

Police Scotland

I write in relation to the request for views on the proposed Desecration of War Memorials (Scotland) Bill.

I understand The Desecration of War Memorials (Scotland) Bill establishes a distinct statutory offence for damaging, defacing, or otherwise desecrating war memorials. While acts of this nature can already be prosecuted under existing vandalism or malicious mischief laws, the Bill provides a dedicated framework recognising the symbolic and communal significance of memorials and offering potential for stronger sentencing.

Currently, Police Scotland investigates desecration of war memorials primarily under malicious mischief or Vandalism legislation, which covers intentional or reckless damage to property. Penalties vary depending on the severity of the damage. However, these existing laws do not explicitly account for the emotional, cultural, or symbolic harm caused when war memorials are targeted. Communities often perceive these acts as more serious than ordinary vandalism, leading to frustration if the legal response seems disproportionate.

The Bill therefore functions as an enhancement rather than a replacement of existing offences. It clarifies definitions such as “war memorial” and “desecration” (including spitting, urination, or defacing) and introduces a sentencing framework with up to 12 months’ imprisonment on summary conviction and up to 10 years on indictment. This provides police and prosecutors with clearer statutory guidance.

However, the extent of work that would be involved in incorporating the proposed Bill should be properly measured and perhaps consideration of a “wider range of memorials, structures or entities” covered, not just limited to “armed conflict”. There is also no guarantee that implementing stronger sentencing would act as a deterrent as there will be several incidents involving young people, for example, with no knowledge of a structure or space’s significance and as mentioned education plays an important role.

Community Impact and Tensions

We are aware that the desecration of war memorials can create significant community impact and tensions. Memorials often serve as focal points for collective remembrance, civic identity, and intergenerational connection. When they are damaged, it can provoke public outrage, distress to veterans, bereaved families, and wider communities, and in some cases, escalate local tensions between different groups. Officers responding to incidents may face heightened scrutiny, and the perception that authorities are not acting decisively can undermine trust in policing.

The Bill’s clear statutory offence provides police with the authority to respond proportionately, signalling respect for community values and helping to mitigate potential friction.

However again the impact and provocation of community tension and distress can be the same with memorials not associated with “armed conflict”.

Community Confidence

Successful enforcement communicates that Police Scotland treats desecration seriously, reinforcing public trust in the justice system. This also supports engagement with veterans' groups, schools, and local communities.

Evidence and Charging Guidance

Clarifying “wilful or reckless” intent and the “reasonable excuse” defence provides investigative and evidential benchmarks for officers.

Proportionality and Resource Allocation

Most incidents involve minor defacement or graffiti. Officers and prosecutors must balance seriousness with available resources. The maximum 10-year sentence may rarely be applied; summary prosecutions will likely be more common.

Investigative Complexity

Establishing intent can be challenging. Evidence collection, including forensic documentation and linking offenders to acts, may require additional resources.

Definition and Scope

Ambiguities surrounding which memorials are covered, particularly on private or restricted land, may complicate enforcement and necessitate liaison with heritage bodies or landowners.

Human Rights Considerations

Police must ensure enforcement does not infringe lawful protest or expression. The “reasonable excuse” provision allows discretion, but training and guidance are essential.

Coordination with Stakeholders

Investigations may involve multiple parties (COSLA, Historic Environment Scotland, War Memorial Trust). Effective policing requires clear communication and collaboration with these organisations, particularly for restoration and evidence verification.

Strategic Policing Implications

Community Policing: Officers can work with veterans' groups, schools, and local associations to raise awareness and prevent incidents. Rapid Response: Clear statutory authority enables swift intervention in active or reported desecrations. Data-Driven Prevention: Monitoring desecration trends can inform targeted patrols and proactive measures.

Conclusion

From a policing perspective, the Bill supplements existing vandalism and malicious mischief laws by explicitly recognising the unique harm caused by war memorial desecration. It offers operational clarity, potential for stronger deterrence, and improved community confidence.

Its success will depend on careful application: defining offences clearly, ensuring proportionality in sentencing, balancing investigative demands with practical resource constraints, and actively managing community impact and tensions. Properly implemented, it

reinforces respect for Scotland's heritage while supporting Police Scotland's operational and community-focused objectives.

However as highlighted by representatives present at the evidence session there needs to 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".

The financial implications of implementing the new legislation need to be balanced against the likelihood of a stronger sentence actually being passed along with a clear understanding of those offences detected and resulting in a report to COPFS.

The points referenced regarding the proposed Bill being performative particularly when existing legislation is in place suggests that further consultation would be an advantage. Also, 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. This is 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.