

# Trespassing

## Introduction

Trespass is the wrong (known as a tort in legal terminology) of illegally entering another person's property. In some cases, the act of entering the property may have been lawful if permission was given originally, but subsequently become trespass if that permission ends or is withdrawn. The word trespass covers much more than people usually realise. All land in the UK belongs to someone. If you go on to land without the owner's permission, you are trespassing unless there is some right of access for the public, or for you specifically (for example, if you have acquired a right to pass over the land to reach some land of your own). An example of this would be the person who has a ticket to attend a performance, enters the theatre and then, having caused a disturbance, refuses to leave the premises.

People in a park will often protest (if asked to leave) that it is public land. This does not mean that they have a right to be on it at all times - they do not. If the place closes at a certain time and someone is present after that time, they can then be considered to be trespassing. If a visitor misbehaves at any time and refuses to leave when asked to do so by someone with a right to do so (usually the landowner or a representative) then the visitor becomes a trespasser because they no longer have the landowner's permission to be there, even if they entered legally.

Trespassing is usually a civil wrong and dealt with accordingly. However, in England and Wales certain forms of trespassing, generally those which involve squatters, raves and hunt saboteurs are covered by criminal law. There are offences under the Criminal Justice and Public Order Act 1994 Sections 61 and 62 of trespassing on land and trespassing with vehicles.

The Legal Aid Sentencing and Punishment of Offenders Act 2012, section 144 makes squatting in a residential property an offence, where:

- a person entered and remains in the property as a trespasser;
- they know, or ought to know, they are a trespasser and
- they are living in the building and intend to live there for any period.

A person who was originally a tenant would not be guilty of this offence. The police can enter the property to investigate and arrest the offender. The offence carries a penalty of up to 51 weeks' imprisonment or an unlimited fine.

With this in mind, police attendance may be required. Otherwise, the owner of the land may need to deal by way of injunction. If you are in any doubt, you should seek legal advice.

## Civil trespass

Where the trespass does not form part of a specific criminal offence e.g. a person wanders onto another's land from a public footpath intentionally or otherwise, they may be sued for the hypothetical value of the benefit received by the person trespassing. The owner of the land can also get an injunction against the trespasser preventing them from continuing to trespass. An owner or occupier of property has a duty not to leave property in a dangerous condition, and in some circumstances a trespasser may successfully sue for damages if they are injured on the property. Vehicles parked or abandoned on private land can be treated as per civil trespass.