

PE1830/A

Scottish Government submission of 19 November 2020

Thank you for your e-mail of 2 October on behalf the Public Petitions Committee seeking advanced views from the Scottish Government on Petition PE1830 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”.

The Scottish Government recognises the importance of Scottish War Memorials in ensuring that the memories of those who gave their lives for their countries are not forgotten. We will never forget the ultimate sacrifice made by members of the Armed Forces which has ensured that future generations enjoy the freedoms we now take for granted.

The Scottish Government also recognises the commitment and sacrifices made by veterans, as well as our active service men and women. We respect their legacy and can appreciate how distressing it can be when war memorials and statues connected to past conflicts are the target of vandalism.

Vandalism is a crime regardless of the motivations for it and I would like to provide reassurance to the Committee that the Scottish Government condemns all acts of malicious vandalism and graffiti. This sort of behaviour is unacceptable in today's modern Scotland and those indulging in such behaviour can expect to face criminal charges.

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.

The Procurator Fiscal after considering the case, in particular the seriousness of the offence, will determine in which court the case will be heard.

The Antisocial Behaviour etc. (Scotland) Act 2004 provides a wide range of measures for dealing with all forms of antisocial behaviour and our national strategy is based on prevention, early intervention and diversionary activities. Police Scotland and local authorities lead on interventions, and 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).

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.

Additionally, 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.

The Scottish Government supports local authorities, police, prosecutors and the courts having appropriate powers in this area and supports use of these powers in dealing with incidents that arise if these independent agencies considered it was necessary in any given case.

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.