



# A Memorandum of Understanding on the Prevention, Investigation, Enforcement and Prosecution of Heritage Crime

English Heritage

The Crown Prosecution Service

The Association of Chief Police Officers

Participating local authorities and community safety partnerships



ASSOCIATION OF  
CHIEF POLICE OFFICERS



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## **1. Purpose**

This Memorandum of Understanding (MoU) is intended to serve as a general guide to fostering co-operation between the respective parties and to allow the necessary flexibility in activities that are undertaken between them in relation to heritage crime. It defines the roles and responsibilities of the parties in the prevention, investigation, enforcement and prosecution of heritage crime, in keeping with their respective aims. There will be an annual strategic assessment for heritage crime which will inform an action plan for the parties to this MoU to follow.

It should be used as a basis for high level strategic engagement and regional protocols between English Heritage, participating local authorities, Police forces and the Crown Prosecution Service.

Such protocols will form the basis of working arrangements with those involved at regional and force level.

Heritage crime is defined for the purposes of this MoU as *'any offence which harms the value of England's heritage assets and their settings to this and future generations'*

England's heritage assets include:

- Listed buildings;
- Conservation areas;
- Scheduled monuments;
- Protected marine wreck sites;
- World Heritage Sites;
- Registered Parks and Gardens;
- Battlefields;
- Protected military remains of aircraft and vessels of historic interest; and
- Undesignated but acknowledged heritage buildings and sites.

## **2. Parties to the agreement**

English Heritage (EH)

Association of Chief Police Officers of England Wales and Northern Ireland (ACPO)

Crown Prosecution Service (CPS); and

Participating local authorities (LAs) - see *Appendix 1*.

### **3. Statutory roles and responsibilities of parties**

#### **English Heritage**

English Heritage is a non-departmental public body with responsibility for all aspects of protecting and promoting the historic environment in England.

English Heritage is the Government's statutory adviser on the historic environment.

#### **Association of Chief Police Officers of England, Wales and Northern Ireland**

The Association of Chief Police Officers (ACPO) is an independent, professionally led strategic body. In the public interest and, in equal and active partnership with Government and the Association of Police Authorities, ACPO leads and coordinates the direction and development of the police service in England, Wales and Northern Ireland. In times of national need ACPO - on behalf of all chief officers - coordinates the strategic policing response.

Chief Officers of all police forces strive to deliver effective policing at local, regional and national levels. ACPO is a voluntary association of chief officers bringing together their experience and expertise to help achieve those aims on behalf of the public. ACPO is wholly accountable to chief officers who in turn, are each accountable to the people they serve and to police authorities at a force level.

The Police have a duty to preserve life, protect property and to prevent and detect crime.

They have a role in preventing and investigating criminal offences involving heritage and the historic environment and are the lead agency for the investigation of those criminal offences identified in section 6 below.

#### **Crown Prosecution Service**

The Crown Prosecution Services (CPS) is the principal public prosecuting authority for England and Wales. Although the CPS works closely with the police, it is independent of them. The independence of prosecutors is of fundamental constitutional importance. Casework decisions are taken with fairness, impartiality and integrity, delivering justice for victims, witnesses, defendants and the public.

It is the duty of prosecutors to review, advise on and to prosecute cases, or to offer an appropriate out-of-court-disposal to the offender. Prosecutors must ensure that the law is properly applied; and all relevant evidence is put before the court; and that obligations of disclosure are complied with, in accordance with the Code for Crown Prosecutors. The role of the CPS is to prosecute cases firmly, fairly and effectively when there is sufficient evidence to provide a realistic prospect of conviction and when it is in the public interest to do so.

#### **Participating Local Authorities**

Participating Local Authorities (LAs) are those authorities who have agreed to be a party to this MoU and are named in *Appendix 1*.

Local authorities are independently elected and autonomous bodies. They are largely independent of central government and are directly accountable to their electorates. Their powers are conferred on them by Acts of Parliament. Some powers are given to all local authorities and some only to specific types. Local authorities play a vital role in representing the interests of their citizens and commissioning local services.

Their responsibilities vary depending on the type of authority but includes for example planning, education, waste management, housing, community safety and crime reduction etc.

Under the Town and Country Planning Act 1990 and the Planning and Compensation Act 1991 District Councils, County Councils, Unitary Councils, Metropolitan District Councils and London Borough Councils and in National Parks the National Park authority, are designated as local planning authorities.

Local planning authorities have a duty to prepare development plans for their area, such plans should take account of the historic environment. They control development through the granting and refusal of planning applications and are also responsible for determining applications for listed building consent and conservation area consent in their area. They have the power to enforce against unauthorised development (breaches of planning control), the unauthorised demolition or alteration of listed buildings and the unauthorised demolition of unlisted buildings in conservation areas. They also have the power to enforce conditions attached to planning permissions, listed building and conservation area consents.

Under the Crime and Disorder Act 1998 responsible authorities have a statutory duty to work with other local agencies and organisations to develop and implement strategies to tackle crime and disorder including anti social behaviour that adversely affects the local environment within their local government area. Such a strategy should include the historic environment and associated heritage assets within that defined area.

A local government area in England for this purpose is a district or London Borough (this includes a unitary authority), the City of London, the Isle of Wight and the Isles of Scilly. The responsible authority is the Council for that area and, where it is a district (and not a unitary authority), the Council for the County that includes the district.

#### **4. Investigations**

The investigatory parties to this MoU are committed to ensuring that any investigation into heritage crime is proportionate but effective, and the parties agree to work closely together in order to achieve this.

Decisions as to who will lead the investigation, and the direction it will take, should be timely, informed by the best available evidence and technical expertise, and should take account of this MoU and the wider public interest. Should there be any issue as to who is to be involved in investigating heritage crime then the parties will work together to reach a conclusion.

The investigatory parties to this MoU will assist each other, where practicable and wherever resources and powers allow, in the prevention, investigation, enforcement and prosecution of heritage crime.

## **5. Legal action**

The decision whether to commence criminal proceedings (or where charges have been brought by the police to continue those proceedings) rests with the appropriate prosecuting body which will depend upon the heritage asset type and the offences involved in any given case.

Nonetheless, enforcement action taken by one organisation does not preclude another taking action if considered appropriate. All parties to this MOU who contribute to or have a legitimate interest in an investigation will be consulted on the handling and disposal.

The respective roles and responsibilities of the parties to this MoU to prevent, investigate, prosecute, assist or advise in respect of crimes involving heritage assets are set out below in paragraph 6.

It is agreed by the parties to this MoU that LAs should have the duties and responsibilities set out below in respect of the prevention, investigation and enforcement of heritage crimes. It is, however, only those participating LAs who are signatories to this MoU (see *Appendix 1*) that have agreed to its terms.

## **6. Roles and responsibilities to prevent, investigate, prosecute, assist and advise on heritage crime**

### **Listed Buildings**

Participating LAs as part of their function as local planning authority have a duty to prevent, investigate and where appropriate prosecute unauthorised works or deliberate damage (where this is caused by the owner or occupier) to listed buildings, breaches of conditions attached to listed building consent and breaches of listed building enforcement notices. These specific regulatory crimes are set out in summary in *Appendix 2*.

The police and EH will provide assistance and advice in campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any such crimes.

The police are responsible for prevention and investigation of crimes involving harm to listed buildings, such as theft and criminal damage. The CPS is responsible for prosecution of such crimes where there is sufficient evidence and it is in the public interest to do so. Participating LAs where this affects their local government area and EH have a duty to assist and advise in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes.

### **Conservation Areas**

Participating LAs as part of their function as local planning authority have a duty to prevent, investigate and prosecute unauthorised demolitions within conservation areas, any breaches of conditions of conservation area consent and conservation area enforcement notices. These specific regulatory crimes are set out in summary in *Appendix 2*.

The Police and EH will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any such crimes.

The police are responsible for prevention and investigation of crimes involving harm to conservation areas, such as theft, criminal damage and offences involving anti-social behaviour. The CPS is responsible for prosecution of such crimes where there is sufficient evidence and it is in the public interest to do so. Participating LAs where this affects their local government area and EH have a duty to assist and advise in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes.

### **Scheduled Monuments**

EH has a duty to prevent, investigate and prosecute unauthorised works to scheduled monuments (works without scheduled monument consent).

The police and participating LAs will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes.

The police are responsible for the prevention and investigation of crimes leading to harm to scheduled monuments including deliberate damage to scheduled monuments, illegal metal-detecting on them including theft or removal of associated objects or artefacts. The CPS is responsible for prosecution of such crimes where there is sufficient evidence and it is in the public interest to do so. Participating LAs where this affects their local government area and EH have a duty to assist and advise in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes.

The specific regulatory crimes for this heritage asset are set out in summary in *Appendix 2*.

### **Protected marine wrecks sites**

The police in partnership with EH are responsible for the prevention and investigation of unauthorised activities in respect of wreck sites designated as 'restricted areas' as defined by the Protection of Wrecks Act 1973. The Receiver of Wreck will work in partnership with the police and EH where there has been a failure to report the finding of wreck under the Merchant Shipping Act 1995. Again the specific regulatory crimes for this heritage asset are set out in summary in *Appendix 2*.

The CPS is responsible for prosecution of such crimes where there is sufficient evidence and it is in the public interest to do so. Participating LAs where this affects their local government area will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of such crimes.

### **Protected military remains of aircraft and vessel of historic interest**

The police will in partnership with the MOD take responsibility for the prevention and investigation of unauthorised activities in respect of crashed military aircraft and sunk or stranded military vessels which are within a protected place or controlled site. This MoU is

concerned with those aircraft and military vessels which are of historic interest. Again the specific regulatory crimes for this heritage asset are set out in summary in *Appendix 2*.

The CPS is responsible for prosecution of such crimes where there is sufficient evidence and it is in the public interest to do so. Participating LAs where this affects their local government area and EH will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of such crimes.

### **Other sites of historic significance**

There are designated sites that have no separate consent regime and no specific regulatory offences which relate to them, these sites include Registered Parks and Gardens, Battlefields and World Heritage Sites. However, crime such as theft, criminal damage and offences of anti-social behaviour can lead to harm to these heritage assets. This also applies to un-designated sites of historic importance such as archaeological sites of national importance (which have not been scheduled as monuments) and buildings of local importance.

The police are responsible for prevention and investigation of crimes leading to harm to these sites, such as theft, criminal damage and offences of anti-social behaviour. The CPS is responsible for prosecution of such crimes where there is sufficient evidence and it is in the public interest to do so. Participating LAs where this affects their local government area and EH will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes.

### **Items illegally removed from heritage assets**

Where items that are suspected of having been removed from a heritage asset come to the attention of any of the parties to this MoU each has a responsibility to notify the police who are responsible for investigation of possible related crimes such as theft and handling stolen goods. The CPS is responsible for prosecution of such crimes where there is sufficient evidence and it is in the public interest to do so. Participating LAs where this affects their local government area and EH will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes.

If the finder of an object believes it to be 'treasure' within the meaning given in the Treasure Act 1996 then he/she must report that find to the coroner for the district, as failure to do so is a criminal offence (see *Appendix 2*). The reporting of treasure is dealt with through the Portable Antiquities Scheme, who also record for the public benefit all non-treasure archaeological objects found and reported voluntarily by members of the public.

## **7. Partnership working**

Partnership working plays a fundamental role in tackling heritage crime both at a local operational level and nationally at a strategic level.

Partnership working will enable all parties to focus resources and efforts towards the heritage crime priorities when identified.

Regional partnerships will be a means to achieving a more formal strategic approach to enable LAs, the Police and EH to tackle heritage crime more effectively and expediently.



Regional partnerships will identify operational roles and responsibilities and set out effective working arrangements between the parties. This will ensure, amongst other things, that the party with the most appropriate enforcement powers can take the primary enforcement action on individual cases.

All parties within this MoU will work closely with the stakeholder group, the Alliance for the Reduction of Crime against Heritage (or ARCH). The aim of ARCH will be to contribute its understanding of the nature of heritage crime from time to time to inform strategic assessment and to assist in the effective implementation of that tactical plan arising from that strategic assessment at a regional and local level.

## **8. Data exchange and disclosure**

Data exchange between the parties is encouraged but will only take place in appropriate circumstances and in compliance with data protection and other relevant legislation.

The signatories will work closely to develop and adopt good practice in the sharing of personal and non-personal information.

## **9. Guidance and training**

In the spirit of partnership working all parties recognise that the sharing of knowledge and working practices is beneficial in tackling heritage crime.

All parties will provide necessary information and guidance and training as their resources allow. This will be made available to each of the parties to this MoU.

English Heritage will provide information, guidance and training on heritage assets including:

- Listed buildings;
- Scheduled monuments;
- Registered parks, gardens and battlefields;
- Protected marine wrecks;
- World Heritage Sites; and
- Conservation areas.

The Police will provide information, guidance and training including:

- Conducting investigations;
- Collecting and preparing evidence; and
- An awareness of the Police and Criminal Evidence Act 1984.

The CPS will share their information and guidance on:

- The evidential and public interest stages of the Full Code Test as set out in the Code for Crown Prosecutors;
- Case building; and
- Assisting witnesses in court, in particular expert witnesses.

## **10. Costs and charging**

Each body will be responsible for recovering their own costs in relation to investigations and prosecutions.

Each will endeavour to obtain costs incurred by witnesses by inviting courts to impose those costs, and any other costs, on defendants.

It is anticipated that services provided by all parties to each other will be without charge.

No charges will be levied without prior agreement.

## **11. Lead contact points**

For the purposes of this MoU the following are lead contact points:

### **English Heritage**

Mike Harlow, Legal Director

Chief Inspector Mark Harrison, Policing Adviser – Heritage Crime Initiative

Joanne Fisher, Legal Adviser

### **Association of Chief Police Officers**

Pete Charleston, Staff Officer to Chief Constable Richard Crompton.

### **Crown Prosecution Service**

Arsha Gosine, Policy Adviser for Heritage Crime.

The contact for each participating LA is set out against its name in *Appendix 1*

Each police force will nominate a strategic point of contact for issues relating to heritage assets and the historic environment.

## **12. Publicity**

All parties will endeavour to raise awareness of heritage crime through highlighting key issues and prosecution cases.

### **13. Review**

This MoU and its implementation will be reviewed by all parties after 3 years.

If forthcoming legislation requires the document to be reviewed earlier all parties will commit to doing so at the earliest opportunity.

### **14. Signatories**

#### **English Heritage**

.....  
Baroness Andrews OBE, Chair of English Heritage

#### **Association of Chief Police Officers**

.....  
Richard Crompton, Chief Constable, Lincolnshire Police & ACPO Rural Issues Portfolio

#### **Crown Prosecution Service**

.....  
Nick Hunt, Director of Strategy and Policy Directorate, CPS

## **Appendix 1**

### **Participating local authorities**

Local authority signatories to this MoU:

[See separate document for list of signatories]

## **Appendix 2**

### **Summary of Specific Heritage Crime Offences for Designated Heritage Assets**

#### **Listed Buildings**

##### **Planning (Listed Buildings and Conservation Areas) Act 1990-**

Listed Buildings are buildings of special architectural or historic interest which appear on lists compiled or approved by the Secretary of State. A listed building includes the building which appears in the list and any object or structure fixed to the building, and any object or structure within the curtilage of the building that although not fixed to the building has formed part of the land since before 1st July 1948 (see section 1).

Listed buildings are graded to reflect their relative architectural and historic importance as follows: Grade I (exceptional quality), Grade II\* (particularly important buildings of more than special interest and Grade II (buildings of special interest warranting every effort to preserve them).

##### **Control of works affecting listed buildings:**

Section 9(1) execute or cause to be executed the demolition of a listed building or works to alter or extend a listed building which affect its special interest, without listed building consent.

Section 9(2) failure to comply with a condition attached to a listed building consent.

The above offences also apply to a building which is the subject of a building preservation notice issued under section 3 of the 1990 Act.

The offences under section 9 are triable eitherway. A person convicted of an offence under section 9 is liable:

- (a) on summary conviction to a fine not exceeding £20,000 or a maximum of 6 months imprisonment or both; or
- (b) on indictment to a fine or a maximum of 2 years imprisonment or both.

(see section 9(4))

Both notifiable offences - Home Office Code 94 Planning Laws.

##### **Failure to comply with a listed building enforcement notice:**

Section 43(2) failure to comply with the steps required by a listed building enforcement notice following expiration of the compliance period, the current owner of the land in question is liable. The owner may be convicted of second and subsequent offences if there is continued failure to comply.

The offence under section 43(2) is triable eitherway. A person convicted of an offence under this section is liable:

- (a) on summary conviction to a fine not exceeding £20,000; or
- (b) on indictment to a fine.

(see section 43(5)).

Notifiable offence – Home Office Code 94 Planning Laws.

### **Damage to a listed building:**

Section 59(1) with the intention of causing damage to a listed building, a relevant person does or permits the doing of any act which causes or is likely to result in damage to the building.

'Relevant person' is someone who but for the provision would be permitted to do or permit the act in question i.e. an owner or occupier of the listed building.

The offence under section 59(1) is summary only. On conviction a person is liable to a fine not exceeding level 3.

Section 59(4) if having been convicted under section 59(1) a person fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence he shall be guilty of a further offence under this subsection.

The offence under section 59(4) is again summary only. On conviction a person is liable to a fine not exceeding one tenth of level 3 for each day on which the failure continues.

Not notifiable. Record as an incident.

## **Conservation Areas**

### **Planning (Listed Buildings and Conservation Areas) Act 1990 -**

Conservation areas are designated usually by the local planning authority as areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance (see section 69).

### **Control of Works affecting unlisted buildings in Conservation Areas:**

Section 9(1) and (2) offences are applied to conservation areas by section 74(3)

Section 9(1) – executing or causing to be executed the demolition of an unlisted building in a conservation area without conservation area consent except where consent is not required.

Section 9(2) – failure to comply with a condition attached to a conservation area consent.

Both notifiable offences – Home Office Code 94 Planning Laws.

**Failure to comply with a conservation area enforcement notice:**

Section 43 is applied to conservation area enforcement notices by section 74(3).

Notifiable Offence – 94 Planning Laws.

**Scheduled Monuments**

**Ancient Monuments and Archaeological Areas Act 1979 –**

Scheduled monuments are sites designated by the Secretary of State as archaeological sites of national importance. The Secretary of State is responsible for compiling and maintaining the schedule of monuments (see section 1).

**Control of works affecting scheduled monuments:**

Section 2(1) – to execute, cause or permit to be executed works to a scheduled monument without scheduled monument consent (granted by the Secretary of State)

Section 2(6) – failure to comply with a condition attached to scheduled monument consent

An offence under section 2 is triable eitherway. A person convicted of an offence under this section is liable on:

- (a) summary conviction to a fine not exceeding the statutory maximum; or
- (b) on indictment to a fine.

(see section 2(10))

Both offences are notifiable – Home Office Code 98/99 other notifiable applies to an offence under section 2(1) and 98/65 other notifiable for an offence under section 2(6).

**Offence of damaging certain ancient monuments:**

Section 28(1) intentionally or recklessly destroying or damaging a 'protected monument' without lawful excuse

'Protected monument' is defined as a scheduled monument and any monument under the ownership or guardianship of the Secretary of State, English Heritage or a local authority by virtue of the 1979 Act.

An offence under section 28(1) is triable eitherway. A person convicted of an offence under this section is liable:

- (a) on summary conviction to a fine not exceeding the statutory maximum or to a maximum of 6 months imprisonment or both; or
- (b) on indictment to a fine or a maximum of 2 years imprisonment.

(see section 28(4)).

Notifiable offence – Home Office Code 149/58D other damage.

### **Restrictions on the use of metal detectors:**

Section 42(1) using a metal detector in a 'protected place' without the written consent of English Heritage

An offence under this sub-section is summary only. On conviction a person is liable to fine not exceeding level 3.

Section 42(3) removal of an object of archaeological or historical interest which is discovered by the use of a metal detector in a 'protected place' without the written consent of English Heritage

An offence under this sub-section is triable eitherway. A person convicted of an offence is liable:

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on indictment to a fine.

Section 42(5) –

- (a) using a metal detector in a 'protected place' in accordance with a consent granted by English Heritage and failing to comply with a condition attached to it;
- (b) removing or otherwise dealing with any object which is discovered by the use of a metal detector in a 'protected place' in accordance with a consent granted by English Heritage and failing to comply with a condition attached to it.

An offence under section 42(5)(a) is summary only. The penalty is the same as for an offence under section 42(1).

An offence under section 42(5)(b) is triable eitherway. The penalty is the same as for an offence under section 42(3).

'Protected place' means a scheduled monument or any monument under the ownership or guardianship of the Secretary of State, English Heritage or a local authority by virtue of the 1979 Act, or situated in an Area of Archaeological Importance (designated under the 1979 Act, Part II).



The offence under section 42(3) is notifiable – Home Office Code 99/99 other notifiable. Other offences under section 42 are not notifiable. Record as an incident.

## **Protected Marine Wreck Sites**

### **Protection of Wrecks Act 1973-**

#### **Restricted areas:**

A restricted area is an area in UK waters designated by the Secretary of State around the site of a vessel (or likely to contain a vessel) lying wrecked on or in the sea bed and on account of the historical, archaeological or artistic importance of the vessel or of any objects contained or formerly contained in it the site ought to be protected from unauthorised interference (see section 1(1)).

Section 1(3) the carrying out or causing or permitting others to carry out certain specified activities in a 'restricted area' without a licence granted by the Secretary of State, including tampering, damaging or removing part of a vessel and exploration. Anything done in contravention of a condition or restriction on a licence is treated as a breach of this section.

Section 1(6) obstruct or cause or permit the obstruction of a person doing anything authorised by a licence to carry out diving or salvage operations granted by the Secretary of State.

Offences under section 1 are triable eitherway. A person convicted of an offence under section 1 is liable:

- (a) on summary conviction to a fine of not more than the prescribed sum; or
- (b) on indictment to a fine.

(see section 3(4)).

Both offences are notifiable – Home Office Code 98/65 other notifiable.

#### **Prohibited areas:**

A prohibited area is an area designated by the Secretary of State round a vessel lying wrecked in UK waters that because of anything contained in it the vessel is in a condition which makes it a potential danger to life or property and on that account it ought to be protected from unauthorised interference (see section 2(1)).

Section 2(3) Entering a prohibited area whether on the surface or under water without authority in writing from the Secretary of State.

The offence under section 2 is triable eitherway. A person convicted of an offence under this section is liable:

- (c) on summary conviction to a fine of not more than the prescribed sum; or

(d) on indictment to a fine.

(see section 3(4)).

Notifiable offence – Home Office Code 98/65 other notifiable

## **Protection of Military Remains**

### **Protection of Military Remains Act 1986-**

This act gives protection to the wreckage of crashed military aircraft and designated wreckage of military vessels. There are two types of protection under the act given (a) Protected places (see section 1(6)); and (b) Controlled sites (see section 1).

#### **Protected Places:**

Military aircraft (UK or other nations) that crashed in the UK, UK territorial waters or in UK controlled waters are automatically protected under the act. Wreckage of UK military aircraft is also protected under the act if elsewhere in the world.

Shipwrecks (vessels) require specific designation under the act in order to be a protected place. This applies only to vessels that sank after 14<sup>th</sup> August 1914. These are designated by order of the Secretary of State made by statutory instrument.

Section 2(1)(b) in relation to a protected place, it is an offence for a person to tamper with, damage, move or unearth remains; enter any hatch or other opening in any of the remains which enclose any part of the interior of an aircraft or vessel (or cause or permit another to do so) (see subsection (2)). The person must believe or have reasonable grounds for suspecting that the place comprises the remains of an aircraft or vessel which has crashed, sunk or been stranded while in military service.

Section 2(1)(c) in relation to a protected place, it is an offence to knowingly take part in, or cause or permit another person to take part in, the carrying out of any excavation or diving or salvage operation prohibited by subsection (3)(b) and (c). That is, (b) if it is carried out for the purpose of doing something that constitutes or is likely to involve a contravention of subsection (2) (see above); and (c) in the case of an excavation, if it is carried out for the purpose of discovering whether any place in the UK or UK waters comprises any remains of an aircraft or vessel which has crashed sunk or been stranded while in military service.

Section 2(1)(d) it is also an offence to knowingly use, or cause or permit others to use any equipment in connection with the carrying out of any such excavation or operation.

The Secretary of State has the power to grant a license permitting these prohibited acts (section 4).

#### **Controlled sites:**

Controlled sites require specific designation by the Secretary of State by location. They are sites (within the UK, UK territorial or international waters) which appears to him to contain the remains of any crashed military aircraft or vessel (UK or other) which has sunk or been stranded within

the last 200 years. It is only the wreckage of UK military aircraft and vessels that can be designated as a controlled site if in international waters.

Section 2(1)(a) in relation to a controlled site, it is an offence to tamper with, damage, move or unearth remains; enter any hatch or other opening in any of the remains which enclose any part of the interior of an aircraft or vessel (or cause or permit another to do so) (see subsection (2)).

Section 2(1)(c) in relation to a controlled site, it is an offence for a person to knowingly take part in, or cause or permit another to take part in, the carrying out of an excavation or diving or salvage operation which is prohibited by subsection (3)(a) and (c). That is (a) if it is carried out at a controlled site for the purpose of investigating or recording details of any remains of an aircraft or vessel in that place; and (c) in the case of an excavation, if it is carried out for the purpose of discovering whether any place in the UK or UK waters comprises any remains of an aircraft or vessel which has crashed sunk or been stranded while in military service.

Section 2(1)(d) it is also an offence in a controlled site to knowingly use, or cause or permit another to use, any equipment in connection with the carrying out of any such excavation or operation.

The Secretary of State has the power to grant a license permitting these prohibited acts (section 4).

An offence under section 2 is triable eitherway. A person convicted of any offence under section is liable:

(a) on summary conviction to a fine not exceeding the statutory maximum; or

(b) on indictment to a fine

(see section 2(7)).

All notifiable offences – Home Office Code 99/99 other notifiable.

## **Other specific heritage crime offences not related to particular designations**

### **Merchant Shipping Act 1995**

The main task of the Receiver of Wreck is to process incoming reports of wreck in the interest of both the salvor and the owner. This involves researching ownership, liaising with the finder and the owner and other interested parties such as archaeologists and museums.

Any wreck material found in UK territorial waters or outside the UK but brought within UK territorial waters must be reported to the Receiver of Wreck under section 236 of the Merchant Shipping Act 1995. All wreck material must be reported however small or seemingly insignificant. The type of material reported can include for example portholes, bells, plates, fixtures and fittings, bundles of wood, hatch covers and archaeological material such as medieval pots, gold coins, cannon etc often recovered from ship wrecks.

Section 236(1) provides that if any person finds or takes possession of any wreck in UK waters or outside UK waters and brings it within those waters he must –

(a) if he is the owner of it give notice to the receiver stating that he has found or taken possession of it and describing the marks by which it may be recognised;

- (b) if he is not the owner of it, give notice to the receiver that he has found or taken possession of it, and as directed by the receiver, either hold it to the receivers order or deliver it to the receiver.

It is a criminal offence under section 236(2) to fail to comply with this duty to give notice and a person convicted of an offence under this section is liable on summary conviction to fine not exceeding level 4 on the standard scale. Further if he is not the owner of the wreck he must forfeit any claim to it and be liable to pay twice the value of the wreck to the owner, if it is claimed, or to the person entitled to the wreck if unclaimed.

The Merchant Shipping Act 1995 together with the Protection of Wrecks Act 1973 and the Protection of Military Remains Act 1986 are the three main laws which apply to shipwrecks.

Not notifiable. Record as an incident.

### **Dealing in Cultural Objects (Offences) Act 2003-**

#### **The unauthorized removal and trade of objects of historical, architectural or archaeological interest from historic buildings or sites of archaeological interest:**

Section 1 dishonestly dealing in a tainted cultural object knowing or believing that the object is tainted.

A 'cultural object' is defined as an object of historical, architectural or archaeological interest.

A cultural object is 'tainted' if a person removes (includes excavation) the object after (30<sup>th</sup> December 2003) from a building, structure or monument of historical, architectural or archaeological interest in the UK or elsewhere. The removal or excavation must constitute an offence either under UK or foreign law (see section 2).

A person 'deals' if he acquires, disposes of, imports or exports the object or makes arrangements for another to do those acts (see section 3).

An offence under section 1 is triable eitherway. A person convicted of an offence under this section is liable:

- (a) on summary conviction to a fine not exceeding the statutory maximum, or to a maximum of 6 months imprisonment or to both; or
- (b) on indictment to a fine, or to a maximum of 7 years imprisonment or to both.

(see section 1(3)).

Notifiable offence – Home Office Code 98/99 other notifiable.

### **Treasure Act 1996 –**

Section 8(3) the finder of an object which he believes or has reasonable grounds for believing is treasure, fails to notify the coroner for the district within 14 days of the find.

'Treasure' is defined in section 1 of the Act.

An offence under section 8(3) is summary only. A person convicted of an offence under this section is liable to a fine not exceeding level 5 or to a maximum term of imprisonment of 3 months or both.

Not notifiable. Record as an incident.

### **Town and Country Planning Act 1990 –**

Where there has been a breach of planning control (development without planning permission) or contravention of a condition attached to a planning consent, the 1990 Act contains a number of enforcement provisions which are exercisable by the local planning authority to secure compliance.

It is worth noting here that these powers of enforcement might be applicable where a breach of heritage legislation is also a breach of planning control under the 1990 Act.

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