the Police Powers and Protections Bill is due to be published soon and look forward to scrutinising it when it is.

Please do contact guy.shrubsole@gmail.com if you wish to discuss our concerns further.

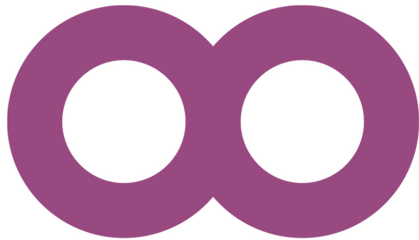
Yours sincerely,

Tom Fyans, CPRE, the countryside charity
Gemma Cantelo, Ramblers
Kate Ashbrook, Open Spaces Society
Abbie Kirkby, Friends, Families and Travellers
Dave Turnball, British Mountaineering Council
Rosemary Harris, Friends of the Earth
Ben Seal, British Canoeing
Roger Geffen, Cycling UK
Rick Henderson, Homeless Link
Guy Shrubsole and Nick Hayes, co-founders Right to Roam campaign

³ 'Don't criminalise trespass', <https://petition.parliament.uk/petitions/300139> (Closed September 2020)



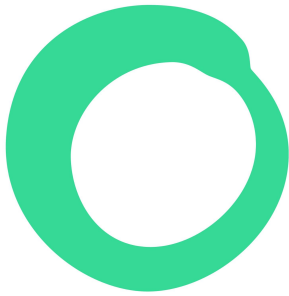
The
countryside
charity



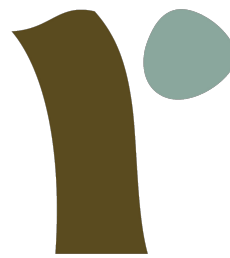
homeless link



Friends Families and Travellers



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the Earth**



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