

Citizen Participation and Public Petitions Committee

6th Meeting, 2021 (Session 6), 3 November
2021

PE1893: Introduce legislation to protect Scotland's war memorials

Note by the Clerk

Petitioner	James Watson on behalf of Friends of Dennistoun War Memorial
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to introduce legislation which recognises desecration or vandalism of war memorials as a specific criminal offence.
Webpage	petitions.parliament.scot/petitions/PE1893

Introduction

1. This is a new petition that was lodged on 23 August 2021.
2. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe A**.
3. While not a formal requirement, petitioners have the option to collect signatures and comments on their petition. On this occasion, the petitioners have elected to not collect this information.
4. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government on this petition and is included at **Annexe B** of this paper.
5. The Committee invited the petitioner to respond to the Scottish Government's submission. However, a response has not yet been received.

6. The petitioner lodged a previous petition in November 2020 calling for protection of Scotland's war memorials, [PE1830](#). At the time, the Committee wrote to and considered a submission from the [Scottish Government](#).
7. The Committee agreed to close the petition on 9 December 2020 on the basis that there is legislation currently in place to deal with the vandalism and desecration of statues and memorials, including war memorials, and the Scottish Government has no current plans to introduce new legislation for the specific purpose requested in the petition.

Scottish Government consideration

8. The Scottish Government notes in its submission that this petition is identical to petition [PE1830](#) and its position on this matter remains unchanged. The Scottish Government therefore refers to submission [PE1830/A](#) for its full response.
9. Submission [PE1830/A](#) notes that vandalism is a crime regardless of the motivations for it and the Scottish Government condemns all acts of malicious vandalism and graffiti.
10. The submission highlights that under the vandalism provisions contained in the Criminal Law (Consolidation) (Scotland) Act 1995, any person who, without reasonable excuse, wilfully or recklessly destroys or damages any property belonging to another shall be guilty of the offence of vandalism and on summary conviction in the:
 - Justice of the Peace Court is liable for a fine up to £1,000 and/or to a term of imprisonment not exceeding 60 days.
 - Sheriff Court is liable for a first such offence, for a fine up to £5,000 and/or to a term of imprisonment not exceeding 3 months; and for any subsequent such offence, to imprisonment for a term not exceeding 6 months, and/or to the fine of up to £5,000.
11. It further highlights that the Procurator Fiscal after considering the case, in particular the seriousness of the offence, will determine in which court the case will be heard.
12. The Antisocial Behaviour etc. (Scotland) Act 2004 provides a range of measures for dealing with all forms of antisocial behaviour. The submission notes that national strategy is based on prevention, early intervention and diversionary activities, with Police Scotland and local authorities leading on interventions. It advises they have a range of options available when tackling antisocial behaviour. In the case of antisocial behaviour being conducted by individuals, an effective method for addressing this can be the use of an Antisocial Behaviour Order (ASBO).

13. The Antisocial Behaviour etc. (Scotland) Act 2004 also enables the police to issue on-the-spot fixed penalties (£40) to people suspected of low-level statutory vandalism offences, such as graffiti.

14. The submission advises that, depending on the circumstances, common law breach of the peace could be used to deal with those involved in the desecration of statutes and monuments. Such individuals may also fall foul of the Criminal Justice and Licensing (Scotland) Act 2010 if they are involved in threatening or abusive behaviour which causes fear and alarm, for which an individual can be fined or receive a prison term not exceeding 5 years.

15. In closing the Scottish Government states:

“As there is legislation currently in place to deal with the vandalism and desecration of statutes and memorials, including war memorials, the Scottish Government has no current plans to introduce new legislation for this specific purpose.”

Action

16. The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

PE1893: INTRODUCE LEGISLATION TO PROTECT SCOTLAND'S WAR MEMORIALS

Petitioner

James Watson on behalf of Friends of Dennistoun War Memorial

Date Lodged

23/08/21

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to introduce legislation which recognises desecration or vandalism of war memorials as a specific criminal offence.

Previous action

I have met with my MSP, Annie Wells, who suggested that I use the public petitions route. She is fully in favour of our objective and is willing to give any support needed. I have also written to MSPs and I know there is much cross-party support for such legislation. I have gauged opinion on social media platforms where there is also great support.

Background information

Our group has identified what we believe to be a gap in the law. The law treats vandalism/desecration of places of worship, for example, differently when compared to a block of flats but doesn't treat desecration of a memorial to the fallen differently to that of a telephone box. A war memorial is sometimes all that grieving families have left of their loved ones. Over the past 5 years there has been a significant increase in attacks on Scotland's war memorials. These memorials have a special place in society, and we believe that they should be protected as such. That is why we submit this petition.



Briefing for the Citizen Participation and Public Petitions Committee on petition [PE1893](#): Introduce legislation to protect Scotland's war memorials, lodged by James Watson

Background

The petition seeks the creation of a specific criminal offence dealing with the desecration or vandalism of war memorials.

The same issue was raised by the petitioner in a [previous petition](#) lodged towards the end of last parliamentary session (November 2020).

Previous petition

In a [written response to the previous petition](#), the Scottish Government highlighted more general criminal offences which can be used to prosecute the types of behaviour referred to in the petition. For example, the offence of vandalism set out in [section 52 of the Criminal Law \(Consolidation\) \(Scotland\) Act 1995](#):

“any person who, without reasonable excuse, wilfully or recklessly destroys or damages any property belonging to another shall be guilty of the offence of vandalism”.

For this offence, a sheriff court may impose a custodial sentence of up to three months (six months if previously convicted of the same offence) and a fine of up to £10,000.

The Scottish Government indicated that, given the existence of relevant general offences, it had no plans for an offence dealing specifically with the vandalism of war memorials:

“As there is legislation currently in place to deal with the vandalism and desecration of statutes and memorials, including war memorials, the Scottish Government has no current plans to introduce new legislation for this specific purpose.”

The Public Petitions Committee [considered the matter on 9 December 2020](#) (see columns 23-25 of the Official Report). Following this, it agreed to close the petition on the basis that there is already legislation to deal with the matter and that the Scottish Government had no plans to introduce new legislation providing for a more specific offence. In closing discussions, the Convener, Johann Lamont MSP, said:

“We appreciate the significance of the points that have been raised in the petition. We thank James Watson and the friends of Dennistoun war memorial, not just for lodging the petition but for their work to maintain the war memorial. We thank them for their engagement with the Committee. They might wish to return to the issue. Of course, the point has been made that there is legislation in place and the issue is taken seriously, but there is a whole job to be done to educate people about why memorials and other things matter so much to people. We thank the petitioners for their engagement.”

Further background information is provided in a [SPICe briefing prepared for the previous petition](#).

Frazer McCallum
Senior Researcher
20/09/2021

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Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP

Scottish Government submission of 21 September 2021

PE1893/A - Introduce legislation to protect Scotland's war memorials

Thank you for your e-mail of 25 August on behalf of the Citizen Participation and Public Petitions Committee seeking views of the Scottish Government on the action called for in Petition PE1893 lodged by Mr James Watson, Friends of Dennistoun war memorial group which:

“Call[s] on the Scottish Parliament to urge the Scottish Government to introduce legislation which recognises desecration or vandalism of war memorials as a specific criminal offence”.

Prior to the current Public Petition Mr Watson last year raised an identical Public Petition (PE1830) in which the views of The Scottish Government were requested and given on 19 November 2020.

You will be aware that the Public Petitions Committee, at its 21st Meeting 2020 (Session 5) on Wednesday 9 December 2020, considered PE1830. The Committee agreed to close the petition under Rule 15.7 of Standing Orders on the basis that there is legislation currently in place to deal with the vandalism and desecration of statutes and memorials, including war memorials, and the Scottish Government has no current plans to introduce new legislation for the specific purpose requested in the petition.

I can confirm that the Scottish Government's position remains as set out in my letter of 19 November 2020 ([PE1830/A](#)).

Please let me know if you require any further information.