

Proposed Desecration of War Memorials (Prevention) (Scotland) Bill

Introduction

A proposal for a Member's Bill to protect war memorials by creating a specific offence of desecrating a war memorial.

The consultation runs from 27 September 2023 to 19 December 2023

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

On the previous page we asked you if you are UNDER 12 YEARS old, and you responded Yes to this question.

If this is the case, we will have to contact your parent or guardian for consent.

If you are under 12 years of age, please put your contact details into the textbox. This can be your email address or phone number. We will then contact you and your parents to receive consent.

Otherwise please confirm that you are or are not under 12 years old.

No Response

About you

Please choose whether you are responding as an individual or on behalf of an organisation.
Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I would like this response to be published anonymously

If you have requested anonymity or asked for your response not to be published, please give a reason (Note: your reason will not be published):

Please provide your Full Name or the name of your organisation. (Only give the name of your organisation if you are submitting a response on its behalf).
(Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

Aim and approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Q1. Which of the following best expresses your view of the proposed Desecration of War Memorials (Prevention) (Scotland) Bill? (Please note, that this question is compulsory.)

Fully opposed

Q1. Which of the following best expresses your view of the proposed Desecration of War Memorials (Prevention) (Scotland) Bill? (Please note, that this question is compulsory.)

Please explain the reasons for your response.

Based on the provided information, war memorials are already subject to protections under the law, under both heritage crime and vandalism charges. Also, behaviours resulting in such vandalism is already able to be dealt with via other legal avenues available to law enforcement. Some of the concern within the motion document seems to revolve around the difficulty in tracking damage to war memorials. I would suggest some sort of classification system within existing heritage or vandalism law to allow for better tracking of offences instead of adding further legal complexity. You might also have more confidence in the numbers by examining planning applications for repairs or complaints to councils. My own opinion is that this type of legislation will not have the desired effect or putting off potential offenders, especially as everyone already knows that vandalism is against the law. Those that carry out these acts will not be put off by an additional law and likely commit these offences due to the offence it causes to the local community as an act of social rebellion or as a political statement. If it does go ahead I would be in support of lesser sentences than used in England. Instead, there should be a greater focus on community work than prison time, especially in cases where no people were harmed, especially considering the current state of the prison service. Also there should be an upper limit on a prescribed sum rather than no upper limit. What that limit should be I don't know.

Q2. The proposed Bill aims to improve the protection of war memorials by creating the specific offence of desecration of a war memorial. Do you think legislation is required, or are there are other ways in which the proposed Bill's aims could be achieved more effectively?

No, legislation is not required

Please explain the reasons for your response, including your view on whether the creation of a specific offence of desecration of a war memorial would be an effective deterrent.

There are already ways that vandalism and heritage crimes are dealt with. Further complicating the legal system seems unnecessary and a waste of taxpayer money.

Q3. What do you think the definition of a 'war memorial' should be?

Please explain the reasons for your response, including your view on the proposed definitions set out on pages 7 and 8 of the consultation document.

I think the definition should be what the War Memorial Trust definition lays out, including the omittance of the objects they state. Things like streets, benches, buildings, etc. which serve other functions than remembrance should not count when considering the wording of any legal definition.

Q4. Which of the following best expresses your view of the proposal that the level of punishment for the offence of desecration of a war memorial should be subject to a scale which reflects the severity of the offence?

Partially opposed

Please explain the reasons for your response, including your view on first offenders, particularly young people, attending education programmes or community service, the scale of potential fines and prison sentencing options.

First offenders and young offenders should be treated less severely and be liable for lesser fines, if any, and programmes such as community service or involvement in the repair of the memorial should be preferred to prison time. Repeat offenders may serve prison time but should not be more than 12 months and not the 10 years as applied in England and Wales - this seems highly disproportionate. I would look at

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the current sentencing guidelines for heritage assets in general and go with these, as you would hope that these would account for the community value of such assets as is the concern in this case.

Q5. In England and Wales, the maximum sentence for desecrating a memorial is 10 years imprisonment. What, in your view, should the maximum sentence be under the proposed legislation for desecrating a war memorial?

1-2 years

Please explain the reasons for your response

see previous answer

Q6. Which of the following best expresses your view of the proposal that the new offence should be limited to war memorials, as opposed to memorials more generally?

Proposal should be expanded to include all memorials

Please explain the reasons for your response

If you are going to apply it to one then you should apply it to all so that you don't end up with piecemeal coverage. Though the definition of memorial would need to be considered carefully and the same limitations as expressed earlier should be held.

Financial Implications

Q7. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

some increase in costs

Please explain the reasons for your response, including who you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

New laws require new spending to implement them, new texts and interpretations to explain them, and new training to apply them. New laws may also be challenged, costing money to fight a legal battle. Money is also going to be spent on government salaries to argue this in parliament. Considering all this the question has to be asked whether this is the best use of public funds at the present time since the law already covers these sorts of crimes and given the wider economic context.

Equalities

Q8. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your response and if there are any ways you think the proposal could avoid negative impacts on particular people.

It can be argued that war memorials are subject to some politicisation and might be the target of political expression. Any law that impacts the ability of people to express their personal or political views risks creating inequalities for those who take issue with the mainstream of society and potentially limits the ability for people to express their opinions without fear of reprisal. Laws like this which seek to restrict and/or punish certain acts of social nuisance/property damage need to consider the impact on democracy and whether the cost of stone is worth more than personal expression and freedom, especially when there are already laws in place which control the types of acts sought to be separately legislated here.

Sustainability

Q9. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations.

Do you think the proposal could impact in any of these areas? (If you do not have a view then skip to next question)

Please explain the reasons for your response, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

No Response

General

Q10. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

No Response