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Convener
Constitution, Europe, External Affairs and Culture
Committee
Scottish Parliament
Edinburgh
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6 October 2025

Dear Convener,

DESECRATION OF WAR MEMORIALS (SCOTLAND) BILL

I am writing to assist your Committee's consideration of the Desecration of War Memorials (Scotland) Bill ("the Bill"), which was introduced by Meghan Gallacher MSP on 14 May 2025. Your clerks have indicated to my officials that an indication of the Government's position on the Bill would be helpful.

The Bill seeks to create a new statutory offence specifically targeting the wilful or reckless destruction, damage, or desecration of war memorials. Under the proposed legislation, individuals convicted of this offence could face a maximum sentence of 10 years' imprisonment and/or an unlimited fine if prosecuted on indictment. The Bill defines desecration broadly to include acts such as spitting, urinating, defecating, or otherwise defacing a memorial, whether the damage is permanent or temporary. The offence is intended to reflect the symbolic, emotional, and cultural significance of war memorials to communities across Scotland, and to ensure that such acts are treated more seriously than under existing laws, such as vandalism or malicious mischief, which currently apply. The Bill also aims to provide courts with a wider range of sentencing options and to act as a stronger deterrent to future offences.

Before proceeding further, I wish to emphasise that I cannot comment on matters relating to the functions of the Lord Advocate or the Crown Office and Procurator Fiscal Service, as these are constitutionally independent of Ministers and Parliament. Any views on prosecutorial decisions or guidance would therefore need to come directly from the Lord Advocate. This is particularly relevant in light of paragraph 34 of the Policy Memorandum.

The Government recognise the strong public sentiment surrounding the protection of war memorials and to this end, our sponsored body Historic Environment Scotland has a live grant with the War Memorials Trust. This supports:

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- A **Conservation Programme** which seeks to improve the condition of war memorials through increasing understanding of best practice on maintenance, repair and conservation, and to enhance the public engagement and responsibility for war memorials. To achieve this, they provide advice to a range of individuals and organisations, engaging with statutory processes and promoting best conservation practice. They also provide opportunities for the public to engage with and learn about war memorials through activities such as War Memorials Online and producing material about the charity.
- A **Grants Programme** that combines funds from statutory bodies with its own fundraising from individuals, charitable trusts and corporate donors to deliver a programme that offers support towards repair and conservation works to a wide range of war memorials across Scotland.

The Trust also undertakes a range of other important functions, including monitoring incidents of damage to war memorials. Although it is not possible to disaggregate Scottish police or prosecution data to identify the number of such incidents specifically in Scotland, the Trust collects valuable UK-wide data which provide useful context for consideration of the Bill's proposals:

Year	Theft or attempted theft	Vandalism	Total incidents
2010	14	7	21
2011	40	20	60
2012	16	9	25
2013	8	21	29
2014	4	12	16
2015	3	5	8
2016	4	15	19
2017	2	5	7

Year	Antisocial behaviour	Graffiti	Attempted theft	Theft	Vandalism	Total incidents
Jan 2018 – Mar 19	0	14	0	5	10	29
2019 – 20	9	12	1	3	11	34
2020 – 21	10	18	0	4	16	38
2021 – 22	18	13	0	2	8	39
2022 – 23	7	10	0	1	11	29
2023 – 24	7	11	0	5	9	32

We recognise the importance of ensuring that the justice system responds robustly and appropriately to acts of vandalism. In this context, we are mindful that a person who vandalises a war memorial in Scotland can currently be charged with different offences. This includes malicious mischief which is a common law offence with no statutory maximum sentence. 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.

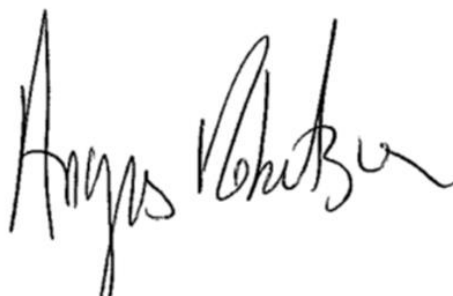
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The Financial Memorandum for the Bill outlines potential costs exceeding £300,000 per year, encompassing additional burdens on the Scottish Administration as well as wider public sector implications. These projected costs are based on assumptions about the number of cases that might arise annually under the new offence, and on comparisons with other legislative models. The Financial Memorandum draws on cost modelling from the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill and the Dog Theft (Scotland) Bill. The Government would welcome views on how appropriate these comparisons are, given the differing nature, context, and frequency of the offences involved. 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. 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.

The Government welcomes the Committee's call for evidence and will engage fully with its consideration of the Bill. At this stage, while recognising that it is for the Committee to explore further, the need for such legislation in the sentencing context described above is not yet clear. We look forward to the Committee's further work on these matters.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Angus Robertson', with a stylized, cursive script.

ANGUS ROBERTSON

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