



Historic England

# Guidance for Sentencers

Heritage Crime



# Summary

This guide is part of the following suite of guides to help people reduce the threat of crime to England's historic buildings and sites. For more background on the general nature of heritage crime and national and local strategies for tackling it please see the [heritage crime](#) webpages on the Historic England website.

## Prevention



## Enforcing the Law



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[HistoricEngland.org.uk/advice/caring-for-heritage/heritage-crime/Introduction](https://www.historicengland.org.uk/advice/caring-for-heritage/heritage-crime/Introduction)

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### Front cover:

Criminal damage by fire,  
St Mary at March, Cambridgeshire.

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# Introduction

This guidance is designed to assist Judges, Magistrates and their legal advisers in determining the appropriate sentence for a heritage crime. It is hoped it will also assist the parties to any prosecution by providing a summary of the relevant provisions.

The guidance sets out specific heritage crime offences that apply to designated heritage assets, those specific heritage crime offences that apply to both designated and non-designated heritage assets and other criminal offences that can affect heritage assets as they do ordinary buildings and sites which do not have a heritage interest. Section 3 sets out the matters to be taken into consideration when sentencing for heritage crime.

The starting point for any sentencing exercise will be the relevant guidelines issued by the Sentencing Guidelines Council, now the Sentencing Council. The Sentencing Council's guidance in '[Overarching Principles: Seriousness](#)' will always be relevant in determining sentence. The [Magistrates' Court Sentencing Guidelines](#) and [Reduction in Sentence for a Guilty Plea Definitive Guideline](#) may also be relevant.

Where harm has been caused to a heritage asset through theft offences for example general theft and handling stolen goods, the Sentencing Council's guidance in '[Theft Offences: Definitive Guidelines](#)' will also be relevant. This guidance identifies damage to a heritage asset as a 'significant additional harm' to be taken into consideration, along with any financial loss that results, when assessing the harm caused by the offence.

There may be other guidelines issued by the Sentencing Council that are relevant to heritage assets and the historic environment. This document is intended as an addition, not a substitute, for guidance issued by the Sentencing Council.

## History of heritage protection

There has been legal protection for buildings and sites of historical interest in the UK since 1882. Initially only the most important ancient sites were protected, such as Stonehenge and the great castles. Over the years, as change in our environment has become more rapid, and particularly after World War II when major rebuilding was necessary, Parliament has added further protections.

The Schedule of Monuments was first introduced by [The Ancient Monuments Protection Act 1882](#). The Schedule was initially set out on one piece of paper. There are now approximately 20,000 scheduled monuments designated as archaeological sites of national importance and given the highest levels of legal protection.

The listing of buildings was started after World War II by a Government keen to protect those historic buildings that survived at a time when there was widespread demolition and rebuilding taking place in the UK. To date there are some 400,000 listed buildings across England that are given high levels of protection. Listed buildings are buildings of special architectural or historic interest and can be listed as Grade I, Grade II\* or Grade II, with Grades I and II\* recognised as being the most important.

Conservation areas were first protected in the 1970s. Conservation areas are defined as areas of special architectural or historic interest and may be designated in urban or rural environments.

These area designations seek to preserve or enhance the special architectural or historic interest of the area. There are now some 8,000 conservation areas protecting an estimated 1.5 million buildings from demolition.

There is also now a Register of Battlefields which lists 46 sites, a Register of Parks and Gardens with some 1,649 entries, protection for 52 marine wreck sites and 18 World Heritage Sites. Protection has also been given to sites containing military remains for example crashed military aircraft and sunken vessels.

The number of designations is not static as there will be growth in some categories and sometimes assets are de-listed or de-scheduled.

It is also acknowledged that non-designated heritage assets are an important part of the historic environment. These assets may not always be of national importance, but are valued because of the contribution they make to an understanding of local history or to the character of an area eg a local brewery or park. They may include features characteristic of a particular locality or which make places attractive to businesses, visitors and residents. These assets may be identified by local authorities as being important to their area through local listing. In addition, there are many thousands of sites of archaeological interest that are recognised as being of national importance but are not designated because it is considered that they are sufficiently well protected by the planning system.

Acknowledging the threats to heritage assets and the aspiration to hand over our historic sites to the next generation in as-good or better condition, Parliament has provided specific offences in law to protect some heritage assets against damage and unauthorised alteration. Further, many general crimes also offer protection to heritage assets such as criminal damage, theft, arson etc and these may be of particular importance where non-designated heritage assets have been damaged or destroyed, or where the elements of a specific heritage crime offence are not present. In such cases it may be appropriate for the sentencer to recognise the historical and cultural importance of the damaged property as an aggravating feature of the offence.

## The need for heritage sentencing information

Across the country many of England's heritage assets, both designated and non-designated, are subjected to crime and anti-social behaviour. Previously there has been no sentencing guidance in existence that can be referred to by the courts and their legal advisers, to assess the seriousness of harm caused to the significance of these assets by crime so that the harm can be properly reflected in sentence.

England's historic environment holds a unique place in England's cultural heritage and it supports and contributes to the sense of national and local identity, economy, society and happiness in daily life in many different ways. It is also a non-renewable resource of a fragile and finite nature. Once lost it is lost forever. It is of obvious importance that we protect and conserve those significant elements of it for now and for future generations.

Crime affecting heritage assets can be specific heritage crime offences that apply to designated and non-designated assets, and other offences such as theft, criminal damage, public order and environmental offences. The impact of crime on heritage assets can be serious and is often irreversible. Often anti-social behaviour, which can involve for example the commission of public order offences, can interfere with the enjoyment of heritage assets and can be a barrier to investment leading to degradation and further crime.

The seriousness with which Parliament has viewed specific heritage crime offences is highlighted by the fact that almost all of these offences are indictable; that the maximum fine in the Magistrates' Court for some of these offences is four times the usual statutory maximum (ie £20,000 compared with £5,000) and for these offences to an unlimited fine in the Magistrates Court if committed after 12 March 2015. Many also carry custodial penalties. The importance of the matters at stake is also recognised by the fact that several are offences of strict liability.

Specific heritage crimes however rarely reach court which means that these cases remain relatively novel to magistrates who will therefore have little or no experience of sentencing for such offences and will have few sentencing decisions to guide them.

In addition to specific heritage crime offences, many heritage assets are regularly affected by general crime. Until recently this crime has not always been recognised as heritage crime by those responsible for its investigation, enforcement and prosecution or by the courts. Consequently the true impact to a heritage asset is not always recognised in sentencing guidelines which by necessity focus upon financial loss or gain. Therefore, care must be taken to ensure that sentences passed properly reflect the identifiable criminality and harm.

This was recognised in an analogous context by the Court of Appeal in *Rv William Simon Jacques [2011] 2 Cr. App. R (S.) 39*, wherein the Court recognised that the guideline produced by the Sentencing Council for theft provides an inadequate basis for identifying an appropriate level of sentence for offences committed in respect of objects of cultural value:

“...it seems to us that the guidelines provide an inadequate basis as a foundation for identifying the appropriate level of sentencing. To call this case a case of breach of trust is a poor guide to reflect the gravity of this type of offending. It is, as we have said, appropriate to regard this as a deliberate attack undermining the importance of libraries such as these.” (Paragraph 9).

Value should not be assessed purely in financial terms. See by analogy the judgment of the Court of Appeal in *Rv Hakimzadeh [2010] 1 Cr. App. R. (S.) 10* at paragraph 13 in respect of damage to rare books:

“In our judgment, it is apparent that this kind of offending, where cultural property is concerned, is very different from offending where the seriousness can only be gained by value in the open market of items which can readily be replaced and purchased, whether they may by

goods in a supermarket or ordinary books which are still in print and available and it is simply the replacement value of items lost. Cultural property cannot be valued in the same way as cash or readily replicable items, and the gravamen is the damage to rare items of historical, intellectual and cultural importance, and that is why, in our judgment, a significant element of deterrence is always necessary to deter others from such crimes which diminish the intellectual and cultural heritage of the nation.”

There is, therefore, a clear need for sentencing information to be made available to both legal advisers and courts on the impact of crimes on heritage assets.

**Section 3** of this guidance looks at how seriousness of an offence is assessed and the sentencing criteria available.

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#### Images 1-4

- 1 Metal Theft, St Peter’s Church, Plemstall, Cheshire.
- 2 Vehicle damage to Roman site, Easton Grey, Wiltshire.
- 3 Gathering evidence of unlawful metal detecting, Chester Farm, Northamptonshire.
- 4 Criminal damage – graffiti, Clifford’s Tower, York.



# 1 The Historic Environment and Heritage Assets

## 1.1 The Historic environment

The [National Planning Policy Framework](#) (March 2012), which is the government's national planning policy, recognises that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. The effective conservation of heritage assets delivers wider social, cultural, economic and environmental benefits.

The glossary of the National Planning Policy Framework defines the historic environment as:

'all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.'

It is made up of various elements that hold significance called 'heritage assets' which are the valued components of the historic environment. A heritage asset is defined as:

'A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).'

The term 'heritage asset' includes all manner of features on land, both designated and non-designated (and whether or not capable of designation), including buildings, parks and gardens, standing, buried and submerged remains, areas, sites and landscapes and can also include remains under water, for example wreck sites of archaeological interest.

The significance of a heritage asset is its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. The setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.

## 1.2 Designated heritage assets

The heritage assets which have been identified as having a level of significance that justifies special legal protection are:

**Listed Buildings** designated under the [Planning \(Listed Buildings and Conservation\) Areas Act 1990](#) by the Secretary of State for the Department of Culture Media & Sport for their special architectural or historic interest – approximately 400,000 in England;

**Scheduled Monuments** designated under the [Ancient Monuments and Archaeological Areas Act 1979](#) by the Secretary of State for the Department of Culture Media & Sport for their national importance - approximately 20,000 in England;

**Protected Wreck Sites** designated by order under the [Protection of Wrecks Act 1973](#) by the Secretary of State for the Department of Culture Media & Sport for their historical, architectural or artistic importance - currently 52 in English waters;

**Conservation Areas** designated under the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#), primarily by local planning authorities, for their special architectural or historic interest the character of which it is desirable to preserve or enhance – nearly 10,000 in England;

**Registered Parks and Gardens** designated by Historic England under the [Historic Buildings and Ancient Monuments Act 1953](#) for their special historic interest - currently 1,649 in England;

**Registered Battlefields** designated by Historic England under the [Historic Buildings and Ancient Monuments Act 1953](#) for their special historic interest - currently 46 sites in England;

**World Heritage Sites** inscribed by the UNESCO World Heritage Committee for their Outstanding Universal Value - currently 18 in England;

**Protected Military Remains of Aircraft and Vessels** protected by the Protection of Military Remains Act 1986 which provides protection to the wreckage of crashed military aircraft, whether designated or not, and designated wreckage of military vessels (protected places). It also provides protection to designated remains of military aircrafts or sunken vessels (controlled sites), in respect of which designations are made by the Secretary of State for Defence. Although this asset does not fall within the definition of designated heritage asset in the National Planning Policy Framework, it is considered a designated heritage asset for the purposes of this guide.

Details of designated heritage assets (not including military remains protected under the 1986 Act) can be found on the National Heritage List for England: [www.HistoricEngland.org.uk/listing/the-list/](http://www.HistoricEngland.org.uk/listing/the-list/)

In addition, Areas of Outstanding Natural Beauty, National Parks and the Broads are designated to conserve both the natural environment and their cultural heritage.

### 1.3 Non-designated heritage assets

These are heritage assets that although not designated are nonetheless acknowledged as having significance within the historic environment at a local level (often through local listing by local authorities). Where there is archaeological interest there will sometimes be significance at a national level.

There are many thousands of non-designated sites of archaeological interest that are still of national importance including non-designated wreck sites of archaeological interest. The National Planning Policy Framework states, a heritage asset will be of ‘archaeological interest’

‘...if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point. Heritage assets with archaeological interest are the primary source of evidence about the substance and evolution of places, and of the people and cultures that made them.’

This importance is acknowledged in the National Planning Policy Framework (paragraph 139), which provides:

‘Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments should be considered subject to the policies for designated heritage assets.’

The local Historic Environment Record (HER) provides an information service about the historic environment in a given area and can be accessed by anyone. The [Heritage Gateway](#) website provides access to local and national records on the historic environment.

# 2 What is Heritage Crime?

## 2.1 Heritage crime

Heritage crime is defined for the purposes of this guidance as:

‘Any offence which harms the value of England’s heritage assets and their settings to this and future generations.’

England’s heritage assets are set out in [section 1](#) above.

Heritage crime falls into three broad categories:

### 2.1.1 Specific heritage crime offences that apply to certain designated heritage assets

Some designated heritage assets are subject to a specific consent regime and specific offences in law to protect them against damage and unauthorised alteration. These assets include listed buildings, scheduled monuments, protected wreck sites, protected military remains or aircraft and vessels, conservation areas, see [Appendices 1 to 5](#).

It is worth noting here that some designated heritage assets have no separate consent regime and therefore no related regulatory offences which apply to them. These assets include Registered Battlefields, Registered Parks and Gardens and World Heritage Sites. Although many World Heritage Sites will in practice also be regulated and protected under national legislation, eg as listed buildings, scheduled monuments, or as conservation areas. Information in respect of these assets can be found in [Appendices 6, 7 and 9](#).

Further, there is no separate consent regime and therefore no related regulatory offences that apply to the many non-designated heritage assets that are acknowledged as having significance within the historic environment, see [Appendix 8](#).

### 2.1.2 Specific heritage crime offences that apply to both designated and non-designated heritage assets

Examples are those offences set out in [Appendix 10](#) in relation to the reporting of treasure and dealing in cultural objects.

### 2.1.3 Other criminal offences which can affect heritage assets

Criminal offences of more general application such as theft, criminal damage, arson, environmental offences such as fly-tipping and offences in respect of anti-social behaviour can affect heritage assets whether designated or not, as they do other buildings or sites which do not have a heritage interest. However, damage caused to an ordinary building or site can usually be repaired so that it is as good as new afterwards whereas damage to a heritage asset is very often irreversible.

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#### Images 5-8

- 5 Unlawful salvage of a cannon, Thames Estuary, Essex.
- 6 Damage to First World War training trenches, Sheffield.
- 7 Gathering evidence following damage to Bronze Age barrow, Hertfordshire.
- 8 Bronze Age axe recovered during search of suspect’s home address, Ramsgate, Kent.



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# 3 Sentencing Practice

**Section 142(1) of the Criminal Justice Act 2003** sets out the purposes of sentencing for adult offenders:

## 142 Purposes of sentencing

(1) Any court dealing with an offender in respect of his offence must have regard to the following purposes of sentencing -

the punishment of offenders,

(b) the reduction of crime (including its reduction by deterrence),

(c) the reform and rehabilitation of offenders,  
(d) the protection of the public, and

(e) the making of reparation by offenders to persons affected by their offences.

When sentencing a young offender, the court should have regard to the main aim of the youth justice system which is the prevention of offending by children and young persons and the welfare of the child (s.142A CJA 2003).

Section 143 dictates the approach to assessing seriousness:

## 143 Determining the seriousness of an offence

(1) In considering the seriousness of any offence, the court must consider the offender's culpability in committing the offence and any harm which the offence caused, was intended to cause or might foreseeably have caused.

The section continues by setting out the way in which previous convictions are to be considered as aggravating features.

An early assessment of seriousness must be carried out to determine key factors such as whether the matter should be committed to the Crown Court for sentencing and what type of sentence should be decided upon. Any analysis should be consistent with the approach taken in the **Magistrates' Court Sentencing Guidelines** which is:

- Assessing the seriousness of the offence (culpability and harm) including identifying the appropriate starting point and considering aggravating and mitigating factors
- Forming a preliminary view of appropriate sentence
- Considering offender mitigation
- Considering reduction for guilty plea
- Considering ancillary orders, including compensation; and
- Deciding sentence and giving reasons

The Sentencing Council suggests that the following criteria should also be considered when working out an appropriate sentence:

- Offender's previous convictions
- Totality – where an offender is being sentenced for more than one offence; and
- The relative law including the maximum and in some cases the minimum sentence

This guidance is intended to assist by setting out relevant factors in the heritage crime context in the assessment of:

- The seriousness of harm caused and the identification of persons affected; and
- Culpability

It is also intended to provide a guide to heritage crime offences and to bring together such guidance as is available from the Court of Appeal as to the weight to be given to different factors, together with sentencing remarks made at first instance which may help illustrate important principles.

### 3.1 Assessing seriousness (harm and culpability)

In assessing the seriousness of heritage crime offences the approach must be consistent with [Overarching Principles: Seriousness](#) issued by the Sentencing Council.

Assessing the seriousness of heritage crime offences requires a detailed analysis of the direct and immediate harm caused to the significance of the heritage asset, as well as the wider consequences for the historic environment. A heritage crime impact statement from a professional witness such as an archaeologist, buildings expert or other heritage practitioner, who has the necessary qualifications and experience, can explain the significance of a heritage asset and provide an assessment of the harm caused to the asset by the crime. This statement should be provided to the court on sentence in every case where harm has been caused to a heritage asset. Historic England has produced a guidance note on [Heritage Crime: Impact Statements](#).

In the case of *Rv Blythe (2011 Selby Magistrates' Court)* a case involving damage caused by graffiti to designated heritage assets, District Judge Roger Elsey when sentencing said:

“Given the worldwide significance of the historic sites you damaged with graffiti, I am satisfied the offences were so serious only a custodial sentence is appropriate.”

Harm caused to a heritage asset from heritage crime will often have both direct and indirect impacts. For example the loss of historic fabric from a listed building through vandalism or theft will not only have a direct physical impact on the heritage asset itself, but may also have indirect impacts including those that may be more readily identified as social or economic impacts, for example, decline in local amenity through vandalism, loss of viability of the asset leading to abandonment, decline in visitor numbers, and the loss/partial loss of a heritage asset that is valued locally as well as nationally.

The culpability of the defendant should also be assessed: for example, the extent of involvement in crime, motivation and co-operation with the regulating authority. Although many specific heritage crime offences are offences of strict liability and so do not require proof of a particular state of mind, an intention to commit the offence or recklessness would normally suggest that the offence is more serious, and this should be taken into account when sentencing.

Sometimes there will be an imbalance between culpability and harm. For example, the harm that actually results may be greater than the harm intended by the defendant or the defendant's culpability may be at a higher level than the harm resulting from the offence, for example where the level of harm is limited by good fortune. Paragraph 1.17 of the [Overarching Principles: Seriousness](#) states, ‘Harm must always be judged in the light of culpability.’

Highlighting the aggravating and mitigating factors will help to clarify the seriousness of a heritage crime.

### 3.1.1 Harm

When considering the seriousness of an offence the court must consider any harm the offence has caused, was intended to cause or might foreseeably have caused (section 143(1) Criminal Justice Act 2003).

#### How should harm to heritage assets be assessed?

When assessing harm resulting from heritage crime offences the following should be considered:

#### Is the heritage asset affected designated or non-designated?

It is important to establish what designations, if any, apply to the asset and to identify any relevant legislation that regulates the asset. It is common for heritage assets to have more than one designation. For example, a scheduled monument may also be designated as a listed building or may be within a registered park or garden. For buildings or sites with multiple designations, it will be necessary to consider and understand all of the designations and the heritage interest that is being protected.

#### If designated what does that designation mean?

It is important to establish whether the asset affected by the crime is designated or not and how it is protected by law. The designation documentation should be made available to the court and will often be referred to in a heritage crime impact statement.

Information on designated heritage assets can be found on the [National Heritage List for England](#).

#### If non-designated is it of local or national importance?

As explained in section 1, there are many thousands of non-designated heritage assets that are acknowledged to have significance within the historic environment. Their significance may be at a local level as a locally listed building. Alternatively, the asset may be acknowledged as having national significance as there are many thousands of non-designated sites of archaeological interest that are of

national importance. Historic Environment Records held by local authorities will have information on significant non-designated assets, which can be referred to the court in a heritage crime impact statement.

[www.heritagegateway.org.uk/gateway/CHR/](http://www.heritagegateway.org.uk/gateway/CHR/)

#### What is important/special about that particular heritage asset (significance)?

Having established whether the heritage asset is designated or not, it is then very important to establish why it is of 'significance' in the historic environment. As explained in section 1 of this guidance, significance of a heritage asset is the value of it to this and future generations because of its heritage interest which may be archaeological, architectural, artistic and/or historic and derives not only from the physical presence of the asset but also from its setting. It is only once the significance of a heritage asset is understood that the harm caused to the asset can properly be assessed.

In the case of designated heritage assets the reasons for designation are often given in the designation documentation. For example, the scheduling description and map of a scheduled monument should establish the extent and reasons for designation. However, the reasons given may not say everything about the heritage asset's significance. The official description of a listed building may not list all of its important features and this is also the case with scheduled monument descriptions. If the heritage asset is non-designated then there will be little or no documentation to refer to.

The designation documentation for designated heritage assets and information held by local authorities for non-designated heritage assets is a useful starting point for assessing the significance of the asset. However it will be necessary for a heritage professional to provide a more detailed assessment of significance in a Heritage Crime Impact Statement which can be presented to the court on sentencing.

## **Local, national and international context of the heritage asset**

The assessment of the significance of a heritage asset should include an explanation of its importance at a local, national and where appropriate, international level. This can be explained by a heritage professional in a Heritage Crime Impact Statement.

## **Harm to the heritage asset**

Crime can cause more than one element of harm to a heritage asset. Factors to consider include:

### **A) Loss of information/knowledge**

Designated heritage assets are given special protection in law to promote enjoyment and greater understanding of our past. Non-designated assets of local importance are also recorded for this reason. Crime can result in the loss of historical, architectural, archaeological, artistic or cultural information which would have informed our understanding of the past and formed part of the national record. Such loss might result, for example, from the disturbance/destruction of an archaeological feature during unauthorised works carried out without archaeological supervision and proper recording, or from arson causing damage to or the destruction of a listed building. Loss of information and the opportunity for further examination is irreversible harm.

### **B) Physical harm**

Direct physical harm to the asset itself can be caused, for example, by the theft of lead from the roof of a listed church building or metal plaque from a war memorial, graffiti on a listed building or damage to a scheduled monument caused by unauthorised metal detecting. There are many examples of crimes that cause physical harm to heritage assets and often this type of harm is irreversible.

### **C) Visual harm**

This might occur within the immediate area of the asset itself or a wider area, which is the 'setting' of the heritage asset. The setting of a heritage asset is part of the asset's significance - it can contribute to the significance of a heritage

asset, and it can allow that significance to be appreciated - and harm for example, unauthorised building operations, unlawful tipping operations, graffiti or vandalism, within the setting of an asset can harm the asset, by affecting its significance or appreciation of that significance.

### **D) Social and Emotional impact**

Heritage assets often provide a sense of identity and pride in an area and hold a personal and sentimental value to individuals, communities or a particular social group. The impact of crime on this intangible heritage value should be considered in sentencing.

Crime which harms a heritage asset can have a negative impact on an area and the enjoyment of that asset. The public may be deterred from visiting the heritage asset if there is anti-social behaviour in and around it such as drinking, fly tipping or graffiti. This not only results in the loss of a valuable leisure facility, but can lead to decline in an area and further crime being attracted to a neglected heritage asset.

Harm to an asset through crime can also result in a sense of loss and emotional distress to an individual, group or community. For example if a war memorial plaque is stolen it may be replaced but the special value of the asset is irretrievably lost. No replacement will be invested with the sentiment, respect and grief that forged the original.

### **E) Economic Impact**

Crime to heritage assets can often have a financial impact.

As explained under factor D above, heritage assets are of great value to both individuals, communities and groups and it is that intangible heritage value that can drive economic value. For example heritage asset which is a public site or building often relies on revenue generated from visitors. A reduction in visitor numbers caused by the social impact of crime or the closure of a site for repairs following crime, will result in reduced revenue. The generation of income from tourism will also suffer if crime has an impact upon a heritage asset or the historic environment.

The cost of repairs to a heritage asset to remove graffiti, or replace a lead roof will very often be greater than that of similar work in respect of an ordinary building as the work will need to be undertaken by a specialist contractor using historically appropriate materials and may require special consent. Sometimes consequential loss results from a crime. For example, removal of a lead roof might result in water ingress which causes damage to the interior of the building. Repeated crimes may affect the viability of a heritage asset by making insurance costs prohibitive.

Such impacts cannot be presumed and it will be important to provide evidence to the sentencing court. The important thing is that all harm should be considered, investigated and highlighted if found to exist.

### Evidence of Harm

It is important to identify who the victims are in these cases and for this to be addressed in either the Heritage Crime Impact Statement or a Victim Impact Statement, or a combination of both.

The victim in these cases can be the local community and the nation who value and enjoy it as well as the owner of the site (as the majority are in private ownership) or those who care for and manage the site as volunteers eg trustees of sites or congregations for places of worship. These sites give us a greater understanding of our past and form part of the national record.

In *Rv. (Darren Paul) West [2013] EWCA Crim 1309*, the Court of Appeal recognised that unlawful digging for artefacts on a protected site by the defendant could cause harassment, alarm, or distress and was sufficient basis for the imposition of an Anti-Social Behaviour Order.

It is also necessary to provide the court with appropriate evidence in support of the harm in order to allow proper conclusions to be reached.

### Heritage Crime Impact Statement

The assessment of the significance of a heritage asset and the harm caused by crime will be set out by a heritage professional in a **Heritage Crime Impact Statement**, providing the court with this essential information so that it has a fuller understanding of the nature and impact of the crime when determining the appropriate sentence. This will often include the loss to the nation caused by harm to the heritage asset.

### Victim Impact Statement

Some impacts such as the social and economic impact on, for example, owners of sites, volunteers who manage and look after a heritage asset or members of the community who value and enjoy the heritage asset can also be set out to the court in a **Victim Impact Statement** that will complement the **Heritage Crime Impact Statement**.

### 3.1.2 Culpability of offender:

Some heritage crime offences will involve elements of intention, recklessness or dishonesty with which courts are well familiar. Others may involve strict liability but in such cases it will remain important to take into account the state of mind of the defendant when determining the appropriate sentence.

Culpability will be greater where a defendant deliberately causes harm demonstrating a level of intent or recklessness over and above that which constitutes the offence. Where serious harm results which was unintended and beyond the control of the offender, culpability will be significantly influenced by the extent to which the harm could have been foreseen.

If much more harm or much less harm has been caused by the offence than the offender intended or foresaw, the culpability of the offender, depending on the circumstances, may be regarded as carrying greater or lesser weight as appropriate.

Lack of actual harm does not render the offence merely technical; it may still be serious if a risk of harm is present.

The level of culpability is determined by weighing up all the factors of a case to determine the offender's role and the extent to which the offending was planned and carried out. Where there are characteristics present which fall under different levels of culpability, the court will balance these characteristics to reach a fair assessment of the offender's culpability.

Offending may be:

#### **A) Deliberate**

An act carried out with the intention of causing harm to the heritage asset or in flagrant disregard of the requirement to obtain necessary consents and/or advice.

#### **B) Reckless**

Actual foresight of, or wilful blindness to, the risk of causing harm to the heritage asset but the risk taken nevertheless or reckless failure to obtain necessary consents and/or advice.

#### **C) Negligent**

Failure by an individual or organisation as a whole to take reasonable care to put in place and enforce proper systems for avoiding commission of the heritage crime offence.

#### **D) Low or no culpability**

Offence committed with little or no fault on the part of the individual or organisation as a whole, for example by accident or through the act of a rogue employee and despite the presence and due enforcement of all reasonably required preventive measures, or where such proper preventive measures were unforeseeably overcome by exceptional events.

Factors to consider in assessing culpability:

#### **Knowledge of designation and/or importance of heritage asset**

Knowledge is relevant in determining an offender's culpability. Did the offender know that the heritage asset was designated? If not, were they aware that it had some heritage interest? Despite that knowledge or awareness did they carry on regardless, either causing harm or risk of harm to the heritage asset?

#### **Knowledge of consent regime/process (where applicable)**

Where the crime concerns unauthorised works to a heritage asset that is designated and subject to a separate consent regime protecting it against damage and unauthorised alteration, was the offender aware of the consent regime and/or the process to obtain it? Had they used or been engaged in the process previously?

If the offender did not know about the consent regime, was it reasonable in all the circumstances for them to make enquiries perhaps if they were aware that a site was designated or had some heritage interest?

- Scheduled monument consent is required for works to a scheduled monument
- A licence is required for metal detecting on a scheduled monument
- Listed building consent is required for the alteration of or demolition of a listed building
- A licence is required to dive on and tamper with a protected wreck.

### **3.2 Aggravating factors**

Having considered harm and culpability as above, a sentencer may conclude that presence of aggravating factors makes the offence more serious.

In addition to those factors set out in general terms in Overarching Principles: Seriousness (eg previous convictions), the following are aggravating factors that are particularly relevant to heritage crime. Sometimes a factor may already be taken into account as a feature of the offence and so care needs to be taken to avoid double counting.

#### **3.2.1 Economic gain for the offender**

An offender's financial gain or cost saving as a result of his or her crime should be reflected in

the sentence. An offender should not profit from their offence. For example, the unauthorised demolition of a listed building to avoid the cost of repair and re-use where new development is cheaper should be punished so that the sentence is higher than the profit made. If not, there is no deterrent and it is cheaper to demolish and run the risk of paying fines.

In relation to some specific heritage crime offences Parliament has specifically provided that economic gain should be taken into account. For example section 9(5) of the Planning (Listed Buildings and Conservation) Areas Act 1990 (unauthorised works to a listed building) provides that in determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to them in consequence of the offence. This requirement also applies in the case of the unauthorised demolition of a building in a conservation area (section 196D(8) Town and Country Planning Act 1990).

In *Rv Duckworth [1995] 16 Cr. App. R. (S,) 529*, a case involving the demolition and re-building of the ground floor of a listed building, the Court of Appeal held that the factors relevant to the sentence were the degree of damage which had been done to the historic structure, the degree of financial gain the defendant had attempted to achieve and the degree of culpability of the defendant. In this case the Appellant was found to have acted with a wilful disregard of the need to obtain consent and had tried to save costs by demolishing the walls rather than reconstructing them.

### 3.2.2 Disregard for regulatory authorities and regulation

An offence may be aggravated by the offender's attitude towards, and level of co-operation with the regulatory authority and regulatory regimes.

#### Advice from regulatory authority

Has the offender shown disregard for advice from a regulating authority as to how to prevent harm or to protect a heritage asset?

#### Warning from regulatory authority

Has there been a failure to take notice when warned? This may be a highly relevant factor when sentencing and the prosecution should be prepared to produce the written warnings as necessary.

### 3.2.3 Attempts to deceive enforcement officers

Has the offender attempted to hide evidence or given a false account of the circumstances of the offence? Have officers been obstructed or even threatened?

## 3.3 Mitigating factors

These factors may indicate that an offender's culpability is unusually low, or that the harm caused by an offence is less than usually serious. In addition to those set out in general terms in *Overarching Principles: Seriousness*, the following are mitigating factors that are relevant to heritage crime. This is not a comprehensive list and they are not in order of priority:

#### Isolated incident

Does the offender have a good past record of management of a heritage asset in their ownership/control? Was this a one-off offence or is there evidence of repeat offending?

#### Genuine mistake

Did the offender genuinely and reasonably lack awareness or understanding of the designation and/or significance of the heritage asset? Where the asset is designated was the offender genuinely unaware of the regulatory system that applies to it or did they receive bad advice? Although not all offences require knowledge that the heritage asset is legally protected, where there is a lack of such knowledge, or genuine mistake as to which asset is protected or the extent of what is protected this could be regarded as a mitigating factor (where it does not provide a defence). However careful consideration needs to be given to how much weight should be given to a genuine mistake, particularly in relation to those offences where Parliament has decided that knowledge is not an element of the offence (strict liability offences).

### Co-operation with regulatory authorities

Has there been co-operation with the regulating authority? For example, co-operating with the regulating authority by allowing access to assess harm to an asset; agreeing to be interviewed and early admissions. Were steps taken to cease the harm to the heritage asset as soon as possible?

### Genuine remorse

Has the offender shown genuine concern at what has happened and for its consequences? How has this been demonstrated? By actions eg abatement and/or reparative works or a simple statement? Such remorse is unlikely to be given much weight if only expressed on the day of sentencing.

### Limited role in offending activity

Did the offender play a relatively minor role in the offence? Had the offender taken steps to prevent or minimise the likelihood of the offence?

### Personal mitigation

Section 66(1) of the Criminal Justice Act 2003 provides for a sentencer to take account of any matters that ‘in the opinion of the court, are relevant in mitigation of sentence’. This is also referred to in *Overarching Principles: Seriousness*.

### Reduction for Guilty Plea

A sentence will normally be reduced to reflect an early guilty plea. This is covered by the guidance [Reduction in Sentence for a Guilty Plea, Definitive Guide \(2007\)](#).

## 3.4 Abatement and reparation (as an aggravating or as a mitigating factor)

The seriousness of the offence should take into account any necessary reparation, clean-up and restorative work undertaken by (1) the regulating authority; (2) the owner/occupier of a heritage asset whose asset has been harmed by the offender; or (3) any voluntary/community groups who care for the heritage asset. This work might include for example the cost to a local authority of removing graffiti from a heritage asset which is a public building or repairs to a vandalised heritage asset.

The court should also take into account any action that the offender has taken to put right/mitigate the harm they have caused to the heritage asset. It might be that the offender has agreed to take part in some abatement and reparative measures. For example the owner of a heritage asset who has caused damage to their asset may pay for an archaeological survey as part of a mitigation strategy, or an offender might agree to take part in cleaning up graffiti they are responsible for. Where this type of mitigation is recommended by the prosecuting authority and agreed by the offender it should where possible and appropriate be secured by way of a legal agreement before sentencing to ensure that the mitigation works take place following sentence.

In *R (English Heritage) v Roger Maxwell Penny (Taunton Crown Court 2012)*, a case involving substantial damage to a scheduled monument through unauthorised works, Recorder Jeremy Wright said:

“Your actions may have meant that significant archaeological information has been lost.”

“Although some evidence may be available, its significance and value has been significantly diminished by the damage you have done.”

Prior to the hearing the defendant agreed to a substantial package of mitigation works for the monument at a cost to him of £38,000 which was secured by legal agreement. This was taken into account in sentencing.

The cost of abatement and reparation will need to be considered when determining and deciding the type of sentence to hand down, the need for a compensation order and the level of any fine.

# 4 Appendices

The following appendices set out the types of heritage asset and applicable legislation in respect of common categories of heritage crime.

## Appendix 1 Listed buildings

Damage to listed buildings may be caused by unauthorised works (demolition and alterations or extensions which affect its special interest without listed building consent), unauthorised development (without planning permission), arson, vandalism, theft of historic materials or objects for example metal such as lead from a church roof or railings, coping stones, floor tiles, slate, architectural features, statues, memorials and paving.

Anti-social behaviour in and around listed buildings such as drinking, fly tipping, noise, vandalism, graffiti and general criminal behaviour can have a damaging effect on the asset.

There are specific heritage crime offences which apply to some of these situations but it may be appropriate to charge other more common offences such as criminal damage and theft.

### Listed buildings

Listed Buildings are buildings of special architectural or historic interest which appear on lists compiled or approved by the Secretary of State under section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the 1990 Act'). Historic England administers the listing system.

The [Principles of Selection for Listed Buildings](#) set out the general principles the Secretary of State applies when deciding whether a building is of special architectural or historic interest. Buildings may be considered of special architectural interest for their architectural design, decoration, plan

form, craftsmanship and also nationally important examples of particular building types, and techniques. To have historic interest a building must illustrate important aspects of England's social, economic, cultural or military history and/or have close historical associations with nationally important people and it will normally have some quality of interest in its physical fabric. When listing a building the Secretary of State may also take into account a building's group value.

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

Under the 1990 Act, listed status protects a building against unauthorised demolition, alteration and extension which is controlled through the listed building consent approval system. This is the responsibility of local planning authorities and the Department of Communities and Local Government, with Historic England as statutory consultee on many applications particularly those affecting Grade I and II\* listed buildings. Historic England has some specific powers as regards the determination of listed building consent applications in Greater London. Designation also ensures that special regard is given to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses when decisions are made on planning applications.

Listing protection applies to the whole building, ■ both interior and exterior. The term ‘listed building’ incorporates both the building which appears in the list (the principal building) and any object or structure fixed to the principle building, and any object or structure within the curtilage of the principal building that although not fixed to the principal building has formed part of the land since before 1st July 1948 (section 1(5) of the 1990 Act). Therefore the same protection is afforded to these curtilage buildings and fixtures as applies to the principal building itself. A list entry for a building may provide that an object of structure is not to be treated as part of the building for the purposes of the Act or that any part or feature of a building is not of special architectural or historic interest (section 5A of the 1990 Act).

It is a criminal offence to demolish a listed building or to carry out works to a listed building that would affect its special character or historic interest, without listed building consent. There is also a power to issue a listed building enforcement notice. It is also an offence to damage a listed building.

### Offences

The statutory offences specifically concerning listed buildings are:

- Execute or cause to be executed the demolition, alteration or extension of a listed building without listed building consent
- Execute or cause to be executed works to a listed building in breach of condition/s of listed building consent granted in respect of those works
- Failure of the owner of the building to comply with a listed building enforcement notice
- An act which causes or is likely to cause damage to a listed building by a relevant person; and
- Failure to take reasonable steps to prevent any further damage following conviction

Other offences which may relate to listed buildings are:

Theft (for example, theft of historic materials such as lead)

- Criminal damage
- Burglary
- Going equipped
- Handling stolen goods
- Arson
- Dealing in cultural objects
- Public order offences (anti-social behaviour for example fly tipping, noise, vandalism, general criminal behaviour)
- Offences relating to planning breaches ([Appendix 12](#))

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

Some of these offences will be committed only by the owners of property and/or their agents/ contractors. There the harm caused is to the building and the interests of the community at large. Other offences (such as theft or criminal damage) can only be committed by non-owners and cause additional harm to the interests of the building’s owner.

In calculating the appropriate sentence (both in determining whether the custody or community sentence thresholds are met or in setting the level of fine) the following factors will be paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made (including costs saved) at the expense of heritage interests (See [para 3.2.1](#))
- When a financial penalty is appropriate the means of the offender will be a central factor

## Appendix 2 Scheduled Monuments

Damage to scheduled monuments may be caused by unauthorised works (demolition, destruction, damage, removing, repairing, altering or adding to, flooding and tipping without scheduled monument consent), intentional or reckless destruction or damage, unlicensed metal detecting, unauthorised development (without planning permission), criminal damage including damage by off-road vehicles, vandalism, theft of archaeological or historic artefacts or materials.

Anti-social behaviour in and around scheduled monuments such as drinking, fly tipping, noise, vandalism, graffiti and general criminal behaviour can have a damaging effect on the asset .

There are specific heritage crime offences which apply to some of these situations but it may be appropriate to charge other more common offences such as criminal damage or theft.

### Scheduled monuments

Scheduled monuments are monuments and sites of archaeological or historic interest designated by the Secretary of State for the Department of Culture Media and Sport under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 ('the 1979 Act') because of their national importance.

Under the 1979 Act the Secretary of State has a duty to compile and maintain a list of monuments which should be included within the 'schedule' of monuments. Historic England is statutory consultee on the designation of scheduled monuments and takes the lead on identifying sites in England that should be considered by the Secretary of State for inclusion in the schedule.

Once a monument is included in the schedule it has statutory protection under the 1979 Act. Permission is required from the Secretary of State (known as scheduled monument consent) before any works are carried out which would have the effect of demolishing, destroying, damaging,

removing, repairing, altering, adding to, flooding or tipping on the monument, thus ensuring that the case for preservation is fully considered when works are proposed. Scheduled monument consent for works that would result in material loss is wholly exceptional.

It is a criminal offence to carry out works to a scheduled monument without this consent. The Act also makes it a criminal offence to destroy or damage a protected monument which includes scheduled monuments and to use a metal detector and/or remove any object of archaeological or historic interest which has been discovered by the use of a metal detector in a protected place. Again this includes scheduled monuments.

Scheduling is discretionary and, as stated above, it is only those sites and monuments that are of national importance that may be considered for designation.

The Secretary of State has published a [policy statement](#) on the non-statutory criteria used for determining whether a monument or site is of national importance. The criteria are set out in annex 1 of that policy statement 'Identifying, Protecting, Conserving and Investigating nationally important archaeological sites under the Ancient Monuments and Archaeological Areas Act 1979'. These include period, rarity, documentation, group value, survival/condition, fragility/vulnerability, diversity and potential.

The purpose of designation is to capture a representative sample of our nationally important archaeological resource where designation is deemed to be the most appropriate mechanism to secure their long-term preservation for this and future generations. Designation secures their legal protection in the national interest and their long term preservation in situ, as far as possible in the state in which they have come down to us. It also ensures that the significance of these sites is given due regard in the planning system.

## Offences

The statutory offences specifically concerning scheduled monuments are:

Executes, causes or permits works to a scheduled monument without scheduled monument consent (works include demolition, destruction of or any damage to a scheduled monument ; works for the purpose of removing or repairing a scheduled monument and making any alterations or additions thereto; and flooding or tipping operations on land in or under which there is a scheduled monument)

- Executes, causes or permits works to a scheduled monument in breach of a condition/s attached to a scheduled monument consent granted in respect of those works
- Intentional or reckless destruction or damage of a protected monument (includes scheduled monuments)
- Unlicensed metal detecting on a protected place (includes scheduled monuments)
- Unlicensed metal detecting on a protected place including the removal of objects of archaeological or historical interest (includes scheduled monuments)
- Breach of condition/s of a licence to metal detect and/or remove objects of archaeological or historical interest

Other offences which may relate to scheduled monuments are:

- Criminal Damage
- Theft (for example, theft of objects of archaeological or historic interest)
- Going equipped

- Handling stolen goods
- Dealing in cultural objects
- Treasure
- Public order offences (anti-social behaviour for examples, raves around scheduled monuments, off road vehicles, vandalism leading to criminal damage)
- Offences relating to planning breaches ([Appendix 12](#))
- The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

Some of these offences will be committed only by the owners of property and/or their agents/contractors. There the harm caused is to the building or site and the interests of the community at large. Other offences (such as theft or criminal damage) can only be committed by non-owners and cause additional harm to the interests of the building or site's owner.

In calculating the appropriate sentence (both in determining whether the custody or community sentence thresholds are met and in setting the level of fine) the following criteria will be paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made (including costs saved) at the expense of the heritage interest (See [para 3.2.1](#))
- When a financial penalty is appropriate the means of the offender will be a central factor

## Appendix 3 Protected wreck sites

Damage to protected wreck sites may be caused by unlicensed diving operations/activities in the restricted area including diving and salvage operations, tampering with, damaging or removing a wreck or objects from it, depositing anything which would wholly or partly obliterate the site or obstruct access or cause damage. Other relevant offences are criminal damage and theft of archaeological or historic artefacts.

There are specific heritage crime offences which apply to some of these situations but it may be appropriate to charge other more common offences such as criminal damage or theft.

### Protected wreck sites

There are two possible designations under the Protection of Wrecks Act 1973 (the 1973 Act), Restricted Areas and Prohibited Areas.

#### Restricted areas (historic wreck sites):

A restricted area is an area of 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 historic, 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. These designations are made under section 1(1) of the 1973 Act. This legislation is administered by Historic England for the Department of Culture Media and Sport.

A statutory instrument identifies the location of the site and also the extent of the restricted area used to ensure the protection of the site.

Historic England has published [Ships and Boats: Prehistory to Present](#), a guide which explains the non-statutory criteria used to assess the significance of a wreck site considered for designation. Wreck or wreck sites may be considered to merit designation if they contribute or appear likely to contribute significantly to the understanding of the past on account of their historic, archaeological or artistic importance in a national context. Significance may be assessed on the basis of the criteria set out in that guidance, which contribute to a wider judgement based on the individual circumstances of each case. The criteria include: period, rarity, documentation, group value, survival/condition, fragility/vulnerability, diversity and potential.

The purpose of designation is to capture a representative sample of our nationally important archaeological resource where designation is deemed to be the most appropriate mechanism to secure their long-term preservation.

In a restricted area it is an offence to carry out or cause or permit others to carry out various activities without a licence granted by the Secretary of State including tampering with, damaging or removing part of a vessel and exploration. Licence applications are processed by Historic England which then provides the Secretary of State with the necessary information for the licence to be approved.

#### Prohibited areas (dangerous wreck sites):

A prohibited area is an area designated by the Secretary of State around 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. These designations are made under section 2(1) of the 1973 Act by the Secretary of State. This legislation is administered by the Maritime and Coastguards Agency through the Receiver of Wreck and not considered further in this guidance.

## Offences

Statutory offence specifically concerning protected wrecks (restricted areas):

- Without a licence, tampers with, damages or removes any part of a vessel lying wrecked on or in the sea bed or any object formally contained in such a vessel or causes or permits another to do so
- Without a licence, carries out or causes or permits diving or salvage operations directed to the exploration of any wreck or to removing objects from it or from the sea bed, or uses equipment constructed or adapted for any purpose of diving or salvage operations
- Without a licence, deposits anything which, may if it were to fall, obstruct access to, obliterate or damage any part of a wreck
- Obstructing, or causing or permitting the obstruction of a person granted a licence to carry out diving or salvage operations

Other offences which may relate to protected wreck sites are:

- Criminal Damage
- Theft (for example, theft of objects of archaeological or historic interest)
- Going equipped
- Handling stolen goods
- Dealing in cultural objects
- Reporting wreck

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

In calculating the appropriate sentence (both in determining whether the custody or community sentence thresholds are met and in setting the level of fine) the following criteria will be paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made at the expense of the heritage interest (See [para 3.2.1](#))
- When a financial penalty is appropriate, the means of the offender will be a central factor

## Appendix 4 Protected military remains of aircraft and vessels

Damage to protected military remains of aircraft or vessels may be caused by carrying out unauthorised activities in respect of the remains including tampering with, damaging, moving removing or unearthing the remains or entering any hatch or other opening and carrying out excavation, diving or salvage operations. In addition, these sites can be affected by other offences including theft of archaeological or historic objects and criminal damage.

There are specific heritage crime offences which apply to some of these situations but it may be appropriate to charge other more common offences such as criminal damage and theft.

### Protected military remains

The Protection of Military Remains Act 1986 secures the protection from unauthorised interference of the remains of crashed military aircraft and vessels that have crashed, sunk or been stranded. The Act allows for two types of protection for military remains namely 'Protected Places' and 'Controlled sites'.

### Protected places:

A 'Protected Place' is a place which comprises the remains of an aircraft which has crashed whilst in military service and vessels designated by the Secretary of State that have sunken or been stranded whilst in military service after 4th August 1914, on or in the sea bed or the place or immediate vicinity of the place where the remains were left by the crash, sinking or stranding of that aircraft or vessel. This applies to crashed, sunken or stranded aircraft and designated vessels of any nationality in the UK and UK waters but only aircraft or vessels belonging to the UK in international waters.

### Controlled sites:

A 'Controlled Site' is an area designated by the Secretary of State which appears to contain a place comprising the remains of a crashed military aircraft or a vessel which has sunk or been stranded within the last two hundred years. Again, this designation applies to crashed, sunken or stranded aircraft and vessels of any nationality in the UK and UK waters but only aircraft or vessels belonging to the UK in international waters.

It is a criminal offence to carry out (or cause or permit another to do so) certain activities in Protected Places and Controlled Sites without a licence from the Secretary of State. Such activities include tampering with, damaging, moving or unearthing remains, entering any hatch or other opening in any remains enclosing the interior of an aircraft or vessel. Also, excavation, diving and salvage operations at these sites for certain specified purposes will also require a licence (sections 2 and 3 of the 1986 Act).

The United Kingdom's approach is in the main to treat such wrecks as being the last resting places of those who lost their lives accordingly as a general principle such sites should remain undisturbed to the maximum extent possible.

This legislation is enforced by the Ministry of Defence.

## Offences

The statutory offences specifically concerning the protection of military remains are, without a licence:

- Taking part in or causing or permitting another to tamper, damage, move, remove or unearth remains of an aircraft or vessel which is part of a controlled site or protected place
- Taking part in or causing or permitting another to enter any hatch or other opening in any remains which enclose any part of the interior of an aircraft or vessel in a controlled site or protected place
- Taking part in or causing or permitting the carrying out of any excavation or diving or salvage operation of remains of an aircraft or vessel for certain purposes
- Uses or causes or permits another to use equipment in connection with carrying out of any such excavation or operation

Other offences which may relate to military remains are:

- Criminal damage
- Theft (for example, removal of archaeological or historic artefacts or objects)
- Going equipped
- Handling stolen goods
- Dealing in cultural objects
- Reporting of wreck

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

In calculating the appropriate sentence (either in determining whether the custody or community sentence thresholds are met or in setting the level of the fine) the following factors are paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made at the expense of the heritage interest (See [para 3.2.1](#))
- Where a financial penalty is appropriate, the means of the offender will be a central factor

## Appendix 5 Conservation areas

Damage to conservation areas may be caused by the unauthorised demolition of unlisted buildings in conservation areas or other unauthorised development (without planning permission), or criminal damage such as vandalism, arson, theft of historic materials or objects for example railings, coping stones, slate, architectural features, statues, memorials and paving.

Anti-social behaviour in and around conservation areas such as for example drinking, fly tipping, noise, vandalism, graffiti and general criminal behaviour can have a damaging effect on the asset.

There are specific heritage crime offences which apply to the demolition of unlisted buildings in conservation areas but there are many general offences that apply to this type of asset and it may be appropriate to charge these more common offences such as criminal damage and theft.

### Conservation areas

Conservation areas are designated areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance (sections 69 and 70 of the Planning (Listed Buildings and Conservation Areas) Act 1990). They are usually designated by local planning authorities however Historic England can designate conservation areas in London in consultation with the relevant London Borough Council and with the consent of the Secretary of State. The Secretary of State can also designate in exceptional circumstances, usually where an area is of more than local interest.

The purpose of designation is to provide a broader form of protection beyond protection for an individual building. It recognises that historic buildings and architecturally interesting buildings do not exist in a vacuum but are part of an urban or rural context providing a setting for them, which may itself have a special character or appearance. It recognises that areas can have special architectural and/or historic interest. They may be areas with a high number of

nationally designated heritage assets, a variety of architectural styles and historic associations. Others may be more homogenous, linked to an industry or have a particular local interest. Some are designated because of the quality of the public realm or green spaces. Designation is not tied to areas where there are listed buildings, though they must generally be built up areas with sufficient architectural or historic interest.

Designation of a conservation area means that planning permission may be required to carry out certain alterations within the area that might not otherwise be required. Further in exercising its planning functions including the determination of planning applications, local planning authorities are under a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

It is not an offence to carry out works affecting the character or appearance of an unlisted building in a conservation area without consent. However it is an offence to demolish an unlisted building in a conservation area without planning permission.

It is worth noting that demolition of an unlisted building in a conservation before 1st October 2013 required 'conservation area consent' and failure to obtain that consent was a criminal offence under section 9(1) of the Planning (Listed Building and Conservation Areas) Act 1990. However following amendments made by the Enterprise and Regulatory Reform Act 2013, from 1st October 2013 conservation area consent is no longer required in England, instead it has been replaced with the need to obtain planning permission under section 196D of the Town and Country Planning Act 1990 (as amended) for 'relevant demolition'. In summary this means that if conservation area consent were needed to demolish a building in a conservation area under the Planning (Listed Buildings and Conservation Areas) Act 1990 then now you will need planning permission instead to demolish it.

This consent regime is the responsibility of local planning authorities and the Department of Communities and Local Government.

## Offences

The statutory heritage crime offences specifically concerning the demolition of unlisted buildings in conservation areas is:

- Carry out or cause or permit to be carried out the demolition of an unlisted building in a conservation area without planning permission
- Failure to comply with any condition or limitation of planning permission granting demolition of an unlisted building in a conservation area

Other offences which may relate to conservation areas are:

- Criminal damage
- Theft (for example, theft of historic materials such as paving)
- Going equipped
- Handling stolen goods
- Arson
- Public order offences (anti-social behaviour for example graffiti, fly tipping, drinking, noise, vandalism, general criminal behaviour)
- Other offences relating to planning breaches ([Appendix 12](#))
- Dealing in cultural objects

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

Some of these offences will be committed only by the owners of property and/or their agents/contractors. There the harm caused is to the building and the interests of the community at large. Other offences (such as theft or criminal damage) can only be committed by non-owners and cause additional harm to the interests of the building's owner.

In calculating the appropriate sentence (both in determining whether the custody or community sentence thresholds are met or in setting the level of fine) the following factors will be paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made (including costs saved) at the expense of heritage interests (See [para 3.2.1](#))
- When a financial penalty is appropriate the means of the offender will be a central factor

## Appendix 6 Registered battlefields

Damage to registered battlefields may be caused by unauthorised development (without planning permission), criminal damage including damage by off-road vehicles, vandalism, theft of archaeological or historic artefacts or materials.

Anti-social behaviour in and around registered battlefields such as fly tipping and general criminal behaviour can have a damaging effect on the asset.

There are no specific heritage crime offences which apply to registered battlefields and so it will be appropriate to charge common offences such as criminal damage or theft.

### Battlefields

Battlefield sites which appear to Historic England to be of special historic interest may be entered by Historic England onto its Register of Historic Battlefields under powers conferred by the Historic Buildings and Ancient Monuments Act 1953 (as amended). Historic Battlefields on the Historic England Register are considered to be designated heritage assets in terms of the NPPF and the purpose of registration is to ensure that the significance of these sites is given due regard in the planning system and to promote a better understanding of their significance.

Battlefields are significant in four ways:

1. As turning points/having a significant impact on English history;
2. The skills of war evolved on historic battlefields and are still relevant to the defence of the country today;
3. They are the final resting place of thousands of unknown soldiers, nobles and commoners alike, whose lives were sacrificed/lost in the making of the history of England; and
4. Where they survive, battlefields may contain important topographical and archaeological evidence which can increase our understanding of the momentous events of history which took place on their soil.

The register currently identifies the sites of the most important military battles on English soil. They range in date from 991 (Maldon) to 1685 (Sedgemoor), representing many different phases in our history.

### Offences

There are no statutory offences specifically concerning the protection of registered battlefields.

General offences which may relate to registered battlefields include:

- Criminal damage
- Theft (for example of objects of archaeological or historic interest)
- Going equipped
- Handling stolen goods
- Public order offences (anti-social behaviour for example graffiti, fly tipping, noise, vandalism, general criminal behaviour)
- Offences relating to planning breaches ([Appendix 12](#))
- Treasure

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

In calculating the appropriate sentence (either in determining whether the custody or community sentence thresholds are met or in setting the level of the fine) the following factors are paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made at the expense of the heritage interest (See [para 3.2.1](#))
- Where a financial penalty is appropriate, the means of the offender will be a central factor

## Appendix 7 Registered parks and gardens

Damage to registered parks and gardens may be caused by unauthorised development (without planning permission), criminal damage including vandalism, theft of archaeological or historic artefacts or materials.

Anti-social behaviour in and around registered parks and gardens such as for example vandalism, noise, fly tipping and general criminal behaviour can have a damaging effect on the asset .

There are no specific heritage crime offences which apply to registered parks and gardens and so it will be appropriate to charge common offences such as criminal damage or theft.

### Registered parks and gardens

Parks and gardens assessed by Historic England to be of special historic interest may be added onto its Register of Historic Parks and Gardens of Special Historic Interest in England under powers conferred by the Historic Buildings and Ancient Monuments Act 1953 (as amended). The main purpose of the Register of Parks and Gardens is to identify those parks and gardens which are of a high level of historic interest in the context of England's cultural heritage, and to encourage owners and others to appreciate, maintain, repair and enhance such sites. Registered Parks and Gardens are considered to be designated heritage assets in terms of the NPPF and entry on the Register also ensures that due regard is given to the significance of these areas in the planning system.

The emphasis of the register is on designed landscapes such as gardens, grounds and other planned open spaces, such as town squares rather than on planting or botanical importance. They include designed landscapes of all ages right up to the fairly recent past.

These sites are divided into three grades to give added guidance on significance. Grade I sites of exceptional interest; Grade II\* sites of particular importance, being more than special interest; and Grade II sites of special interest warranting every effort to preserve them.

## Offences

There are no statutory offences specifically concerning the protection of registered parks and gardens.

Offences of general application which may relate to registered parks and gardens include:

- Criminal damage
- Theft (for example of objects of archaeological or historic interest)
- Going equipped
- Handling stolen goods
- Public order offences (anti-social behaviour such as vandalism, fly tipping, noise and general criminal behaviour)
- Offences relating to planning breaches ([Appendix 12](#))
- Treasure

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

In calculating the appropriate sentence (either in determining whether the custody or community sentence thresholds are met or in setting the level of the fine) the following factors are paramount:

- The harm caused (See [para 3.1.4](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made at the expense of the heritage interest (See [para 3.2.1](#))
- Where a financial penalty is appropriate, the means of the offender will be a central factor

## Appendix 8 Non-designated heritage assets

Damage to non-designated heritage assets can be varied and will be dependent on the type of asset for example whether it is a building, site, or landscape. Many different crimes can affect them including unauthorised development (without planning permission), criminal damage including vandalism, graffiti, arson, theft of archaeological or historic artefacts or materials.

Anti-social behaviour in and around non-designated heritage assets such as for example vandalism, noise, fly tipping and general criminal behaviour can have a damaging effect on the asset.

There are no specific heritage crime offences which apply to non-designated heritage assets so it will be appropriate to charge common offences such as criminal damage or theft.

### Non-designated Heritage Assets

Non-designated heritage assets are buildings, monuments, sites, places, areas and landscapes which have a heritage interest. They are an important part of the historic environment. These assets may not always be of national importance, but are valued because of the contribution they make to an understanding of local history or to the character of an area eg a local brewery or park. They may include features characteristic of a particular locality or which make places attractive to businesses, visitors and residents. These assets may be identified by local authorities as being important to their area through local listing. In addition, there are many thousands of sites of archaeological interest that are recognised as being of national importance but are not designated because it is considered that they are sufficiently well protected by the planning system. See [Planning Practice Guidance](#) especially paragraph 040, Reference ID: 18a-040-20140306 Reference ID: 18a-040-20140306. These non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments are subject to the same planning policies as designated heritage assets.

### Offences

There are no statutory offences specifically concerning the protection of non-designated heritage assets.

Offences of general application which may relate to non-designated heritage assets include:

- Criminal damage
- Theft (for example of objects of archaeological or historic interest)
- Going equipped
- Handling stolen goods
- Arson
- Public order offences (anti-social behaviour such as vandalism, fly tipping, noise, off-road vehicles and general criminal behaviour)
- Offences relating to planning breaches ([Appendix 12](#))
- Treasure

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

In calculating the appropriate sentence (either in determining whether the custody or community sentence thresholds are met or in setting the level of the fine) the following factors are paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made at the expense of the heritage interest (See [para 3.2.1](#))
- Where a financial penalty is appropriate, the means of the offender will be a central factor

## Appendix 9 World Heritage Sites

There are no specific statutory offences that apply to World Heritage Sites however they will in practice be regulated and protected under national legislation, eg as listed buildings, scheduled monuments, or as conservation areas as many heritage assets will generally be located within them. Accordingly many of the offences that apply to other heritage assets as outlined in the appendices above, both specific to an asset and those more common offences such as theft and criminal damage may apply to World Heritage Sites.

Anti-social behaviour in and around World Heritage Sites such as for example drinking, fly tipping, noise, vandalism, graffiti and general criminal behaviour can have a damaging effect on the asset.

### Legislation: World Heritage Convention established in 1972

World Heritage Sites are sites, places, monuments or buildings of “Outstanding Universal Value” to all humanity today and in future generations. The World Heritage List includes a wide variety of exceptional cultural and natural sites, such as landscapes, cities, monuments, technological sites and modern buildings.

The UK Government is a signatory to the World Heritage Convention and has nominated and had designated 28 World Heritage Sites in the UK, 18 of which are in England including Stonehenge, the whole City of Bath and Canterbury Cathedral.

The protection of a World Heritage Site is the responsibility of national governments and signature of the Convention is a commitment by that government to identify, protect and conserve their World Heritage Sites for future generations.

## Appendix 10 Treasure and dealing in cultural objects

### Treasure

The Treasure Act 1996 (as amended) requires that any person who finds an object which he believes or has reasonable grounds for believing is 'treasure', as defined in the 1996 Act must report the find to the local Coroner. The reporting of treasure is dealt with through the Portable Antiquities Scheme. Objects which are defined as treasure belong to the Crown, although a reward will usually be paid to the landowner and the finder. This Act replaces the ancient law of treasure trove.

An object is not treasure if it is 'wreck' within the meaning of Part IX of the Merchant Shipping Act 1995 (see [Appendix 11](#)).

### Offences

The statutory offence specifically concerning treasure is:

- Failure to report the finding of treasure to the district coroner of where the discovery was made.
- Other statutory heritage crime offences that may relate to the finding of treasure if found in a protected place (including scheduled monuments):
- Use of a metal detector in a protected place without consent
- Failure to comply with conditions of consent for the use of metal detector in a protected place and removal of objects
- Removal of any object of archaeological or historical interest which has been discovered by the use of metal detector without consent
- Works to a scheduled monument without consent (if for example a hole is dug into a monument to remove the treasure)

Other offences which may be relevant are:

- Theft (for example, theft of objects of archaeological or historic interest)
- Criminal damage
- Going equipped
- Handling stolen goods
- Dealing in cultural objects

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#))

## Dealing in cultural objects

Dealing in Cultural Objects (Offences) Act 2003- The unauthorised removal and trade of objects of historical, architectural or archaeological interest from historic buildings or sites of archaeological interest.

This Act makes it an offence to deal in 'tainted' cultural objects (historical, architectural or archaeological interest) which have been removed from sites of historical or archaeological interest in the United Kingdom or else where. Objects are tainted if they have been removed or excavated from a site in breach of the laws of the country where the site is situated.

## Offences

The statutory offence specifically concerning cultural objects are:

- Dishonestly dealing in a cultural object that is tainted knowing or believing that the object is tainted

Where the cultural object is unlawfully removed from a designated heritage asset such as a scheduled monument, listed building, protected wreck, military remains, specific heritage crime offences that relate to these designated sites will also apply.

Other offences which may relate to cultural objects include:

- Theft (for example, theft of objects of archaeological or historic interest)
- Going equipped
- Handling stolen goods
- Criminal damage
- Treasure
- Reporting of wreck

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

In calculating the appropriate sentence (both in determining whether the custody or community sentence thresholds are met or in setting the level of fine) the following factors will be paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made at the expense of heritage interest (See [para 3.2.1](#))
- Where a financial penalty is appropriate, the means of the offender will be a central factor

## Appendix 11 Reporting wreck

### Reporting of Wreck

Pursuant to the 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.

All wreck material (however small or seemingly insignificant) found in the UK territorial waters or outside the UK but brought within UK territorial waters must be reported to the Receiver of Wreck. The types of wreck reported includes for example portholes, bells, plates, bundles of wood, gold coins, cannon etc.

### Offence

The statutory offence specifically concerning wreck is:

- The owner of wreck fails to 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;
- A person, who is not the owner, fails to 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 receiver's order or deliver it to the receiver.

Other offences that may relate to the finding of wreck:

- Theft (for example, archaeological or historic objects or artefacts)
- Going equipped
- Handling stolen goods
- Offences under the Protection of Wrecks Act 1973 (where the wreck has been salvaged from a protected site)
- Dealing in cultural objects

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

In calculating the appropriate sentence (both in determining whether the custody or community sentence thresholds are met or in setting the level of fine) the following factors will be paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made at the expense of heritage interest (See [para 3.2.1](#))
- When a financial penalty is appropriate, the means of the offender will be a central factor

## Appendix 12 Planning breaches

### Town and Country Planning Act 1990:

Although there are specific offences relating to unauthorised works to listed buildings and scheduled monuments, planning controls which regulate the development of land may also be relevant to heritage assets where for example the unauthorised works to the listed building or scheduled monument is also a breach of planning control (development without the required planning permission). This might arise for example where a building has been constructed on a scheduled monument without planning permission or scheduled monument consent, it is both a breach of planning control and unauthorised works under section 2 of the 1979 Act.

Unlike listed building controls which are concerned only with works which affect the character of the building as a building of special architectural or historic interest, planning controls regulate all forms of development as defined in the Act. Section 55 of the Town and Country Planning Act 1990 Act ('the 1990 Act') defines development as "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".

Building operations include some demolition of buildings, rebuilding, structural alterations and additions to buildings. Operations which only affect the interior of the building, or do not materially affect the external appearance of the building are excluded from the definition of development (contrast this with listed building controls which regulate changes to both the interior and exterior).

Where there has been a breach of planning control there are planning enforcement powers under the 1990 Act that may be used to rectify that breach. It is worth noting here that the demolition of an unlisted building in a conservation area without planning permission or failure to comply with a condition on a grant

of planning permission for such demolition, are both criminal offences under section 196D(1) and (2) of the 1990 Act (see also [Appendix 5](#) under the heading Conservation Areas).

Although section 57 of the 1990 Act provides that planning permission is required for the carrying out of any development of land, it is not in fact an offence to carry out development without planning permission.

### Offences

The following planning offences may be relevant to the protection of heritage assets:

- Failure to comply with a temporary stop notice or stop notice
- Failure to comply with an enforcement notice
- Failure to comply with a breach of condition notice
- Demolition of an unlisted building in a conservation area without planning permission; or breach of condition of such a planning permission (see [Appendix 5](#))

The legislation including the maximum penalties is set out in the Schedule of Offences ([Appendix 13](#)).

In calculating the appropriate sentence (both in determining whether the custody or community sentence thresholds are met or in setting the level of fine) the following factors will be paramount:

- The harm caused (See [para 3.1.1](#))
- The level of culpability (See [para 3.1.2](#); refer to dishonesty where appropriate and the theft guideline)
- Any profit made at the expense of heritage interest (See [para 3.2.1](#))
- Where a financial penalty is appropriate, the means of the offender will be a central factor

## Appendix 13 Schedule of Offences

### 4.13.1 Specific heritage offences that apply to certain designated heritage assets

These specific offences protect against damage and unauthorised alteration/extension of listed buildings, scheduled monuments, conservation areas, protected wrecks and military remains.

Heritage Asset/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Listed Buildings</b></p> <p><b>Planning (Listed Buildings and conservation Areas) Act 1990 (as amended)</b></p>	<p><b>Section 7 – Restriction on works affecting listed buildings.</b></p> <p>(1) Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised under section 8.</p> <p>(2) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent is required)</p> <p><b>Section 9(1) –</b> if a person contravenes section 7, he shall be guilty of an offence.</p>	<p><b>Section 9(4) and (5) –</b></p> <p>(4) A person who is guilty of an offence under this section shall be liable –</p> <p>(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £20,000 (or to an unlimited fine for an offence committed after 12th March 2015*), or both; or</p> <p>(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.</p> <p>(5) In determining the amount of any fine to be imposed on a person convicted . . . of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>
	<p><b>Section 9(2) – Breach of condition of listed building consent</b></p> <p>Without prejudice to subsection (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent he shall be guilty of an offence.</p>	<p>Provides the same penalties as Sections 9(4) and 9(5) above.</p>
	<p><b>Section 43(2) – Offences where listed building enforcement notice is not complied with</b></p> <p>(1) Where, at any time after the end of the period for compliance with the notice, any step required by a listed building enforcement notice to be taken has not been taken, the person who is then owner of the land is in breach of the notice.</p> <p>(2) If at any time the owner of the land is in breach of a listed building enforcement notice he shall be guilty of an offence.</p>	<p><b>Sections 43(5) and (6) –</b></p> <p>(5) A person guilty of an offence under this section shall be liable</p> <p>(a) on summary conviction, to a fine not exceeding £20,000 (or to an unlimited fine for offences committed after 12th March 2015*); and</p> <p>(b) on conviction on indictment, to a fine.</p> <p>(6) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>

	<p><b>Section 59(1) – Damage to a listed building</b>  (1) If, with the intention of causing damage to a listed building, any relevant person does or permits the doing of any act which causes or is likely to result in a damage to the building he shall be guilty of an offence....</p>	<p><b>Section 59(1) –</b>  ...and liable on summary conviction to a fine not exceeding level 3 on the standard scale.</p>
	<p><b>Section 59(4) – Further offence of damage to listed building</b>  If a person convicted of an offence under this section 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...</p>	<p><b>Section 59(4) –</b>  ...and liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day on which the failure continues.</p>

Heritage Asset/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Conservation Areas</b></p> <p><b>Town and Country Planning Act 1990 (as amended)</b></p> <p>Planning (Listed Building and Conservation Areas) Act 1990 (as amended) is a related legislation</p>	<p><b>Section 196D(1) – demolition of an unlisted building in a conservation area without permission</b></p> <p>(1) It is an offence for a person to carry out or cause or permit to be carried out relevant demolition without the required planning permission.</p> <p>NB - It is not an offence to carry out works affecting the character or appearance of an unlisted building in a conservation area without consent</p>	<p><b>Section 196D (5) to (8) –</b></p> <p>(5) A person guilty of an offence under this section is liable –</p> <p>(a) On summary conviction, to imprisonment for a term not exceeding 12* months or a fine** or both;</p> <p>(b) On conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.</p> <p>(6) *In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003, subsection 5(a) has effect as if the reference to 12 months were to 6 months.</p> <p>(7)** In relation to an offence committed before the coming into force of section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, subsection (5)(a) has effect as if the reference to a fine were a reference to a fine not exceeding £20,000.</p> <p>NB. For offences committed after 12th March 2015 to an unlimited fine on conviction in the Magistrates’ Court - section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p> <p>(8) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to that person in consequence of the offence.</p> <p>(9) Where, after a person commits an offence under this section, planning permission is granted for any development carried out before the grant of the permission, that grant does not affect the person’s liability for the offence.</p>
	<p><b>Section 196D(2) – Breach of condition of planning permission for demolition of an unlisted building in a conservation area</b></p> <p>(2) It is also an offence for a person to fail to comply with any condition or limitation subject to which planning permission for relevant demolition is granted.</p>	<p><b>Section 196D (5) to (8) –</b></p> <p>See above</p>

Heritage Asset/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Scheduled Monuments</b></p> <p><b>Ancient Monuments and Archaeological Areas Act 1979 (as amended)</b></p>	<p><b>Section 2(1) – Control of works affecting scheduled monuments</b></p> <p>2(1) If any person executes or causes or permits to be executed works to which this section applies he shall be guilty of an offence unless the works are authorised under this Part of this Act or by development consent.</p> <p>2(2) This section applies to any of the following works, that is to say –</p> <p>(a) any works resulting in the demolition or destruction of or any damage to a scheduled monument;</p> <p>(b) any works for the purposes of removing or repairing a scheduled monument or any part of it or of making any alternations or additions thereto; and</p> <p>(c) any flooding or tipping operations on land, in or under which there is a scheduled monument.</p>	<p><b>Section 2(10) –</b></p> <p>A person guilty of an offence under this section shall be liable –</p> <p>(a) On summary conviction to a fine not exceeding the statutory maximum (or to an unlimited fine in respect of offences committed after 12th March 2015*); or</p> <p>(b) On conviction on indictment to a fine.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>
	<p><b>Section 2(6) – Breach of condition of scheduled monument consent</b></p> <p>Without prejudice to subsection (1) above, if a person executing or causing or permitting to be executed any works to which scheduled monument consent relates fails to comply with any condition attached to the consent he shall be guilty of an offence....</p>	<p><b>Section 2(10) –</b></p> <p>See above</p>
	<p><b>Section 28(1) – Offence of damaging ancient monuments</b></p> <p>A person who without lawful excuse destroys or damages any protected monument –</p> <p>(a) knowing that it is a protected monument; and</p> <p>(b) intending to destroy or damage the monument or being reckless as to whether the monument would be destroyed or damaged shall be guilty of an offence.</p> <p>28(3) In this section ‘protected monument’ means any scheduled monument and any monument under the ownership or guardianship of the Secretary of State or the Commission [Historic England] or a local authority by virtue of this Act.</p>	<p><b>Section 28(4) –</b></p> <p>A person guilty of an offence under this section shall be liable:</p> <p>(a) On summary conviction, to a fine not exceeding the statutory maximum (or to an unlimited fine for offences committed after 12th March 2015*) or to imprisonment for a term not exceeding six months or both; or</p> <p>(b) On conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2015.</p>

	<p><b>Section 42(1) – use of a metal detector in protected place without consent</b></p> <p>If a person uses a metal detector in a protected place without the written consent of the Commission [Historic England] (in the case of a place situated in England) or the Secretary of State (in any other case) he shall be guilty of an offence...</p> <p>42(2) In this section—</p> <p>“metal detector” means any device designed or adapted for detecting or locating any metal or mineral in the ground; and</p> <p>“protected place” means any place which is either—</p> <p>(a) the site of a scheduled monument or of any monument under the ownership or guardianship of the Secretary of State or the Commission or a local authority by virtue of this Act; or</p> <p>(b) situated in an area of archaeological importance</p>	<p><b>Section 42(1) –</b></p> <p>...and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding level 3 on the standard scale.</p>
	<p><b>Section 42(3) – Removal of an object of archaeological or historical interest from a protected place discovered by the use of a metal detector</b></p> <p>If a person without written consent removes any object of archaeological or historical interest which he has discovered by the use of a metal detector in a protected place he shall be guilty of an offence...</p>	<p><b>Section 42(3) –</b></p> <p>...and liable on a summary conviction to a fine not exceeding the statutory maximum (or to an unlimited fine for offences committed after 12th March 2015*) or on conviction on indictment to a fine.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>
	<p><b>Section 42(5) – Failure to comply with a condition attached to a written consent for the use of a metal detector and/or removal of objects of archaeological or historical interest in a protected place</b></p> <p>If any person -</p> <p>(a) in using a metal detector in a protected place in accordance with any consent granted by the Secretary of State or the Commission for the purposes of this section; or</p> <p>(b) in removing or otherwise dealing with any object which he had discovered by the use of the metal detector in a protected place in accordance with any such consent;</p> <p>fails to comply with any condition attached to the consent, he shall be guilty of an offence....</p>	<p><b>Section 45(5) –</b></p> <p>...and liable, in a case falling within paragraph (a) ...to the penalty referred to at Section 42(1) [see above] and, in a case falling within paragraph (b), the penalty provided by section 42(3) [again see above]</p>

Heritage Asset/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Protected Wreck Sites</b></p> <p><b>Protection of Wrecks Act 1973</b></p>	<p><b>Section 1(3) – unauthorised activities in a restricted area</b></p> <p>..a person commits an offence if, in a restricted area, he does any of the following things otherwise than under the authority of a licence granted by the Secretary of State –</p> <p>(a) tampers with, damages or removes any part of a vessel lying wrecked on or in the sea bed, or any object formerly contained in such a vessel;</p> <p>(b) he carries out diving or salvage operations directed to the exploration of any wreck or to removing objects from it or from the sea bed, or uses equipment constructed or adapted for any purpose of diving or salvage operations;</p> <p>(c) he deposits, so as to fall and lie abandoned on the sea bed, anything which, if it were to fall on the site of a wreck (whether it so falls or not), would wholly or partly obliterate the site or obstruct access to it, or damage any part of the wreck; and also commits an offence if he causes or permits any of these things to be done by others in a restricted area, otherwise than under the authority of such licence.</p>	<p><b>Section 3(4) –</b></p> <p>A person guilty of an offence under section 1 .....shall be liable to on summary conviction to a fine of not more than the prescribed sum [£5,000] (or to an unlimited fine for offences committed after 12th March 2015*), or on conviction on indictment to a fine; and proceedings for such an offence may be taken, and the offence may for all incidental purposes be treated as having been committed, at any place in the United Kingdom where he is for the time being.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offences Act 2012</p>
	<p><b>Section 1(6) – Obstruction of person authorised by a licence</b></p> <p>Where a person is authorised, by a licence of the Secretary of State granted under this section, to carry out diving or salvage operations, it is an offence for any other person to obstruct him, or cause or permit him to be obstructed, in doing anything which is authorised by the licence.</p>	<p><b>Section 3(4) –</b></p> <p>See above</p>

Heritage Asset/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Protection of Military Remains</b></p> <p><b>Protection of Military Remains Act 1986</b></p>	<p><b>Section 2(1) – Offences in relation to remains and prohibited operations</b></p> <p>.....a person shall be guilty of an offence –</p> <p>(a) if he contravenes subsection (2) below in relation to any remains of an aircraft or vessel which are comprised in a place which is part of a controlled site;</p> <p>(b) if, believing or having reasonable grounds for suspecting that any place comprises any remains of an aircraft or vessel which has crashed, sunk or been stranded while in military service, he contravenes that subsection in relation to any remains by virtue of which that place is a protected place;</p> <p>(c) if he knowingly takes part in, or causes or permits any other person to take part in, the carrying out of any excavation or diving or salvage operation which is prohibited by subsection (3) below; or</p> <p>(d) if he knowingly uses, or causes or permits any other person to use, any equipment in connection with the carrying out of any such excavation or operation.</p> <p>(2) A person contravenes this subsection in relation to any remains –</p> <p>(a) if he tampers with, damages, moves, removes or unearths the remains;</p> <p>(b) if he enters any hatch or other opening in any of the remains which enclose any part of the interior of an aircraft or vessel; or</p> <p>(c) if he causes or permits any other person to do anything falling within paragraph (a) or (b) above.</p> <p>(3) An excavation or diving or salvage operation is prohibited by this subsection –</p> <p>(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 which are comprised in a place which is part of that site; or</p> <p>(b) if it is carried out for the purpose of doing something that constitutes, or is likely to involve, a contravention of subsection (2) above in relation to any remains of an aircraft or vessel which are comprised in a protected place or in a place which is part of such a site; or</p> <p>(c) in the case of an excavation, if it is carried out for the purpose of discovering whether any place in the United Kingdom or United Kingdom waters comprises any remains of an aircraft or vessel which has crashed, sunk or been stranded while in military service</p>	<p><b>Section 2(7) –</b></p> <p>A person who is guilty of an offence under this section shall be liable –</p> <p>(a) on summary conviction, to a fine not exceeding the statutory maximum (or to an unlimited fine for offences committed after 12th March 2015*);</p> <p>(b) on conviction on indictment, to a fine.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>

#### 4.13.2 Other Specific Heritage Crime Offences against Heritage Assets (apply whether designated or non-designated)

Heritage Asset/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Treasure</b></p> <p><b>Treasure Act 1996 (as amended)</b></p>	<p><b>Section 8 – Duty of finder to notify coroner</b></p> <p>8(1) A person who finds an object which he believes or has reasonable grounds for believing is treasure must notify the coroner for the district in which the object was found before the end of the notice period.</p> <p>8(2) The notice period is fourteen days beginning with –</p> <p>(a) the day after the find; or</p> <p>(b) if later, the day on which the finder first believes or has reason to believe the object is treasure</p> <p>8(3) Any person who fails to comply with subsection (1) is guilty of an offence....</p>	<p><b>Section 8(3) –</b></p> <p>...and liable on summary conviction to –</p> <p>(a) imprisonment for a term not exceeding three months;</p> <p>(b) a fine of an amount not exceeding level 5 on the standard scale (or to an unlimited fine in respect of offences committed after 12th March 2015*); or</p> <p>(c) both</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>

Heritage Asset/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Cultural Objects</b></p> <p><b>Dealing in Cultural Objects (Offences) Act 2003</b></p>	<p><b>Section 1(1) – Offence of dealing in cultural objects</b>  A person is guilty of an offence if he dishonestly deals in a cultural object that is tainted, knowing or believing that the object is tainted.</p> <p><b>Section 2(1)</b> “Cultural object” means an object of historical, architectural or archaeological interest.</p> <p>Section 2(2) A cultural object is tainted if, after the commencement of this Act—</p> <p>(a) a person removes the object in a case falling within subsection (4) or he excavates the object, and</p> <p>(b) the removal or excavation constitutes an offence.</p> <p>Section 2(4) An object is removed in a case falling within this subsection if—</p> <p>(a) it is removed from a building or structure of historical, architectural or archaeological interest where the object has at any time formed part of the building or structure, or</p> <p>(b) it is removed from a monument of such interest.</p> <p>Section 3(1) A person deals in an object if (and only if) he—</p> <p>(a) acquires, disposes of, imports or exports it,</p> <p>(b) agrees with another to do an act mentioned in paragraph (a), or</p> <p>(c) makes arrangements under which another person does such an act or under which another person agrees with a third person to do such an act.</p>	<p><b>Section 1(3) –</b>  A person guilty of the offence is liable –</p> <p>(a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both);</p> <p>(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or to an unlimited fine in respect of offences committed after 12th March 2015*) (or both).</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>

### 4.13.3 Other criminal offences that can affect heritage assets

Heritage Asset/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Reporting of Wreck</b></p> <p><b>Merchant Shipping Act 1995</b></p>	<p><b>Section 236 – Duties of finder of Wreck</b></p> <p>(1) If any person finds or takes possession of any wreck in United Kingdom waters or finds or takes possession of any wreck outside United Kingdom waters and brings it within those waters he shall –</p> <p>(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;</p> <p>(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 receiver’s order or deliver it to the receiver.</p> <p><b>Section 225(1) –</b></p> <p>...“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.</p>	<p><b>Section 236(2) –</b></p> <p>If any person fails, without reasonable cause, to comply with [section 236(1)] he shall be liable on summary conviction, to a fine not exceeding the level 4 on the standard scale and if he is not the owner of the wreck he shall also –</p> <p>(a) forfeit any claim to salvage; and</p> <p>(b) be liable to pay twice the value of the wreck –</p> <p>(i) if it is claimed, to the owner of it; or</p> <p>(ii) if it is unclaimed, to the person entitled to the wreck.</p> <p><b>Section 236(3) –</b></p> <p>A sum payable under subsection 2(b) to the owner of the wreck or to the person entitled to the wreck may...be recovered summarily as a civil debt.</p>

Heritage Asset/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Breaches of Planning Control</b></p> <p><b>Town and Country Planning Act 1990</b></p>	<p><b>Section 171E – failure to comply with a temporary stop notice</b></p> <p>Where a breach of planning control has taken place and the local planning authority consider that it is expedient that the activity which amounts to the breach should be stopped immediately, they may issue a temporary stop notice in certain circumstances.</p> <p><b>Section 171G – an offence to fail to comply with a temporary stop notice</b></p> <p>(1) A person commits an offence if he contravenes a temporary stop notice –</p> <p>(a) which has been served on him, or</p> <p>(b) a copy of which has been displayed in accordance with section 171E(5).</p> <p>(2) Contravention of a temporary stop notice includes causing or permitting the contravention of the notice.</p> <p>(4) A person may be convicted of more than one offence in relation to the same temporary stop notice by reference to different days or periods of time.</p>	<p><b>Section 171G(6) –</b></p> <p>A person convicted of an offence under this section is liable –</p> <p>(a) on summary conviction, to a fine not exceeding £20,000 (or to an unlimited fine for offences committed after 12th March 2015*);</p> <p>(b) on conviction on indictment to a fine.</p> <p>(7) In determining the amount of the fine, the court must have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>
	<p><b>Section 179 – failure to comply with an enforcement notice served under section 172</b></p> <p>(1) Where, at any time after the end of the period for compliance with an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner of the land is in breach of the notice.</p> <p>(2) Where the owner of the land is in breach of an enforcement notice he shall be guilty of an offence.</p> <p>(4) A person who has control of or an interest in the land to which an enforcement notice relates (other than the owner) must not carry on any activity which is required by the notice to cease or cause or permit such an activity to be carried on.</p> <p>(5) A person who, at any time after the end of the period for compliance with the notice, contravenes subsection (4) shall be guilty of an offence.</p> <p>(6) An offence under subsection (2) or (5) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the</p>	<p><b>Section 179(8) and (9) –</b></p> <p>A person guilty of an offence under this section shall be liable –</p> <p>(a) on summary conviction, to a fine not exceeding £20,000 (or to an unlimited fine for offences committed after 12th March 2015*); or</p> <p>(b) on conviction on indictment, to a fine.</p> <p>(9) In determining the amount of the fine, the court must have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>

	<p>subsection in question by reference to any period of time following the preceding conviction for such an offence.</p>	
	<p><b>Section 187 – Failure to comply with a stop notice issued pursuant to Section 183, prohibiting the carrying out an activity</b></p> <p>(1) If any person contravenes a stop notice after a site notice has been displayed or the stop notice has been served on him he shall be guilty of an offence.</p> <p>(1A) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.</p> <p><b>Section 183(1) Stop Notice –</b></p> <p>(1) Where the local planning authority consider it expedient that any relevant activity should cease before the expiry of the period for compliance with an enforcement notice, they may, when they serve the copy of the enforcement notice or afterwards, serve a notice (in this Act referred to as a “stop notice”) prohibiting the carrying out of that activity on the land to which the enforcement notice relates, or any part of that land specified in the stop notice.</p>	<p><b>Section 187(2) and (2A) –</b></p> <p>A person guilty of an offence under this section shall be liable –</p> <p>(a) on summary conviction, to a fine not exceeding £20,000 (or to an unlimited fine for offences committed after 12th March 2015*); and</p> <p>(b) on conviction on indictment, to a fine.</p> <p>(2A) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.</p> <p>*Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p>
	<p><b>Section 187(A) – Failure to comply with a breach of condition notice</b></p> <p>(1) This section applies where planning permission for carrying out any development of land has been granted subject to conditions.</p> <p>(2) The local planning authority may, if any of the conditions is not complied with, serve a notice (in this Act referred to as a “breach of condition notice”) on—</p> <p>(a) any person who is carrying out or has carried out the development; or</p> <p>(b) any person having control of the land, requiring him to secure compliance with such of the conditions as are specified in the notice.</p> <p>(9) If the person responsible is in breach of the notice he shall be guilty of an offence.</p> <p>(10) An offence under subsection (9) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.</p>	<p><b>Section 187(A)12 –</b></p> <p>A person who is guilty of an offence under subsection (9) shall be liable on summary conviction to <i>a fine not exceeding level 3 on the standard scale</i> [fine</p> <p>(a) not exceeding level 4 on the standard scale if the land is in England;</p> <p>(b) not exceeding level 3 on the standard scale if the land is in Wales.]</p> <p>*NB - the words in <i>italics</i> are substituted for the words in square brackets in subsection (12) only in relation to the offences committed after 6 April 2012 by the Localism Act 2011, Section 126(2) and (5).</p>

#### 4.13.4 Designated heritage assets which have no separate consent regime and no specific regulatory offences which apply to them

Heritage Asset/ Legislation	Legislation	Sanctions/Penalty
<p><b>Registered Parks and Gardens &amp; Registered Battlefields</b></p>	<p><b>Historic Buildings and Ancient Monuments Act 1953 (as amended)</b> Parks and Battlefields may be registered under HBAMA 1953. There are no specific offences which apply to these sites</p>	<p>Any offences which result in the harm to Registered Parks and Gardens or Registered Battlefields by persons/corporations can be prosecuted under the various legislative provisions set out in this document, choosing the most appropriate legislation in light of the particular facts of each case.</p>
<p><b>World Heritage Sites</b></p>	<p><b>World Heritage Convention 197</b> The United Kingdom is a signatory to this Convention and has nominated and had designated 28 World Heritage Sites in the UK. The protection of a World Heritage Site is the responsibility of national governments.</p>	<p>Any offences which result in the harm to World Heritage Sites by persons/corporations can be prosecuted under the various legislative provisions set out in this document, choosing the most appropriate legislation in light of the particular facts of each case.</p>

#### 4.13.5 General criminal offences which can affect heritage assets

Heritage Crime/ Legislation	Relevant Section of Legislation	Sanctions/Penalty
<p><b>Theft of materials or objects such as metal, tiles, slate, statues, coping stones, artefacts, etc.</b></p> <p><b>Theft Act 1968</b></p>	<ul style="list-style-type: none"> <li>■ General theft</li> <li>■ Going equipped for theft or burglary</li> <li>■ Handling Stolen Goods</li> </ul> <p><b>Section 11 – Removal of articles from places open to the public</b></p> <p>(1) subject to subsections (2) and (3) below, where the public have access to a building in order to view the building or part of it, or a collection or part of a collection housed in it, any person who without lawful authority removes from the building or its grounds the whole or part of any article displayed or kept for display to the public in the building or that part of it on its grounds shall be guilty of an offence.</p> <p>(2) It is immaterial for the purposes of subsection (1) above, that the public’s access to a building is limited to a particular period or a particular occasions; but where anything removed from a building or its grounds is there otherwise than as forming part of, or being on loan for exhibition with, a collection intended for permanent exhibition to the public, the person removing it does not thereby commit an offence under this section unless he removes it on a day when the public have access to the building as mentioned on subsection (1) above.</p> <p>(3) A person does not commit an offence under this section if he believed that he has lawful authority for the removal of the thing in question or that he would have it if the person entitled to give it knew of the removal and the circumstances of it</p>	<p><b>Theft – Section 7</b></p> <p>A person guilty of theft shall on conviction on indictment be liable to imprisonment for a term not exceeding seven years.</p> <p><b>Burglary - Section 9</b></p> <p>-where the offence was committed in respect of a building or part of a building which is a dwelling, fourteen years; -in any other case, ten years.</p> <p><b>Handling stolen goods – Section 22</b></p> <p>On conviction on indictment liable to imprisonment for a term not exceeding fourteen years.</p> <p><b>Going equipped – Section 25 –</b></p> <p>On conviction on indictment be liable to imprisonment for a term not exceeding three years</p> <p><b>Removal of articles from places open to the public – Section 11(4) –</b></p> <p>A person guilty of an offence under this section shall, on conviction on indictment, be liable to imprisonment for a term not exceeding five years.</p>
<p><b>Criminal Damage (eg arson, graffiti, vandalism, arson)</b></p>	<p><b>Criminal Damage Act 1971</b></p>	<p><b>Section 4 –</b></p> <p>(1) A person guilty of arson under section 1 or section 1(2)...(whether arson or not) shall on conviction on indictment be liable to imprisonment for life.</p> <p>(2) A person guilty of any other offence... on conviction on indictment be liable to imprisonment not exceeding ten years.</p>
<p><b>Anti Social Behaviour (noise, vandalism, trespass, raves, graffiti)</b></p>	<p><b>Crime and Disorder Act 1998 &amp; Anti-Social Behaviour Act 2003 – Parts 6 and 7</b></p>	<p><b>Various penalties –</b></p> <p>Curfew, ASBOs, penalty notices, imprisonment, enforcement measures.</p>

# 5 Acknowledgements

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