

Desecration of War Memorials (Scotland) Bill – COSLA Officer Input

1. COSLA welcomes the opportunity to contribute to the stage one consideration of the Desecration of War Memorials (Scotland) Bill. Due to timescales, it has not been possible to provide COSLA's members sufficient time to consider the proposals at a political level. As a result, this response has been pulled together by officers based on existing COSLA positions.

Key Points

2. The desecration of war memorials in our local communities clearly causes upset and distress to the families, relatives, friends and wider members of communities, given the sacrifices made by Scotland's servicemen and servicewomen and their families in previous conflicts and wars on behalf of their country.
3. As opposed to introduction of legislation, the Committee may wish to 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. This could provide a more consistent framework for police to record and track such incidents, while enabling courts to recognise more clearly the particular harm caused and to enhance sentencing accordingly.
4. Where a case is prosecuted under malicious mischief, the inclusion of such an aggravator could allow the Procurator Fiscal to take account of the significance of the memorial to the community, as well as its wider symbolic and cultural value, when assessing the seriousness of the offence and determining the appropriate court and procedure. 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.
5. In cases 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. These approaches combine accountability with opportunities for offenders to understand the impact of their actions and contribute positively to the repair process. Rather than focusing solely on punitive measures, this would allow the offender to directly address the harm caused—potentially by meeting with the victim or a representative (such as a veteran) to explain their actions and take responsibility. Third-sector organisations could play a key role in facilitating this process, ensuring accountability while promoting rehabilitation and reducing the risk of reoffending. Where a Community Payback Order (CPO) is imposed, consideration should be given to requiring offenders to contribute directly to remedial work, for example by assisting under supervision from local authorities, Historic Environment Scotland, specialist stonemasons, or representatives of the Royal British Legion. Similar conditions could also be explored in relation to structured deferred sentences or bail supervision.

6. If desecration of war memorials were to be established as a specific criminal offence, its scope should be defined broadly to ensure consistency and fairness in application. In addition to sepulchres, consideration should be given to memorials commemorating other forms of collective loss, such as those related to maritime, mining, or rail disasters. Furthermore, provisions could extend to public memorials and commemorative structures, including street furniture such as memorial benches, which often hold significant personal and community value.

Financial Memorandum

7. The FM states that the average cost of an offender undertaking a CPO in 2020-21 was £1,894.21. Adjusting for inflation this would be £2,215.20 in 2024-25 terms.
8. We would urge caution in using the 2016/17 costings as an accurate starting point, even if they are then adjusted for inflation. The unit expenditure was [calculated](#) by dividing estimated expenditure on CPOs across the 8 CJAs (now defunct) by the number of cases commenced in custody. This was an approximate (and now out-of-date) way of calculating costs as it did not take into account staff costs, variation in length of support provided, supervision levels and other admin and management costs.

Conclusion

9. While the desecration of war memorials creates a great deal of distress to members of our communities. It should be noted that there would be additional costs involved as part of new provisions for the Justice System e.g. CPOs to establish it as an offence.
10. Additionally, it is questionable whether there is a need for new legislation when the Committee could explore additional statutory aggravators to existing vandalism or public nuisance offences.

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