



The Scottish Parliament
Pàrlamaid na h-Alba

Published 8 January 2026
SP Paper 953
1st Report, 2026 (Session 6)

Constitution, Europe, External Affairs and Culture Committee

Desecration of War Memorials (Scotland) Bill - Stage 1 Report



Published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish
Parliament website at:
<https://www.parliament.scot/documents>

For information on the Scottish Parliament contact
Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

Contents

Introduction	1
Overview	2
Background to the Bill	4
The case for a new and distinct offence	5
Definitions	7
England and Wales	8
Data	10
Public concern and impact on the community	11
Prosecution and sentencing	13
Alternative to a distinct offence	16
Finance and Public Administration Committee	18
Conclusion	19
Bibliography	20

Constitution, Europe, External Affairs and Culture Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- (a) the Scottish Government's EU and external affairs policy;
- (b) policy in relation to the UK's exit from the EU;
- (c) the international activities of the Scottish Administration, including international development; and
- (d) any other matter falling within the responsibility of the Cabinet Secretary for the Constitution, External Affairs and Culture and any matter relating to intergovernmental relations within the responsibility of the Deputy First Minister.



CEEAC.committee@parliament.scot



0131 348 5971

Committee Membership



Convener
Clare Adamson
Scottish National Party



Deputy Convener
Jamie Halcro Johnston
Scottish Conservative
and Unionist Party



George Adam
Scottish National Party



Neil Bibby
Scottish Labour



Keith Brown
Scottish National Party



Patrick Harvie
Scottish Green Party



Stephen Kerr
Scottish Conservative
and Unionist Party

Introduction

1. The Desecration of War Memorials (Scotland) Bill is a Member's Bill that was introduced in the Scottish Parliament by Meghan Gallacher MSP ("the Member in Charge") on 14 May 2025. The Bill and its accompanying documents are available [online](#).
2. On 27 May 2025 the Bureau agreed to recommend to the Parliament that the Constitution, Europe, External Affairs and Culture Committee ("the Committee") would be designated as lead committee in consideration of the Bill at Stage 1.
3. The Committee took evidence on the Bill from the Member in Charge on [4 September 2025](#).
4. She wrote to the Committee with further information on [19 August 2025](#), [18 September 2025](#), and [3 November 2025](#).
5. The Committee also invited written submissions from the [Crown Office and Procurator Fiscal Service](#), the [Scottish Government](#), [COSLA](#), [Historic Environment Scotland](#), and [Police Scotland](#).
6. All who contributed written evidence to the Committee's inquiry acknowledged the cultural and societal significance of war memorials – and how any damage to them, as Historical Environmental Scotland ("HES") put it, could be "an offensive and emotive issue" ¹.
7. The Scottish Parliament Information Centre (SPICe) has published a briefing on the Bill, which is available to view [online](#).

Overview

8. The Bill would make destroying, damaging or desecrating a war memorial a new and specific statutory offence; and proposes that the penalties for this offence would be—
 - On summary conviction (i.e. following proceedings before a sheriff or a justice of the peace, without a jury): a maximum period of 12 months in prison and/or a fine of up to £10,000
 - On conviction on indictment (i.e. following solemn proceedings before a judge and a jury in the sheriff court or the High Court): a maximum period of 10 years in prison and/or an unlimited fine.²
9. The premise of the Bill is that “the punishment does not fit the crime”² in that the law currently, in the Member in Charge’s view, fails to take account of the distress that can be caused to people and in particular to Armed Forces and veteran communities.
10. She considers that the penalties should be more severe than for vandalism of other objects “such as a park bench, a lamppost or a public bin”²; and that such an approach would give war memorials greater protection through deterrence.
11. According to the Policy Memorandum—
 - ” As in all cases...it will be up to the prosecutor to decide which offence to prosecute an accused person under. However, the Member envisages that prosecutorial guidance could be produced to ensure that the new offence is used in all appropriate circumstances. The Member believes that this will have the effect of deterring such acts and providing greater protection for war memorials in Scots law, as well as increasing general awareness of the significance of war memorials and encouraging improved education on this matter.²
12. The Bill would insert a new section 52A into the [Criminal Law \(Consolidation\) \(Scotland\) Act 1995](#), providing for a criminal offence where a person, “without reasonable excuse, wilfully or recklessly destroys, damages or desecrates a war memorial”.³ It defines “desecrates” in a way that includes what might be seen as acts of disrespect and includes “spitting, urinating or defecating upon, or otherwise defacing (whether temporarily or permanently) a war memorial”; and “war memorial” as “a building or other structure...or a garden... which has a commemorative purpose in respect of armed conflict” but excludes memorials on “land over which access rights are not exercisable under section 6 of the [Land Reform \(Scotland\) Act 2003](#)”.³
13. The Member in Charge wrote to the Committee on [19 August 2025](#) to clarify that the “way in which the relevant provision [defining a war memorial] has been drafted in the Bill as introduced would establish a definition that is narrower than intended”. She went on to explain that—

” The policy intention behind this exclusion was to exclude private war memorials, for example those in private homes or gardens, from the scope of the new offence. However, I recognise that other memorials may also be excluded from the definition as a result of this provision. For example, it may exclude memorials in churches or church grounds from gaining the heightened protection in law that my Bill would afford to other war memorials.⁴

14. Her intention, were the Bill to proceed to Stage 2, is “to lodge an amendment to the Bill to ensure that war memorials situated within places of worship, and any other places that would appropriately fall within the provisions of the Bill”.⁴

Background to the Bill

15. The possibility of a specific criminal offence to deal with the vandalism or desecration of war memorials has also been considered in relation to two petitions: [PE1830](#) and [PE1893](#).
16. Both petitions were lodged on behalf of the Friends of Dennistoun War Memorial and considered by the Citizen Participation and Public Petitions Committee. The first was closed in December 2020 and the second in March 2022, on the basis that—
 - ” Given that the Scottish Government has no plans to introduce new legislation and thinks that there is sufficient legislation to deal with vandalism and desecration of war memorials, I suggest that we close the petition under rule 15.7 of standing orders.⁵
17. On [15 June 2022](#), the Member in Charge led a members’ business debate in the Parliament on the topic of better protection for Scotland’s war memorials. She lodged a [draft proposal for a Member’s bill](#) in September 2023, with a [consultation](#) running until December 2023, and introduced her Bill on 14 May 2025.

The case for a new and distinct offence

18. The Member in Charge told the Committee war memorials were “symbolic of a grave site” and how current sentencing options did not in her view “deter acts of desecration” or “provide adequate redress for the distress caused to individuals and communities as a result of such acts”. She said—

” That is why I consider that there should be a specific statutory offence of desecration of a war memorial.⁶

19. She suggested that “the law should recognise that damaging a war memorial has consequences beyond the littering and vandalism aspects” and “causes significant trauma to communities that are impacted”.⁶ The Bill “could also provide an opportunity to highlight the significance of our war memorials”.⁶

20. In her letter of 3 November, responding to issues raised by the other written submissions that the Committee had received, she restated her view that—

” ...it is not appropriate for these acts to be treated in the same way as the vandalism of less emotionally and culturally significant structures, like lampposts or picnic benches.⁷

21. HES noted that the committee’s evidence “highlighted that offences involving damage to war memorials would most likely be charged and prosecuted under the statutory offence of vandalism or the common-law crime of malicious mischief” and “reflects how crimes on non-designated heritage assets are treated”.¹ Police Scotland suggested that the Bill “functions as an enhancement rather than a replacement of existing offences”.⁸

22. The Crown Office and Procurator Fiscal Service (“COPFS”) set out that—

” Desecration of a war memorial is a form of aggravated offence of substantive crimes already known to the law of Scotland, and may be charged, depending on the circumstances under:

i) The common law of ‘malicious mischief’

ii) The statutory offence of vandalism (under of sections 52(1) and (3) of the Criminal Law (Consolidation)(Scotland) Act 1995)

iii) Breach of the Peace⁹

23. The conclusion COPFS drew from “a prosecutorial perspective” was that “it is not necessary to create a distinct new offence as is proposed by the Desecration of War Memorials (Scotland) Bill (the Bill) to capture this type of offending.”⁹

24. COSLA took the view that it was “questionable whether there is a need for new legislation” and suggested that “the Committee could explore additional statutory aggravators to existing vandalism or public nuisance offences”.¹⁰

25. The Scottish Government concluded its submission with that statement that “while recognising...it is for the Committee to explore further, the need for such legislation in the sentencing context described...is not yet clear”.¹¹

Definitions

26. In terms of scope, particularly regarding how “war memorial” came to be defined in the Bill, the Member in Charge said the intention was to be “as direct as possible” not only to address “time limitations” at this point in the parliamentary session but also so the bill could be “easily understood and has a direct aim and objective”.⁶
27. Responding to questions from the Committee about what was and was not included in the definition (examples of the latter including memorials in churches and likely also holocaust memorials as well as those erected in memory of miners, steel workers and LGBT veterans who served in the armed forces) she said that the decision had been “to keep the definition very succinct in relation to war memorials”. This was based what had been “researched” and concerns “brought to me by constituents, veterans groups and the friends of Dennistoun War Memorial”—
- ” That said, if the committee believes that we need to broaden the definition, I am happy to consider that carefully.⁶
28. COSLA's submission suggested that the scope of the Bill “should be defined broadly to ensure consistency and fairness in application” and “consideration should be given to memorials commemorating other forms of collective loss, such as those related to maritime, mining, or rail disasters” as well as “public memorials and commemorative structures, including street furniture such as memorial benches, which often hold significant personal and community value”.¹⁰
29. Police Scotland considered that the “ambiguities surrounding which memorials are covered, particularly on private or restricted land, may complicate enforcement” and therefore—
- ” ...there needs to be full and thorough consideration of the type of memorials that should be covered and perhaps a broadening and not just those related to “armed conflict”.⁸

England and Wales

30. Highlighting that the UK Parliament had “already legislated in this area through the Police, Crime, Sentencing and Courts Act 2022” (“the 2022 Act”), the Member in Charge told the Committee that this was further to the introduction of a private member’s bill “that would have created an offence of desecrating a war memorial” and was subsequently “absorbed” into the government legislation. ⁶ She said—
- ” ...in many respects, with this Bill I am trying to bring the situation into line with what is happening in other areas of the UK. ⁶
31. She explained that, as with the Bill at Westminster, ideally her policy aims would have been achieved via amendment to government legislation “but such an opportunity has not been afforded to me, given the bills that have been introduced this session”. ⁶
32. In respect of “numbers and hypotheticals”, she did not anticipate a high volume of cases, perhaps “a maximum of 10” each year given “evidence of comparable offences in England and Wales, which suggests that prosecutions would be rare”. ⁶
33. In a letter following her Committee appearance, the Member in Charge suggested that “it may be helpful to note the distinction between my Bill and section 50 [of the 2022 Act]”. She felt it was “important to note the context in which that provision was introduced, namely in response to a significant spike in attacks against other types of memorials during the COVID-19 pandemic” and that, whilst that context had changed, “the risk to war memorials has endured, which is why I have sought to create a targeted and succinct Bill, focused on deterring attacks on war memorials”. She added—
- ” That said, I felt it was appropriate and desirable to draw on the legislative precedent available by adopting a definition that is heavily based on the one used in the 2022 Act, but adapted to fit the more specific aim of my Bill. ¹²
34. In its written submission COPFS noted that the 2022 Act “enacted a provision which relates to criminal damage caused to all memorials with a commemorative purpose” in contrast “to the definition in this proposed Bill”. It suggested that “one of the purposes” of that Act “was to close an anomaly related to a link between the value of the criminal damage and the forum for prosecution which in turn, restricted sentencing options available in England and Wales” and—
- ” This is distinctly different from the position in Scotland where forum and thus sentencing options are not tied to the economic loss created by the offence of vandalism or malicious mischief. ⁹
35. She said in her letter of 3 November that, in terms of the definition used in her Bill and “with regard to the mechanics of the 2022 Act, in terms of the link between the value of damage and the forum of prosecution”—

” I appreciate the distinction between that and the position in Scotland as set out in COPFS’s submission. Indeed, it is something that was considered during the development and drafting of my Bill. In light of this distinction, I consider that the most appropriate way to mirror the provisions of the 2022 Act in relation to maximum sentences (insofar as they would relate to war memorials in Scotland), and to give war memorials the status in law that they deserve, would be to create the new, specific criminal offence proposed in my Bill.⁷

36. The Scottish Government’s submission stated—

” Any comparison with the legislation in England and Wales should be approached with caution, given the significant differences in legal and sentencing frameworks prior to the 2022 Act, as well as the broader scope of that legislation, which applied to memorials of all kinds rather than being limited, as this Bill is, to war memorials specifically.¹¹

Data

37. Regarding the incidence of destructive acts, the Member in Charge told us that her research has established a “stark increase in, specifically, the desecration of war memorials” which had “led to the Bill’s creation” and the focus on war memorials as defined in the Bill rather than more broadly.⁶
38. The Bill’s Policy Memorandum referenced “an increase in the desecration of memorials specifically dedicated to commemorating those who have died in war”. Based on “research carried out by the Member’s office...since 1996, there had been 66 “attacks” on war memorials in Scotland reported in the online media” and that “almost 70% of these had occurred since 2014”.² The Member in Charge said—
- ” The 70% increase in such instances since 2014 tells us a story, which is that people are willingly going out and desecrating war memorials.⁶
39. Figures presented by the Scottish Government in its written submission to the Committee, taken from UK-wide data provided by the War Memorials Trust (“the Trust”), suggested that from 2018-19 to 2023-24 the frequency of reported cases of damage to war memorials were at a high of 39 (in 2021-22) and a low of 29 (in both 2018-19 and 2022-23).¹¹
40. According to another publication from the Trust, a news statement issued on 23 April 2025 and titled “2024-25 war memorial theft, vandalism and anti-social behaviour cases” (again based on UK-wide figures)—
- ” Data available to the charity shows 13 incidents compared to 32 the previous year. This indicates that 0.00013% of war memorials in the UK have been subject to such problems, compared to 0.03% in 2023-24.¹³
41. Of the cases the Trust was aware of – “and this is not necessarily all of them” – it reported that “there were 6 reports of theft or attempted theft in 2024-25, an increase of 1 on the previous period” and that reports “of anti-social behaviour and graffiti fell from 18 to 7 whilst cases of vandalism fell from 9 to 4”. The Trust was clear that “any event of this type should be condemned” and that they “cause incredible levels of upset and outrage”—
- ” However, these events are rare and it is important to recognise the overwhelming respect given to our war memorial heritage.¹³
42. Police Scotland suggested that “the number of reports of recorded desecration from 2020 – 2025 indicates a disproportionate need for specific legislation to be put in place which may or may not act as a deterrent”.⁸

Public concern and impact on the community

43. In terms of impact, the Member in Charge told us—
- ” ...the law should recognise that damaging a war memorial has consequences beyond the littering and vandalism aspects...and that it causes significant trauma to communities that are impacted.”⁶
44. The Policy Memorandum expressed the view that “at present, the procurator fiscal would not necessarily take into account the significance to a community or the symbolic and cultural value of a war memorial”.²
45. In her letter of 3 November, the Member in Charge emphasised the aim of the Bill was “to equip the police and prosecutors with additional tools to properly and adequately address the issue of war memorial desecration” by way of a deterrent “thereby improving confidence among affected communities that the law is treating their distress and experiences with sufficient seriousness”.⁷
46. Police Scotland considered that “existing laws do not explicitly account for the emotional, cultural, or symbolic harm caused when war memorials are targeted” and communities “often perceive these acts as more serious than ordinary vandalism, leading to frustration if the legal response seems disproportionate”. Where its submission was more questioning of the Bill, this was “not intended to be disparaging of the emotional distress caused by such events but to highlight there are a lot of probabilities associated with the bill which at present can’t fully be evidenced”.⁸
47. The Scottish Government described “the strong public sentiment surrounding the protection of war memorials” and outlined the work that “our sponsorship body” HES was undertaking with the War Memorials Trust – including conservation and grants programmes.¹¹
48. HES itself described all war memorials as “culturally significant” and with “high social and local historical value”; the best estimate of their number in Scotland being “between 5,000-10,000”, while those with a heritage designation were thought to be “upwards of 800”, but whatever their status—
- ” Any desecration of a war memorial, however large or small, is an offensive and emotive issue.”¹
49. From the prosecutor’s standpoint, COPFS acknowledged “the effect the desecration of war memorials has on individuals and families whose loved ones are memorialised on them” and that “war memorials may be treated as graves and tended by bereaved next of kin, families and comrades”.⁹
50. It recognised the trauma that can result but not the suggestion that the “only consideration is the financial cost of damage”, stating that—

- ” Public concern and impact on the community will be key factors for the prosecutor to consider in cases involving vandalism, as will the significance of the structure, the location or nature of the item vandalised, and the motivation behind the alleged offending.⁹

Prosecution and sentencing

51. The Member in Charge told the Committee that “it would be for the courts to decide, through the sentencing process, what the correct penalties would be” but the Bill could provide “additional levers” with which they could “pass tougher sentences than they can at present”.⁶
52. The aim was “to create a deterrent” and not “to cause a backlog in our courts system” but “to ensure that we do not see the number of desecrations of war memorials that we have seen in recent years”. This was her “primary objective”.⁶
53. Regarding the sanction of a fine up to £10,000, she did “not believe that someone would necessarily be handed a 10-year prison sentence for desecrating a war memorial”⁶ on the basis that—
- ” The approach that I have taken is primarily one of deterrence...because I believe that that is what the Bill could achieve—people would think twice about desecrating war memorials...⁶
54. These levers would “provide tougher sentences if the crime fits” and in “severe” instances the “sentencing should be proportionate, because at present it might not be, in some instances”. She said that if “lesser penalties are imposed, they would still be greater than what we are presently seeing in relation to convictions”; and the Bill could ensure those responsible for “such egregious crimes that cause our communities trauma” receive sentences “equal to the harm that they have caused”—
- ” That is my bill’s purpose: to ensure that penalties are there to reflect the crimes that have been committed.⁶
55. In her letter of 3 November, the Member in Charge emphasised her belief that by “enhancing the status of war memorials” with “the creation of a specific criminal offence” it could enable “prosecutors to give more weight to these factors” and boost “confidence among affected communities that the law is treating their distress and experiences with sufficient seriousness”.⁷
56. She suggested that “the offence created by my Bill would allow referral to the High Court regardless of the scale or value of damage caused” but acknowledged that “the financial or economic impact of the crime (i.e. the cost value of the damage) is not the only factor taken into account by prosecutors”. However, she maintained the view that it was “unlikely that a case of war memorial desecration would attract these more significant penalties under existing offences” and “existing offences are inadequate to proportionately address the level of distress caused by desecration”.⁷
57. COPFS’s submission stated that it was “for the court to make independent decisions about sentence based upon the specific facts and circumstances” and that if “a Sheriff presiding over a solemn case decides that the maximum sentencing powers available are insufficient, it is open to them to refer the matter to the High Court”. Furthermore—

” In the view of prosecutors, the proposed legislation does not expand the circumstances which may already be prosecuted under the existing law.

It also does not create any additional sentencing powers for the courts.

This legislation would not mean that more cases were able to be detected and reported to prosecutors.⁹

58. While emphasising that it did “not have view on the maximum sentence” set out by the Bill, COPFS pointed out that the “current offences available to prosecutors includes a common law offence where the sentencing powers are unlimited” and—

” The proposed maximum sentence of 10 years in this Bill would be less than the range of sentencing powers currently available to a judge in the High Court should a malicious mischief or breach of the peace charge be heard in that forum.⁹

59. It underlined the COPFS position that the prosecution and the court “can and do already take into account all factors including community impact and trauma caused by any desecration of a war memorial, not just the economic impact of the crime”.⁹

60. Police Scotland observed that there was “no guarantee that implementing stronger sentencing would act as a deterrent” on the basis of “several incidents involving young people, for example, with no knowledge of a structure or space’s significance”. It stated that “most incidents involve minor defacement or graffiti” and officers and that prosecutors “must balance seriousness with available resources”, suggesting the “maximum 10-year sentence may rarely be applied” and “summary prosecutions will likely be more common”. On investigative complexity, it felt “establishing intent can be challenging” and the collection of evidence “including forensic documentation...may require additional resources”.⁸

61. The Scottish Government’s position was premised on recognition of “the importance of ensuring that the justice system responds robustly and appropriately to acts of vandalism” and being “mindful that a person who vandalises a war memorial in Scotland can currently be charged with different offences” including “malicious mischief which is a common law offence with no statutory maximum sentence”.

62. The Cabinet Secretary concluded that—

” It is therefore not evident that existing offences are insufficient to address acts of desecration against war memorials. We are unaware of any systemic issues within the Scottish criminal justice system that would suggest current approaches to such cases are inadequate, including in relation to sentencing practices. This raises broader questions about the necessity of introducing new legislation.¹¹

63. The Committee notes the strength of the evidence presented to us from stakeholders in the justice system and specifically that—

- **The Bill would not add to the circumstances which can already be**

prosecuted under existing law

- **It would not create additional sentencing powers**
- **It would not result in more cases being detected or reported to prosecutors**
- **The 10 years maximum sentence would be less than the current range of sentencing powers and might be rarely applied**
- **The court and prosecutors already take into account community impact and trauma**
- **The deterrence argument overlooks lower-level incidents involving those who may be ignorant of a memorial's significance**
- **The seriousness of an offence needs to be balanced with available resources and establishing intent can be a challenge.**

Alternative to a distinct offence

64. COPFS suggested that an alternative means by which the Member in Charge could achieve her policy aims, rather than creating a distinct offence through a Bill, would be to create “a statutory aggravation which can be added to a substantive charge such as vandalism, malicious mischief or breach of the peace”—

” Statutory aggravations are commonly used in the criminal justice system to enhance an offence where there is already an existing law which covers the intended criminal conduct but there is a desire (i) to publicly mark the seriousness of the offence and (ii) to provide the potential for the court to impose a more severe sentence.⁹

65. It explained that a “statutory aggravator only requires one source of evidence for it to be established” and there was “no need for the aggravation to be corroborated”. Also that “prosecutors will give a narrative of the offence to the presiding Sheriff or Judge, which will highlight any important or aggravating features of any offence, along with any details of community or economic impacts of a crime such as vandalism or malicious mischief”. It would then be “a matter for the court to decide on what elements it considers important in determining the appropriate sentence”.⁹

66. Therefore, if “a statutory aggravation was legislated for...the court could be obliged to take the aggravation into account in determining the appropriate sentence” plus “the range of sentencing options currently open to the courts would remain intact”.⁹

67. A statutory aggravation could also “be applied in potentially wider circumstances than this Bill proposes...[e.g.,] substantive offences other than the most used ones, such as vandalism or malicious mischief” and—

” The creation of a statutory aggravation could meet the intended aim of this Bill by elevating the status of war memorials in law to recognise the significance they play in communities across Scotland and the depth of feeling which occurs when they are vandalised or desecrated.⁹

68. COSLA also suggested the Committee could “explore the feasibility of introducing desecration of war memorials—and, where appropriate, sepulchres and memorials to other disasters—as a statutory aggravator to existing vandalism or public nuisance offences”. The view being that this “could provide a more consistent framework for police to record and track such incidents” as well as “enabling courts to recognise more clearly the particular harm caused and to enhance sentencing accordingly”.¹⁰

69. Including an aggravator for a mischief prosecution would enable the prosecutor “to take account of the significance of the memorial to the community” and “its wider symbolic and cultural value” in assessment of how serious the offence was “and determining the appropriate court and procedure”. Furthermore—

” It could also empower courts to impose higher penalties where appropriate, reflecting both the need for effective deterrence and the importance of providing adequate redress for the distress caused to individuals and communities.¹⁰

70. In instances of a first-time offence, “consideration could be given to diversion from prosecution, particularly through a restorative justice approach, given that many acts of vandalism of memorials appear to be impulsive or mindless in nature” and such approaches would “combine accountability with opportunities for offenders to understand the impact of their actions and contribute positively to the repair process”.¹⁰

71. The Member in Charge said in her letter of 3 November that while it was her understanding that creating “an additional statutory aggravator would require primary legislation”, she looked forward to the Committee’s view on matter and—

” While it is my preference to create a specific offence, my goal is to achieve greater protection for Scotland’s war memorials in law.⁷

72. The Committee notes the suggestion that an alternative means for the Member in Charge to achieve her policy aims could be to create a statutory aggravation. This could be added to existing charges such as vandalism, malicious mischief or breach of the peace. It was put to us by the Crown Office and Procurator Service that not only would such an approach oblige the courts to take the aggravation into account in determining the appropriate sentence but that the range of sentencing options currently available would remain intact.

73. We note also the view from COSLA that this could allow for greater consistency in the recording and tracking of incidents as well as better enabling the courts to recognise the harmful impact to individuals and communities and to adjust sentencing accordingly. It was further suggested by COSLA that statutory aggravation could provide effective deterrence and enable consideration where appropriate of a restorative justice approach.

Finance and Public Administration Committee

74. The Financial Memorandum sets out the member’s best estimates of the expected financial impact of the Bill. The Finance and Public Administration Committee (“FPAC”) held a call for views on the document and received one submission from [Highland Council](#). That submission found the comments in the Financial Memorandum to be “reasonable” and also suggested that—
- ” It is reasonable for the Financial Memorandum not to provide specific figures on potential savings as it is difficult to calculate the specific impact of the proposed legislation. ¹⁴
75. Outwith FPAC’s consultation, COSLA stated that it would “urge caution” in the Financial Memorandum’s use of “2016/17 costings as an accurate starting point” in estimating costs for community payback orders “as it did not take into account staff costs, variation in length of support provided, supervision levels and other admin and management costs”. ¹⁰
76. The Scottish Government described the potential costs suggested in the Financial Memorandum, estimated in that document to be in the region of £300,000 per year, as “encompassing additional burdens on the Scottish Administration as well as wider public sector implications”. It also questioned the appropriateness of comparisons with other legislative models, such as the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill and the Dog Theft (Scotland) Bill on the basis of the “differing nature, context, and frequency of the offences involved” and suggested—
- ” It would also be helpful to consider the extent to which the implementation of similar legislation in England and Wales, particularly under the Police, Crime, Sentencing and Courts Act 2022, might inform expectations around enforcement, sentencing, and associated costs in Scotland. ¹¹

Conclusion

77. **Public memorials and commemorative structures hold significant personal, symbolic and community value. We recognise, as did those we took evidence from, the cultural and societal significance of Scotland's war memorials and how any damage to them can be an emotive issue.**

78. **The Committee recommends that the Member in Charge of the Bill give due consideration to the weight of the evidence provided to the Committee during our Stage 1 scrutiny, in particular the submission from the Crown Office and Procurator Fiscal Service – but also those from COSLA, Police Scotland and the Scottish Government.**

79. **Specifically, we would highlight evidence that the Bill: would not add to the circumstances which can already be prosecuted under existing law; would not create additional sentencing powers; and would not result in more cases being detected or reported to prosecutors. Also that the 10 years maximum sentence would be less than the current range of sentencing powers and that prosecutors and the court already take into account factors such as community impact and trauma.**

80. **We note that an alternative way of the Member in Charge achieving her main aim of greater protection for Scotland's war memorials would be through the creation of a statutory aggravation to existing charges such as vandalism, malicious mischief or breach of the peace. The suggestion made to us by the Crown Office and Procurator Fiscal Service was that not only would such an approach oblige the courts to take the aggravation into account but that the range of current sentencing options would remain intact.**

81. **Therefore, the Committee invites the Member in Charge to consider engaging with the Scottish Government on the merits of creating a statutory aggravation, concerning the desecration of war memorials.**

- [1] Historic Environment Scotland. (2025). Written submission. Retrieved from <chrome-extension://efaidnbmnnnibpcajpcgiclfefindmkaj/https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2025/historic-envirnoment-scotland.pdf>
- [2] Scottish Parliament. (2025). Desecration of War Memorials (Scotland) Bill - Policy Memorandum. Retrieved from <chrome-extension://efaidnbmnnnibpcajpcgiclfefindmkaj/https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/desecration-of-war-memorials-scotland-bill/introduced/spbill68pms062025accessible.pdf>
- [3] Scottish Parliament. (2025). Desecration of War Memorials (Scotland) Bill as Introduced. Retrieved from <chrome-extension://efaidnbmnnnibpcajpcgiclfefindmkaj/https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/desecration-of-war-memorials-scotland-bill/introduced/spbill68s062025.pdf>
- [4] Meghan Gallacher MSP. (2025). Correspondence, 19 August 2025. Retrieved from <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2025/desecration-of-war-memorials-scotland-bill--letter-from-meghan-gallacher-msp.pdf>
- [5] Scottish Parliament. (2022). Citizen Participation and Public Petitions Committee Official Report, 23 March 2022. Retrieved from <chrome-extension://efaidnbmnnnibpcajpcgiclfefindmkaj/https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=13678>
- [6] Scottish Parliament. (2025). Official Report, 4 September 2025. Retrieved from <https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/CEEAC-04-09-2025?meeting=16561&iob=141356>
- [7] Meghan Gallacher MSP. (2025). Correspondence, 3 November 2025. Retrieved from <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2025/meghan-gallacher-msp-to-convener-ceeac--response-to-points-raised-in-written-submissions.pdf>
- [8] Police Scotland. (2025). Written submission. Retrieved from <chrome-extension://efaidnbmnnnibpcajpcgiclfefindmkaj/https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2025/police-scotland-desecration-of-war-memorials-scotland-bill.pdf>
- [9] Crown Office and Procurator Fiscal Service. (2025). Written submission. Retrieved from <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2025/crown-office-and-procurator-fiscal-service.pdf>
- [10] COSLA. (2025). Written submission. Retrieved from <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2025/cosla.pdf>
- [11] Scottish Government. (2025). Written submission. Retrieved from <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2025/scottish-government-desecration-of-war-memorials-scotland-bill.pdf>

- [12] Meghan Gallacher MSP. (2025). Correspondence, 18 September 2025. Retrieved from <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2025/desecration-of-war-memorials-scotland-bill--follow-up-from-4-september-meeting.pdf>
- [13] War Memorials Trust. (2025). 2024-25 war memorial theft, vandalism and antisocial behaviour cases. Retrieved from <https://www.warmemorials.org/uploads/publications/756.pdf>
- [14] Highland Council. (2025). Written submission on Financial Memorandum. Retrieved from https://yourviews.parliament.scot/finance/desecration-of-war-memorials-fm/consultation/view_respondent?uuld=854486099

