



Historic England

Heritage Crime Interventions:

Prosecution and Alternative Disposals





Summary

This is a general guide to the range of interventions available to assist members of agencies responsible for heritage crime prosecutions or enforcement. It looks in general terms at possible interventions, from prosecution through to the various types of alternative disposal options – both formal and informal – including consideration of anti-social behaviour measures and the restorative justice process. It is intended to give a short summary of available interventions and to signpost readers to sources of definitive guidance. This guide is not an enforcement policy statement by Historic England, the Alliance to Reduce Crime against Heritage (ARCH) or any of the enforcement authorities within ARCH.

It is one of a series of guidance documents on heritage crime intended to help people reduce the threat of crime to England's historic buildings and sites. For more information on the general nature of heritage crime and national and local strategies for tackling it, please see the heritage crime pages of the Historic England website.

This is a complex area for those making decisions on interventions and there has been a trend, in the past few years, towards simplification. The National Police Chiefs' Council published *Charging and Out of Court Disposals: A National Strategy (2017-21)*, which sets out the intention for forces to move voluntarily towards a two-tier framework that uses just two out of court disposals for adults (community resolution and conditional caution). *A Smarter Approach to Sentencing*, a government white paper published in September 2020, proposes to establish this on a statutory footing. An update to this Historic England guidance is, therefore, timely. In order to ensure that it remains as up-to-date as possible, when further changes are likely, it includes links to authoritative documents where possible; rather than give detail that can readily be accessed elsewhere.

Front cover:
Holy Rood Church, The
Lawn, Old Town, Swindon.
Criminal damage (graffiti)
to the south wall of this
Grade II Listed church.
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Disclaimer

Historic England and its advisers do not take responsibility for consequences arising from the use of this document. It is based on a current understanding of the law. Legal advice should be sought in the case of any doubt.

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1

Introduction

‘Interventions’ is a collective name given to the different options available to an enforcement agency to deal with crimes. Apart from prosecution, there are other interventions available, which might include a caution or warning letter, for example. The appropriate response to a crime depends on the circumstances of each case and is a matter for the enforcement agency to determine.

There is detailed guidance and codes of practice on prosecution, out of court disposals and restorative justice on the Crown Prosecution Service (CPS) website. Useful information can also be found on the Home Office, Ministry of Justice and gov.uk websites. Links to specific documents are cited in the text and these should be referred to for authoritative up-to-date guidance.

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What is heritage crime?

For the purposes of this guidance, heritage crime is defined as *'Any offence involving damage or loss to the historic environment, including all offences involving cultural property'*.

National Police Chiefs' Council - Heritage and Cultural Property Crime Working Group

England's heritage assets are subject to four different levels of statutory protection:

- Statutory designations that have related consent regimes and specific offences in law (these specific heritage crime offences are set out in the Appendix) to protect them against damage or unauthorised alteration:
 - scheduled monuments
 - protected wreck sites/restricted areas
 - listed buildings
 - protected military remains of aircraft and vessels of historic interest (controlled sites/protected places)
- Statutory designations that have no separate consent regime and do not have specific regulatory offences that apply to them to protect them against damage and unauthorised alteration:
 - registered parks and gardens
 - registered battlefields
- Non-statutory designations that have no separate consent regime and do not have specific regulatory offences that apply to them to protect them against damage and unauthorised alteration:
 - World Heritage Sites
- Undesignated heritage assets:
 - conservation areas
 - undesignated but acknowledged buildings and sites of heritage significance, including some of national significance

Registered parks and gardens, registered battlefields, World Heritage Sites and conservation areas have no separate consent regime and no specific regulatory offences that apply to them. However, these assets may contain other types of designated heritage assets that are themselves regulated, for example listed buildings and scheduled monuments.

All heritage assets, whether designated or not, are, of course, afforded broad protection under criminal law, with offences such as theft and criminal damage frequently used in cases where heritage assets have been subjected to crime.

It is essential when looking at a heritage crime to consider both the direct harm and the wider consequences for the historic environment. An impact statement from an expert, setting out the harm as a consequence of the crime committed, should be provided to the court on prosecution (see Historic England's guidance document [Heritage Crime Impact Statements](#)). Consideration should be given as to whether the offender should be afforded the opportunity to put right the harm they have caused, for example through reparation measures, as part of a restorative justice process (see [Section 6](#)).

Hate crime

'Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; or religion or perceived religion; or sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity.'

– Crown Prosecution Service

Some heritage crimes and anti-social behaviour may be motivated by discrimination and hatred. For example, graffiti applied to a heritage asset may contain racist or homophobic language; damage to a place of worship may be motivated by hostility on the grounds of religion. These matters are serious and are given high priority by the police. Such crimes are likely to be investigated by specialist hate crime officers. If suspects are identified, they may – dependent on the evidence – be charged with racially aggravated offences, such as criminal damage, which can attract a higher sentence on conviction. The impact of hate crime on victims can be extremely serious, and offences may be perceived as an attack against community members locally and more widely.

There is extensive guidance on responding to hate crime in the College of Policing's hate crime operational guidance. This can be viewed on the police hate crime website [True Vision](#).

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The need for enforcement

Enforcement of heritage crime will be most successful if it aims to address the underlying issues and problems that may be hindering a long-term change in behaviour and exacerbating repeat offending.

Out of court disposals and anti-social behaviour measures allow speedy and proportionate justice for lower level offences without recourse to the courts. This enables positive outcomes for victims and interventions and support for offenders at an early stage, which may divert them to rehabilitation services (for example, drugs, alcohol or anger management initiatives). Such action may reduce the likelihood of offending behaviour escalating and may also save police and prosecutors' time. In the case of cautions and conditional cautions, records of individuals' criminal conduct are kept for possible reference in future criminal proceedings.

Victims of heritage crime can include the owner or occupier of a heritage asset, the community who value and enjoy the heritage asset, and future generations who may be deprived of knowledge, understanding and enjoyment of heritage assets that have been irretrievably harmed or lost.

Since 1999, a range of legislative changes has sought to clarify, streamline and reinforce the interventions available to agencies and practitioners. While the current interventions present a range of options that are designed to be flexible and that can be used in varying combinations to deal with specific problems, it appears likely that simplification of the landscape will be placed on a statutory footing in due course.

Cooperation between enforcement authorities

There will often be more than one agency involved in enforcement. Any coordinated approach to deal with the offender should include making a decision on the appropriate intervention. If one agency decides to take enforcement action and conveys that decision to the offender, this may influence any subsequent action by another agency for matters arising from the same, or substantially the same, facts.

In order to avoid this, there needs to be close liaison between enforcement agencies. In particular, they need to agree how the matter is to be

disposed of and how that information is to be conveyed to the offender. No communication should be made by one enforcement agency to an offender without prior liaison with the others.

A [heritage crime Memorandum of Understanding](#) (MOU) has been signed by English Heritage (now Historic England), the police (through the Association of Chief Police Officers, now the National Police Chiefs' Council) and the CPS, which delineates responsibilities for tackling heritage crime between these three strategic partners. Local authorities are also being encouraged to join this coordinated effort and sign the MOU.

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The aims of intervention

The key aims of any intervention are:

- to enable the individual to recognise the consequences of their behaviour
- to ensure that they change their behaviour
- to protect victims, witnesses and the community

In some cases, alongside rehabilitative, restrictive and punitive purposes, interventions may also have a reparative purpose where the offender can make amends for their offending.

It is important for communities to set the standards of behaviour by which they expect people to live. If these standards are to be credible and respected, it must be clear to everyone that swift and effective action will be taken against unacceptable behaviour.

There are various stages at which different levels of intervention and enforcement are appropriate, according to the persistence of the offending and the seriousness of the offence. Early intervention can sometimes be very effective in stopping people from offending further, thereby reserving law enforcement powers for the minority who choose to ignore warnings.

It is important for agencies to select the appropriate approach so that people understand the consequences of offending. Some of the most successful interventions are those that engage the individual in changing their behaviour. By ensuring that individuals understand the impact of their actions on the community, and by offering the necessary support for them to stop, it is possible to achieve long-term change.

Taking action against the first sign of crime and anti-social behaviour in the historic environment is crucial in building community trust. Unless the community knows that agencies will respond when they make a complaint, they will not feel able to take a stand against this type of crime.

It should be made clear that if the problems reoccur the victim should contact the agency involved immediately. In some circumstances, it may also be helpful to inform the wider community about work that has been undertaken to manage offender behaviour.

Advising the community that action has been taken will boost trust in the ability of those agencies to deliver.

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Non-prosecution disposals in general

As previously mentioned, there is a range of interventions – alternatives to prosecution – available to agencies responsible for enforcement activity in respect of heritage crime. The term ‘out of court disposals’ is used to describe formal non-prosecution disposals, including conditional cautions and community resolutions, for example. However, there are also other non-prosecution disposals available to agencies. More detail is set out in [Section 7](#).

Alternative disposals

Alternative disposals (including formal out of court disposals) are used to deal with low-risk, low-level and mostly first-time offenders outside of the court system, in appropriate circumstances. They are alternatives to prosecution that can be used to gain speedy reparation for victims, to rehabilitate or punish offenders, and to restrict offenders’ behaviour.

Historically, there have been six types of adult disposals (other than charge or no further action) used by police forces in England and Wales: simple cautions, conditional cautions, community resolutions, penalty notices for disorder, fixed penalties and cannabis and khat warnings. A two-tier scheme was piloted in 2014–15 by three police forces using only two types of disposal: conditional cautions and community resolutions. Its emphasis is on setting conditions that are rehabilitative, reparative, restrictive or punitive. This represents a shift away from previous practice, which relied significantly on simple cautions: warnings with no continued engagement or follow-up. See ‘[OOCs: The path to best practice](#)’, [Police Oracle](#)

Planned legislative changes in 2016 to simplify the landscape did not proceed, but in 2017 the National Police Chiefs’ Council agreed that all forces would move to the two-tier model on a voluntary basis when financially and operationally possible. As of March 2020, 11 forces are reported to have adopted this model, with the remaining 32 using the six-tier model or a hybrid of the two. A government white paper, *A Smarter Approach to Sentencing*, published in September 2020, proposes to establish the two-tier approach on a statutory footing.

Separate arrangements apply to children of or above the age of criminal responsibility (10 to 17 years). Here, three options exist: youth cautions, youth conditional cautions and youth community resolutions.

Community resolutions are restricted to lower level offences that are summary only and where there is no previous community resolution for the same or a like offence within the past 12 months. Conditional cautions are intended for summary only offences and some either way offences triable in the magistrates' court; there should be no second community caution for the same or a like offence, other than in exceptional circumstances.

A '[gravity matrix](#)' for adult offenders has been developed by the National Police Chiefs' Council to assist decision makers in determining the most appropriate outcome for each case. It operates within the context of the two-tier framework and takes into account seriousness and other factors.

Before using an alternative disposal to deal with an offence, there must be sufficient evidence to provide a realistic prospect of conviction. It must also be in the public interest to dispose of the offence in this way, and guilt must be admitted. However, for a community resolution, the standard of proof required is 'reasonable suspicion', and responsibility on the part of the offender must simply be accepted. In all cases, the victim's consent is required for the disposal, unless a supervisor agrees that it may proceed without. The offender should also agree to the disposal. If the use of an alternative disposal is governed by statute, any conditions or limitations stipulated by that legislation must be met. Community resolutions are not listed on an offender's criminal record, but may be recorded locally for intelligence purposes. Simple cautions and community cautions, although not convictions, do form part of an individual's criminal record and may be revealed in any future legal proceedings.

Some heritage crimes involve offences, such as criminal damage (under £500), graffiti and fly-tipping, where penalty notices may be imposed. Unlike community cautions, an admission of guilt is not a prerequisite to issuing a penalty notice; offenders may be prosecuted if they elect to be tried or if they fail to pay and the prosecutor decides to proceed with a charge. For example, the police may issue a penalty notice for disorder (only the police have the power to do this) in the case of low-value criminal damage to a heritage asset. This remains an option in forces that use the residual six-tier framework. In forces that apply the two-tier framework, issuing a penalty notice for disorder – although possible – does not adhere to the preference for reparative or rehabilitative conditions. The practice of sending non-citable warning letters to an offender falls into the same category.

Some heritage crime offences (for example, racist or homophobic graffiti on a scheduled monument) are also hate crime offences (see [Section 2](#)). They are considered unsuitable for community cautions and such cautions can only be given in exceptional circumstances with the authority of a CPS prosecutor. The CPS's [Director's Guidance on Charging](#) deals with this issue.

In response to concerns about the fair and proportionate use of out of court disposals, every police force area has an Out of Court Disposals Scrutiny Panel, comprising representatives of agencies such as the CPS, youth offending teams and independent advisory groups, as well as a representative of the victim. The panel looks at the use of disposals on a two- to three-month basis to consider whether they are appropriate and in line with local policy, the Code for Crown Prosecutors and the Victims' Code. A key role is to evaluate the impact of the use of disposals (including any disproportionality on the basis of characteristics such as ethnicity or gender) and to ensure that lessons are learnt. In some cases, individual officers may be given feedback or cases may be referred to supervisors for review.

The Anti-social Behaviour, Crime and Policing Act 2014 placed a strong emphasis on the impact that such behaviour can have on victims and introduced the Anti-social Behaviour Case Review, also known as the 'Community Trigger', to enable the voices of victims to be heard. The Act provides a number of powers that are intended to encourage offenders to improve their behaviour and to stop breaking the law, with significant potential penalties if they fail to comply. Many of the offences that affect heritage assets, such as graffiti, criminal damage, nuisance and fly-tipping, potentially fall within the ambit of anti-social behaviour. The measures to help modify or restrict such behaviour, in many respects, complement those that can be used with out of court disposals. Where anti-social behaviour problems are impacting on heritage assets and on those who wish to use or enjoy them lawfully, consultation with the local police team or local authority anti-social behaviour officer may prove helpful. The non-prosecution measures provided by this Act to tackle anti-social behaviour include:

- civil injunctions
- criminal behaviour orders
- community protection notices
- public spaces protection orders

In January 2021, the Home Office published the revised [Anti-social Behaviour, Crime and Policing Act 2014: Anti-social Behaviour Powers: Statutory Guidance for Professionals](#).

[Section 7](#) summarises the principal interventions, including out of court disposals and relevant anti-social behaviour measures, that may be used to take positive action against offenders who have committed crime or anti-social behaviour within the historic environment. In addition, the CPS has issued guidance on prosecution and alternative disposals, which can be found on its website.

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Restorative justice

Before discussing in more detail the various interventions available to deal with heritage crime, it is important to consider the restorative justice process. Where appropriate, this can form part of any intervention. However, it is particularly worth considering for crimes affecting heritage assets, because it gives the offender the chance to learn about the value of the asset or place affected. It might also be used to contribute to repairing the asset.

Restorative justice gives everyone with a stake in a specific offence the opportunity to collectively resolve how to deal with the aftermath of the crime. It gives victims the chance to talk about the effect the crime had on them and what can be done to repair the harm.

The aims of restorative justice are commonly stated to be:

- **Victim satisfaction:** To reduce the fear of the victim and ensure they feel ‘paid back’ for the harm that has been done to them.
- **Engagement with the perpetrator:** To ensure that they are aware of the consequences of their actions, have the opportunity to make reparations, and agree a plan for their restoration in the community.
- **Creation of community capital:** To increase public confidence in the criminal justice system and other agencies with a responsibility for delivering a response to anti-social behaviour.

Properly administered restorative justice processes should produce individually tailored solutions that involve interaction between offenders, victims and the community. They can provide victims with answers to any previously unresolved questions they might have about why they were targeted. Victims are more likely to receive an apology through restorative justice processes than at court.

The restorative justice process offers offenders a unique opportunity to face up to what they have done, take responsibility for it and make up for the harm that their offending caused. This can involve restitution or reparative measures agreed between the offender and their victim.

Restorative justice can take place at any stage of the criminal justice process, including after conviction, and it can be an integral part of sentencing, especially with youths. Currently, it is more commonly used before a case comes to court, for example where a case is considered suitable for an out of court disposal instead of prosecution. It can also be an effective and proportionate response to low-level offending, where the public interest does not require a formal disposal, for example an apology or putting things right.

For adult offenders, prosecutors are most likely to come across restorative justice processes when considering conditional cautions. If it is decided that the offender is suitable for a conditional caution (rather than prosecution), restorative justice can take place as a reparative condition of the offender's conditional caution or it could be used to formulate the conditions of the caution.

For youth offenders, restorative justice is employed more widely. It can, for example, be used as part of an order on conviction (such as a referral or youth rehabilitation order) or as part of a rehabilitation programme delivered by the youth offending team following a youth caution or youth community caution.

Restorative justice processes are always voluntary for everyone concerned.

There are various types of restorative justice in England. They include:

- **Direct or indirect restorative justice processes:** Direct restorative justice is where the victim and offender have a face-to-face meeting guided by a facilitator. Indirect restorative justice is where the parties communicate via the facilitator, who acts as a go-between. An agreement is usually reached to decide how best to repair the harm caused, and a rehabilitation programme may be established.
- **Community conferencing:** This is a large-scale conference that is particularly useful for resolving anti-social behaviour. When this approach is employed, the community as a whole is often the victim. Again, if the process focuses on the harm caused and its resolution, then it has the potential to be restorative.
- **Referral order panels:** Young people who receive a court referral order following conviction attend a panel meeting to discuss their offence and the factors that may have contributed to their offending behaviour. The panel is made up of youth offending team staff and community volunteers. The victim, or their representative, may also attend so that their views can be put forward.
- **Mediation:** This is a process in which an impartial third party (the mediator) helps people in dispute to work out an agreement.

Restorative justice works best when the offender is committed to participating in a meaningful way, rather than simply wanting to avoid prosecution. Therefore, prosecutors/enforcement agencies should look for evidence that the particular offender is suitable for a restorative justice-based disposal and is likely to accept the anticipated outcome of the process. The prosecutor/enforcement agency will also need an understanding of how onerous restorative justice processes are for all taking part. This is to ensure that, overall, it is proportionate to the gravity of the offence.

The CPS has produced a legal guidance note on [restorative justice](#).

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Available interventions

Below is a summary of interventions available to those responsible for prosecution or enforcement in relation to heritage crime and anti-social behaviour. When considering the appropriate out of court disposal intervention, restorative justice approaches should also be looked at. These are not themselves disposals, but may form part of the outcome.

The purpose of this section is not to provide detailed guidance as to the purpose, scope and practical application of each intervention. As already noted, this is a complex area where further reform is anticipated. The intention is, therefore, to provide a brief outline of each intervention and its relevance to heritage crime, with links to authoritative and up-to-date online sources.

Six types of out of court disposals – falling short of prosecution – for adults are currently used by police forces in England and Wales, with agreement in place that all forces will migrate to just two types in due course: community resolutions and conditional cautions. Cannabis and khat warnings are not included here because this disposal is unlikely to be relevant for heritage crime cases. Three out of court disposals are available for young people aged 10 to 17. [A brief summary](#) of these adult and youth disposals is provided by the Ministry of Justice. Additionally, anti-social behaviour interventions and warning letters are sometimes used in heritage crime cases.

All of the measures suitable for heritage crime offences are listed in the table below.

Interventions/Out of court disposals (OOCs) suitable for heritage crime cases			
Adult OOCs	Youth OOCs	Anti-social behaviour	Other measures
<ul style="list-style-type: none"> ■ Community resolution ■ Conditional caution ■ Adult caution (simple) ■ Penalty notice disorder ■ Fixed penalty 	<ul style="list-style-type: none"> ■ Youth community resolution ■ Youth caution ■ Youth conditional caution 	<ul style="list-style-type: none"> ■ Injunction ■ Criminal behaviour order ■ Dispersal power ■ Community protection notice ■ Public space protection order ■ Closure power 	<ul style="list-style-type: none"> ■ Warning letter/meeting

If community resolution, conditional caution and youth conditional caution measures are to be used, police and crime commissioners, or their equivalent policing bodies, are required to consult the public and community representatives on what punitive, reparative or rehabilitative actions they would consider appropriate to be included in the Community Remedy document (see 7.8).

7.1 Community resolution (adults and young people aged 10–17)

A community resolution is an informal non-statutory disposal used for dealing with circumstances in which the offender accepts responsibility. The views of the victim (where there is one) are taken into account in reaching an informal agreement between the parties.

The outcome should include an element that is reparative or rehabilitative as well as punitive, and it may involve restorative justice approaches. Options for suitable conditions might include:

- a restorative justice meeting or conference
- a warning and agreement about future behaviour (for example, an acceptable behaviour contract)
- an apology
- putting things right (for example, removing graffiti or paying compensation)
- rehabilitation (for example, referral to a substance abuse programme or victim awareness course)

In what circumstances can this disposal be used?

This is an informal, non-statutory disposal of less serious crime and anti-social behaviour, and it applies to summary only offences and some either way offences triable in the magistrates' court. It may, therefore, be applied to a wide range of heritage crime offences.

This outcome is suitable for young people, under the age of 18, and adults. In the case of young people, it is considered best practice to notify the youth offending team.

Implications for the offender

Generally, community resolutions are aimed at first-time offenders for less serious offences. They are intended to be used where the offender consents and accepts responsibility for the offence. The Sentencing

Council notes that a community resolution is not a conviction and, therefore, not a statutory aggravating factor in terms of sentencing for a subsequent offence. However, if recent and relevant to the offence, a [community resolution](#) may be considered an aggravating factor.

Implications for victims

A community resolution offers victims an informal and flexible response to the matter they have reported, and it allows them to have a say in how their matter is dealt with. The victim should be consulted and agreement sought, although a community resolution can proceed without victim consent if a police supervisor agrees.

Further information and guidance

The Ministry of Justice has published guidance on [out of court disposals](#). Further information can be found in [Charging and Out of Court Disposals: A National Strategy](#), published by the National Police Chiefs' Council in 2017.

7.2 Conditional caution

Conditional cautions, which allow conditions to be attached for certain specified offences, are a statutory form of out of court disposal for adult offenders (18 years and older). They are a statutory development of the non-statutory adult caution (simple caution), which has been available for the discretionary use of the police and the CPS for some time.

Conditional cautions provide an opportunity to achieve an early positive response to low-level offending for people willing to admit to their offence and to comply with certain conditions aimed at rehabilitation or reparation. They suspend any criminal proceedings while the offender is given the chance to comply with the agreed conditions.

In what circumstances can this disposal be used?

A conditional caution can only be considered for an offence that is listed in the [Director's Guidance on Charging](#). This is limited to summary offences (excluding motoring offences) and specified either way offences, such as offences under the Theft Act 1968 (including theft, removal of articles from places open to the public and going equipped to steal) and some offences under the Criminal Damage Act 1971 (including destroying or damaging property). A number of these offences are directly relevant to heritage crime. A complete list is shown at [Annex A](#) of the Director's Guidance on Adult Conditional Cautions.

Before a conditional caution can be considered, there must be sufficient evidence available to provide a realistic prospect of conviction in accordance with the Full Code Test set out in the Code for Crown Prosecutors.

A decision to offer a conditional caution must be made by a police officer of sergeant rank or above, dependent on seriousness. Any indictable offence considered by the police to be suitable for a conditional caution must be referred to the CPS, as must any offence involving hate crime. This could apply in heritage crime cases: for example, where racist graffiti has been applied to a heritage asset.

The conditions attached to a conditional caution should be appropriate, achievable and proportionate to the offence and must have one or more of the following objectives: rehabilitation, reparation and punishment.

Restorative justice may be employed as a process to inform the conditions of the caution. If used in this way, the process will take place before the offender is given the conditional caution, so that everyone affected by the crime can suggest suitable conditions. The prosecutor will consider the conditions and have the final say about whether those agreed are appropriate, and/or suggest other conditions. Alternatively, participation in a restorative justice process could be a condition of the caution itself.

Implications for the offender

If the offender agrees to the conditional caution, the prosecution will be suspended while the offender is given an opportunity to comply with the conditions, during which time the prosecution will not normally proceed. However, if the offender refuses the offer of a conditional caution or does not comply with the conditions without reasonable excuse, they may be charged with the original offence and the case may go to court.

Like an adult caution (see 7.3), a conditional caution is not a criminal conviction. However, it will be recorded and it may be considered in court if the person is tried for another offence.

The adult caution remains available as a disposal and may be appropriate in cases where conditions would not be suitable, for example.

Implications for victims

The victim will be consulted on the disposal, but cannot insist that the matter is disposed of in a particular way. However, the victim's views will be taken into account by the prosecutor and may be relevant to determining seriousness. If appropriate, the victim can be awarded compensation or reparation and/or take part in a restorative justice process.

Further information and guidance

The [Code of Practice for Adult Conditional Cautions](#), published by the Ministry of Justice, governs the use of conditional cautions and includes reference to the use of restorative justice in this context.

The Ministry of Justice has also published a [quick reference guide on out of court disposals](#). The CPS has issued its own [codes of practice](#), which can be found on its website along with the Director of Public Prosecutions' guidance.

7.3 Adult caution (simple caution)

An adult caution is a formal warning given by or on the instructions of a senior police officer, or sometimes on the direction of the CPS. It is a non-statutory disposal for an adult offender, designed for circumstances in which the offender could have been charged or prosecuted for the offence, but it is decided that it is in the public interest to issue a formal warning instead (see [The Code for Crown Prosecutors](#), published by the CPS).

The offender must be over 18 years of age, have made a clear and reliable admission to all elements of the offence and have not raised a defence. The offender must also give informed consent to the administering of the caution.

In what circumstances can this disposal be used?

Adult cautions are generally used for first-time low-level offences. They can be issued for any offence where there is a realistic prospect of conviction and it is in the public interest to issue a caution. The suitability of this disposal is determined according to its appropriateness to the offender and the offence, and the likelihood of it reducing the risk of reoffending. Ministry of Justice guidance advises that cautions are primarily intended for low-level, mainly first-time offending. Aggravating circumstances (e.g. any breach of trust or advantage taken of the vulnerable or young) may mean that its seriousness reaches a point where the case should proceed to court. [Ministry of Justice guidance](#) is available.

The decision to issue an adult caution for an indictable only offence (one that can only be heard in the Crown Court) must be made by the CPS, although the occasions when this will arise are exceptional. Again, there must be sufficient evidence for a realistic prospect of conviction, and it must be clear it is in the public interest to issue a caution rather than prosecute the offender.

Other enforcement agencies can also issue an adult caution to an offender, where it is an appropriate intervention, in accordance with the guidelines on cautioning issued by the CPS. These can be found on the CPS website and also in the Home Office Circular [16/2008: Simple Cautioning of Adult Offenders](#).

If the offer of an adult caution is refused, a prosecution should follow for the original offence.

Implications for the offender

An adult caution is not a conviction, but if one is given for a recordable offence it will be registered by the police. It may be cited in any subsequent court proceedings and it forms part of the offender's criminal record. Accordingly, it is important to consider whether a more informal intervention, such as a community resolution, is appropriate before issuing an adult caution.

The use of a simple caution for repeat offending involving a similar offence within the preceding two years is not permitted unless a police inspector determines that exceptional circumstances apply to the offender, the present offence or the previous offence (please see [Ministry of Justice guidance, para. 35](#)).

Implications for victims

Although the victim is consulted, they cannot insist that the matter is disposed of in a particular way. The victim's views may be relevant to determining seriousness, and it is important to consider the nature and extent of the harm caused and whether any form of compensation should be paid.

As with a penalty notice for disorder (see 7.4), this disposal removes the possibility of the criminal court awarding a compensation order in favour of the victim. It might, therefore, be apt to consider a conditional caution where compensation is deemed appropriate.

Alternatively, as part of this intervention, it is possible for the victim and offender (facilitated by the police or other agency) to reach a voluntary agreement for restorative justice, perhaps including repair of any damage caused to the heritage asset.

Further information and guidance

[The Code for Crown Prosecutors](#) and useful guidance on [adult cautions](#) can be found on the CPS website. The Ministry of Justice has published [Simple Cautions: Guidance for Police and Prosecutors](#).

7.4 Penalty notice for disorder

A penalty notice for disorder is a statutory disposal introduced by the Criminal Justice and Police Act 2001. The notices can be the first stage of intervention for many forms of low-level disorder offences. They offer speedy and effective action that frees up police, local authority and court time. They also ensure that all unacceptable behaviour is challenged. The offender receives an immediate punishment (fine), which, if paid, will not result in a criminal record.

In what circumstances can this disposal be used?

Penalty notices for disorder are available for a specified range of minor disorder offences, including throwing fireworks, causing criminal damage (under £300) and theft (shoplifting under £100 where the property is recovered). The first two examples may be useful in dealing with low-level heritage crime offences. The notices can be issued by police officers and other authorised persons. Penalties are fixed for each offence at one of two levels.

Before a notice can be issued, the officer must have reason to believe that an offence has been committed and that the offence is covered by the penalty notice for disorder scheme. In addition, there must be sufficient evidence to support a successful prosecution in accordance with the Code for Crown Prosecutors and the suspect must understand what is happening.

A penalty notice for disorder will not be suitable where the suspect repeatedly offends, where there are aggravating factors to the offence, or where there is a second or subsequent offence that is known to overlap with the penalty notice for disorder offence. These are just some of the factors that may prevent the use of a penalty notice for disorder; there may be other relevant factors.

Implications for the offender

By paying the penalty, the offender discharges any liability to be convicted of the offence to which the penalty notice for disorder relates. Payment involves neither a finding nor an acceptance of guilt, and it removes the possibility of being proceeded against or gaining a criminal conviction for the offence in question. It can be cited as evidence of bad character in subsequent criminal proceedings and may be relied on in court.

Once issued, the penalty must either be paid in full or a request for a hearing must be made, within 21 days. If neither of these things occur within this period, the penalty is automatically registered as a fine at one and a half times the level of the original amount. Unpaid fines are enforced through the courts in the normal way. In exceptional circumstances, the police may seek to bring a prosecution for the original offence instead.

Implications for victims

The victim is consulted on the issuing of a penalty notice for disorder. Although the victim cannot insist on a particular method of disposal, a penalty notice for disorder should not be issued if the victim is opposed to it.

A penalty notice for disorder disposal removes the possibility of the criminal court awarding a compensation order in favour of the victim. However, it is possible, as part of this process, for the victim and offender (facilitated by the police) to reach a voluntary agreement for restorative justice, which may include repair of damage caused to the heritage asset, for example.

Further information and guidance

Ministry of Justice guidance is available regarding the use of [penalty notices for disorder](#).

7.5 Fixed penalty notices

Fixed penalty notices provide enforcing authorities with an effective and visible way of responding to some forms of environmental crime. They also offer a proportionate and lower cost alternative to prosecution in the magistrates' courts.

In what circumstances can this disposal be used?

A range of legislation exists to protect the environment (see DEFRA guidance cited below). Fixed penalty notices may be issued for offences such as graffiti, fly-tipping, abandoned vehicles and dog fouling, all of which may harm or detract from heritage assets and sites. A fixed penalty notice may be issued where the authorised officer has 'reason to believe' that an offence has been committed. However, it will still be necessary to submit evidence proving the offence beyond reasonable doubt in order to prosecute the offender if the fixed penalty is unpaid. Depending on the offence, fixed penalty notices may be issued principally by local authority employees, but they may also be issued by police community support officers and other authorised persons.

Such notices do not address reparation or rehabilitation on the part of the offender. Therefore, in some instances, alternative disposals may be considered to offer a better chance of a positive outcome. Children and young people between the ages of 10 and 17 may be given fixed penalty notices, but special considerations apply regarding the involvement of parents or legal guardians and the DEFRA guidance referred to below should be consulted.

Implications for the offender

An enforcing authority is not obliged to offer an alleged offender the option of paying a fixed penalty. Equally, as a fixed penalty offers an option to discharge liability for an offence, an alleged offender may choose not to accept or pay a fixed penalty, and instead opt to defend the case in court (at the risk of being liable for a potentially higher penalty on conviction).

If a person is classed as a ‘persistent offender’ with two or more recorded offences, a further fixed penalty is unlikely to be appropriate and enforcement authorities may consider prosecuting (if it is in the public interest to do so).

Implications for victims

Enforcement authorities may consult locally in relation to applying their policies, but a fixed penalty notice does not include a formal role for victims, other than as witnesses.

Further information and guidance

More detailed information is available from DEFRA in the form of a [code of practice on litter and refuse](#). The publication also includes an appendix on effective enforcement.

7.6 Youth caution

A youth caution, for those aged 10 to 17, is a formal out of court disposal. Youth cautions are primarily administered by the police and are intended to provide a proportionate and effective response to offending behaviour. They can be used for any offence, provided that the statutory criteria are satisfied:

- There is sufficient evidence to charge a youth with an offence.
- The youth admits the offence.
- It is not considered that the youth should be prosecuted or given a youth conditional caution in respect of the offence.

In what circumstances can this disposal be used?

Unlike adult simple cautions, the young person does not ‘consent’ to the youth caution. Rather, the police or CPS decides the appropriate disposal. It must be given in the presence of an appropriate adult.

Since youth cautions may be employed for any offence, they can be applied to a wide range of heritage crime offences. They may be used alongside reparative or rehabilitative outcomes, including restorative justice approaches. The police will take into account the offending history and the seriousness of the offence when deciding whether to issue a youth caution. The seriousness is determined by referring to the ACPO gravity matrix (ACPO now been replaced by the National Police Chiefs’ Council - NPCC). The police cannot issue a youth caution for an offence that is indictable only in the case of an adult, without the authority of the CPS. If the offending behaviour cannot be satisfactorily addressed by a youth caution, the police will consider a youth conditional caution (see [7.7](#)).

Implications for the offender

Youth cautions form part of a young person's criminal record. Under the Rehabilitation of Offenders Act 1974, they are considered 'spent' as soon as they are issued. Youth cautions may be disclosed to an employer in certain circumstances. They can also be disclosed in any future criminal proceedings.

There is no statutory restriction on the number of youth cautions that a young person can receive. A youth may receive a youth caution even if he or she has previous convictions, reprimands, warnings, youth cautions and youth conditional cautions.

The police must refer someone who has received a youth caution to the youth offending team.

Implications for victims

Victims' views should be sought about the offence. Their willingness to participate in any restorative justice process should be established, but they cannot insist that the matter is disposed of in a particular way. It is important to note that a youth caution removes the possibility of a criminal court awarding a compensation order in favour of the victim.

Further information and guidance

Further guidance on youth cautions can be found in the CPS legal guidance on [youth offenders](#) and in the Ministry of Justice/Youth Justice Board guidance on [youth cautions](#).

7.7 Youth conditional caution

Youth conditional cautions may be given to a young person aged 10 to 17, and they are intended to be a more robust response to offending than a youth caution. They are used in circumstances where public interest in the case can be met by offering a conditional caution rather than by prosecuting an offender. They provide an opportunity to achieve an early positive response to low-level offending for those who are willing to admit to their offending and to comply with certain conditions aimed at rehabilitation or reparation.

A youth conditional caution allows an authorised person (usually a police officer) or a relevant prosecutor (usually a member of the CPS) to decide to give a caution with one or more conditions attached. When a young person is given a conditional caution for an offence, criminal proceedings for that offence are halted while the young person is given an opportunity to comply with the conditions. Where the conditions are met, the prosecution is not normally started. However, where there is no reasonable excuse for non-compliance, criminal proceedings may be commenced for the original offence and the conditional caution will cease to have effect.

In what circumstances can this disposal be used?

A youth conditional caution may be offered by a police officer or prosecutor for any offence, depending on its seriousness. This disposal may, therefore, be suitable for a wide range of heritage crime offences. However, it cannot be used for serious hate crime cases, as assessed against the ACPO gravity matrix (ACPO has now been replaced by the NPCC). Other serious matters assessed against this matrix need to be referred to a CPS prosecutor for a decision.

Before a youth conditional caution can be considered, there must be sufficient evidence available to provide a realistic prospect of conviction in accordance with the Full Code Test set out in the Code for Crown Prosecutors.

The conditions must always be appropriate and proportionate to the offence. Achievable restorative justice processes and initiatives may be used to help inform decisions about the conditions of a conditional caution.

Implications for the offender

The young offender must explicitly consent to accepting the conditional caution and the conditions set.

If conditions are not met, the offender may be prosecuted for the original offence. A youth conditional caution forms part of a young person's criminal record and can be disclosed in any future criminal proceedings. Under the Rehabilitation of Offenders Act 1974, the youth conditional caution will be considered 'spent' three months after the date of the caution (or earlier if conditions lasting less than three months are met). In certain circumstances, this disposal may be used if youths have previous convictions, and it can be used on more than one occasion.

Before deciding to offer a youth conditional caution, the youth offending team should be fully consulted so that they can advise on whether this disposal is suitable and what the conditions should be. They also have overall responsibility for monitoring compliance.

Implications for victims

Victims' views should be sought about the offence. Their willingness to participate in any restorative justice process should be established, but they cannot insist that the matter is disposed of in a particular way. Conditions may include reparation which might involve an apology, repair or compensation.

Further information and guidance

Further guidance on youth conditional cautions can be found in the CPS legal guidance on [youth offenders](#) and in [Conditional Cautioning: Youths – DPP Guidance](#).

7.8 Anti-social behaviour: Overview

Introduction

Many of the offences that can harm or blight heritage assets fall within the definition of anti-social behaviour. The Anti-social Behaviour, Crime and Policing Act 2014 was enacted to tackle this form of offending. Rather than reproducing large sections of comprehensive guidance, the following sections on anti-social behaviour provide a very brief summary of the contents of the Home Office document [The Anti-social Behaviour, Crime and Policing Act 2014: Anti-social Behaviour Powers Statutory Guidance for Frontline Professionals](#) (2021), which should be consulted if more detailed information is required.

When considering the response to a complaint of anti-social behaviour, the guidance urges agencies to consider the effect that the behaviour in question is having on the lives of those subjected to it. For example, agencies should recognise/consider the debilitating impact that persistent or repeated anti-social behaviour can have on its victims, and the cumulative effect if that behaviour persists over time.

The legislation requires the relevant local agencies to be satisfied that the specific legal tests and safeguards set out in the legislation, and referred to briefly below, are met before any anti-social behaviour powers are used. These tests are intended to ensure the appropriate and proportionate use of the powers and to make sure they are being used to target specific problems or circumstances. They allow for preventative action to be taken – for agencies to intervene early to prevent problems from escalating – and, in some instances, for there to be a focus on tackling the underlying causes of the anti-social behaviour. For example, anti-social behaviour in and around registered parks and gardens may be related to substance misuse.

The response to anti-social behaviour may require collaborative working between different agencies to determine the most appropriate solution. Where a report or complaint is made to one agency, that lead agency should consider the potential role of others in providing a solution if they themselves are not able to take action. This will help to ensure that reports of anti-social behaviour are not inadvertently lost between the various reporting arrangements of different agencies. It may also help to provide a mechanism for considering the potential for engaging the wider community in finding solutions to specific anti-social behaviour issues. Where an anti-social behaviour problem emerges in a locality, then an initial referral to the local police team or local authority anti-social behaviour officer is likely to be a good place to start.

The guidance recognises how important it is that victims or complainants are kept informed while agencies are considering the most appropriate response. It is also important that they are advised on the intended course of action. Additionally, local agencies need to consider how victims are best supported, and they should ensure that victims are aware of their right to a Community Trigger case review (see below), if they meet the locally defined threshold.

Giving victims and communities a say

The Anti-social Behaviour, Crime and Policing Act 2014 includes two specific measures designed to give victims and communities a say in the way that complaints of anti-social behaviour are dealt with, and to ensure that victims' voices are heard. These measures are:

- **Anti-social Behaviour Case Review/Community Trigger:** This gives victims of persistent anti-social behaviour – whether individuals, businesses or community groups – the ability to demand a formal case review to determine whether there is further action that can be taken. The threshold for such a demand should be determined locally, but should not exceed three complaints in the previous six-month period. It may also take account of the persistence of offending, harm or potential harm caused, and the adequacy of the response to anti-social behaviour. The relevant bodies in the local area must agree on and publish their Community Trigger procedures.
- **Community Remedy:** This gives victims a say in the out of court punishment of perpetrators of anti-social behaviour when a community resolution, conditional caution or youth conditional caution is chosen as the most appropriate response. Police and crime commissioners, or their equivalent policing bodies, are required to consult the public and community representatives on what punitive, reparative or rehabilitative actions they would consider appropriate to include in the Community Remedy document. This document is available to police officers and other authorised/designated staff as a means to engage the victim in having a say in the punishment of the perpetrator.

The legislation does not specify what actions should be included in the Community Remedy document. They will vary between areas, reflecting the views of local people and the availability of activities. Examples of actions that might be included are:

- mediation (for example, to resolve a neighbour dispute)
- a written or verbal apology
- the perpetrator signing an acceptable behaviour contract – in which they agree not to behave anti-socially in the future or they will face more formal consequences

- taking part in a restorative justice activity, such as a neighbourhood justice panel
- paying an appropriate amount for damage to be repaired or stolen property to be replaced
- participating in structured activities that are either educational or rehabilitative, funded by the police and crime commissioner as part of their efforts to reduce crime
- reparation to the community (for example, by doing local unpaid work for a short period)

Out of court disposals, specifically community resolutions, conditional cautions and youth conditional cautions, are cited in the guidance as means by which the Community Remedy may be put into effect.

The measures summarised above are discussed in more detail in the published [guidance](#). The following two sections briefly summarise the informal and formal powers available to tackle anti-social behaviour.

7.9 Anti-social behaviour: Informal actions

Early and informal interventions

Early intervention, especially through informal approaches, may often be all that is necessary to stop incidents of anti-social behaviour. Such interventions can establish clear standards of behaviour and reinforce the message that anti-social behaviour is not tolerated. In many cases, awareness of the impact of the anti-social behaviour on victims, and the threat of more formal enforcement, may be sufficient to encourage an individual to change their ways. Frontline professionals, such as police officers from the local policing team or local authority anti-social behaviour or housing officers, will be best placed to decide when and how to use these approaches. However, it is recommended that informal methods be considered first in most cases, and particularly when dealing with young people, as a means of preventing poor behaviour from escalating.

Informal intervention may not be the appropriate first step in all circumstances, though, such as when the victim is at risk of harm, and it is right that frontline professionals make informed decisions about the approach to be taken.

Possible informal interventions include:

A verbal or written warning

In deciding whether to use a verbal or written warning, the police, council or housing officer should be satisfied that there is evidence that anti-social behaviour has occurred or is likely to occur. The warning should be specific about the behaviour in question, why it is not acceptable, the impact that it is having on the victim or community, and the consequences of non-compliance.

Where appropriate, local agencies should alert each other when a warning has been given so that it can be monitored effectively. A record should be kept that can be used as evidence in court proceedings later, if matters are taken to that stage.

A community resolution

Community resolutions are a means of resolving less serious offences or instances of anti-social behaviour through informal agreement between the parties involved, as opposed to progression through the criminal justice system. A community resolution may be used with both youth and adult perpetrators. It allows the police to deal more proportionately with less serious crime and anti-social behaviour, taking into account the needs of the victim, perpetrator and wider community.

Community resolutions are primarily aimed at first-time perpetrators who have expressed genuine remorse, and where an out of court disposal is more appropriate than taking more formal action. The Community Remedy document must be used when dealing with anti-social behaviour or less serious offences out of court through community resolutions.

Mediation

In appropriate circumstances, mediation can be an effective way of resolving an issue by bringing all parties together. It can be useful in resolving neighbour disputes, family conflicts and lifestyle differences, such as noise nuisance complaints and similar situations. However, mediation is unlikely to work if it is forced on those involved. All parties should be willing to meet and discuss their issues.

It is not for the mediator to establish a solution to the issue because, in most cases, they will already have tried this with each party to no avail. For mediation to deliver long-term solutions, those in dispute should agree a plan of action. The mediator should facilitate the conversation and, if required, draw up an agreement for all parties to sign.

Acceptable behaviour contracts/agreements

An acceptable behaviour contract is a written agreement between a perpetrator of anti-social behaviour and the agency or agencies acting locally to prevent that behaviour. It can be an effective way of dealing with anti-social individuals, and particularly young people, to nip the

problem behaviour in the bud before it escalates. The contracts provide an opportunity to include both positive requirements and prohibitions to help the person tackle any underlying issues that are driving their behaviour.

To encourage compliance, the terms of an acceptable behaviour contract should be discussed with the perpetrator before it is drafted and signed. There is no formal sanction associated with refusing to sign, although in such circumstances, this may suggest that a civil injunction or a criminal behaviour order might be more appropriate.

Similarly, there are no formal sanctions associated with breaching an acceptable behaviour contract. However, where this occurs and the circumstances warrant it, consideration can be given to taking further steps, such as seeking a civil injunction. In such cases, the work undertaken as part of drafting the acceptable behaviour contract can form part of the evidence pack for the court.

Parenting contracts

Where informal interventions are used with a young person under the age of 18, his or her parents or guardians should be contacted before any action is taken. In many cases, they may be able to play an important part in ensuring the individual changes their behaviour. Although more formal routes exist, such as imposing a parenting order, at this stage it may be sufficient to include a role for the parent in any acceptable behaviour contract.

Where the behaviour of the parent or guardian is part of the issue (either because they are a bad influence or they are failing to provide suitable supervision), agencies could consider a parenting contract. These are similar to acceptable behaviour contracts, but are signed by the parent or guardian. They could also be considered where the child in question is under the age of 10 and where other interventions are not appropriate for the perpetrator.

Support and counselling

The anti-social behaviour powers allow professionals to respond to the underlying causes of anti-social behaviour, for example through positive requirements attached to a civil injunction or criminal behaviour order. However, positive support does not have to wait for formal court action: it can be given as part of any informal intervention, for example by providing support around overcoming substance misuse or alcohol dependency, which may be linked to the person's anti-social behaviour.

Conclusion

In many cases, informal and early intervention can be successful in changing behaviour and protecting communities. Such interventions may be included in local plans to deal with anti-social behaviour, but they should not replace formal interventions where these are the most effective measures available.

7.10 Anti-social behaviour: Formal actions

The sections that follow outline a brief summary of the six statutory anti-social behaviour interventions:

- Civil injunction
- Criminal behaviour order
- Dispersal power
- Community protection notice
- Public spaces protection order
- Closure power

All of these formal interventions may be relevant to anti-social behaviour problems that may harm or detract from heritage assets, ranging from scheduled monuments to registered parks and gardens.

The content that follows is based on Home Office 2021 [The Anti-Social Behaviour, Crime and Policing Act 2014: Anti-Social Behaviour Powers Statutory Guidance for Frontline Professionals](#) [Open Government Licence v3.0].

Civil injunction

Purpose	To stop or prevent individuals engaging in anti-social behaviour quickly, nipping problems in the bud before they escalate.
Applicants	<ul style="list-style-type: none">■ Local councils;■ Social landlords;■ Police (including British Transport Police);■ Transport for London; West Midlands Combined Authority;■ Transport for Greater Manchester;■ Environment Agency and Natural Resources Wales; and■ NHS Counter Fraud Authority.
Test	<p>On the balance of probabilities;</p> <ul style="list-style-type: none">■ The respondent has engaged in or threatens to engage in;■ Conduct that has or is likely to cause harassment, alarm or distress (non housing related anti-social behaviour); or■ Conduct capable of causing nuisance or annoyance (housing-related anti-social behaviour); and■ Just and convenient to grant the injunction to prevent anti-social behaviour

Details	<ul style="list-style-type: none"> ■ Issued by the county court and High Court for over 18s and the youth court for under 18s. ■ Injunction will include prohibitions and can also include positive requirements to get the perpetrator to address the underlying causes of their anti-social behaviour. ■ Agencies must consult youth offending teams in applications against under 18s.
Penalty on breach	<ul style="list-style-type: none"> ■ Breach of the injunction is not a criminal offence, but breach must be proved to the criminal standard, that is, beyond a reasonable doubt. ■ Over 18s: civil contempt of court with unlimited fine or up to two years in prison. ■ Under 18s: supervision order or, as a very last resort, a civil detention order of up to three months for 14-17 year olds.
Appeal	<ul style="list-style-type: none"> ■ Over 18s to the High Court; and ■ Under 18s to the Crown Court.
Legislation	Sections 1 to 21 of the Anti-social Behaviour, Crime and Policing Act 2014.

The use of injunctions to protect heritage assets

Injunctions are increasingly used to control anti-social behaviour in situ rather than displacing the problem. They can be employed to prevent a range of criminal and anti-social behaviour affecting heritage assets and their settings, for example:

- using a property for drug dealing
- playing loud music at night
- verbal abuse
- vandalism
- causing public nuisance
- inappropriate fossil collecting
- vehicle nuisance
- carrying out unauthorised works to a listed building
- carrying out unauthorised works or causing damage to a scheduled monument

General power of local authorities to apply for an injunction

Under Section 222 of the Local Government Act 1972, local authorities have a general power to prosecute, defend or appear in any legal proceedings. In the case of civil proceedings, they may institute them in their own name, where they consider it expedient for the promotion or protection of the interests of the inhabitants of their area.

Historic buildings and sites are protected in the interests of local inhabitants, wider society and others. Using their general power, local authorities should be able to apply for injunctions to restrain activities that may cause damage to heritage assets or that may disrupt their enjoyment.

Breaches of the Planning (Listed Buildings and Conservation Areas) Act 1990: Listed buildings and conservation areas

Under Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990, a local planning authority or Historic England can apply to the High Court or the county court for an injunction to restrain actual or apprehended unauthorised works to a listed building where they consider it necessary or expedient to do so.

This also applies to the unauthorised demolition of an unlisted building in a conservation area.

Breaches of Part 1 of the Ancient Monuments and Archaeological Areas Act 1979: Scheduled monuments

In England, Historic England can institute proceedings for an injunction to restrain any contravention of Part 1 of the Ancient Monuments and Archaeological Areas Act 1979: for example, unauthorised works or damage to a scheduled monument or illegal metal detecting.

The above are just some of the powers available to apply for injunctions, but there are many others that will apply to specific enforcement agencies.

Criminal behaviour order

Purpose	Issued by any criminal court against a person who has been convicted of an offence to tackle the most persistently anti-social individuals who are also engaged in criminal activity.
Applicants	The prosecution, in most cases the Crown Prosecution Service, either at its own initiative or following a request from the police or council.
Test	<ul style="list-style-type: none"> ■ That the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person; and ■ The court considers that making the order will help prevent the offender from engaging in such behaviour.
Details	<ul style="list-style-type: none"> ■ Issued by any criminal court on conviction for any criminal offence. ■ The anti-social behaviour does not need to be part of the criminal offence. ■ Order will include prohibitions to stop the anti-social behaviour but can also include positive requirements to get the offender to address the underlying causes of their behaviour. ■ Agencies must find out the view of the youth offending team for applications in respect of anybody under 18.
Penalty on breach	<ul style="list-style-type: none"> ■ Breach of the order is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt. ■ For over 18s on summary conviction: up to six months imprisonment or a fine or both. ■ For over 18s on conviction on indictment: up to five years imprisonment or a fine or both. ■ For under 18s: the sentencing powers in the youth court apply.
Appeal	<ul style="list-style-type: none"> ■ Appeals against orders made in the magistrates' court (which includes the youth court) lie to the Crown Court. ■ Appeals against orders made in the Crown Court lie to the Court of Appeal.
Legislation	Sections 330 to 342 of the Sentencing Code (which is a product of the Sentencing Act 2020 amends sections 22-33 and s.179(3) of the Anti-social Behaviour, Crime and Policing Act 2014).

Dispersal power

Purpose	Requires a person committing or likely to commit anti-social behaviour, crime or disorder to leave an area for up to 48 hours.
Used by	<ul style="list-style-type: none"> ■ Police officers in uniform.
Test	<ul style="list-style-type: none"> ■ Contributing or likely to contribute to members of the public in the locality being harassed, alarmed or distressed (or the occurrence of crime and disorder); and ■ Direction necessary to remove or reduce the likelihood of the anti-social behaviour, crime or disorder.
Details	<ul style="list-style-type: none"> ■ Must specify the area to which it relates and can determine the time and the route to leave by. ■ Can confiscate any item that could be used to commit anti-social behaviour, crime or disorder. ■ Use in a specified locality must be authorised by a police inspector and can last for up to 48 hours. ■ A direction can be given to anyone who is, or appears to be, over the age of 10. ■ A person who is under 16 and given a direction can be taken home or to a place of safety.
Penalty on breach	<ul style="list-style-type: none"> ■ Breach is a criminal offence. ■ Failure to comply with a direction to leave: up to a level 4 fine and/ or up to three months in prison although under 18s cannot be imprisoned. • Failure to hand over items: up to a level 2 fine.
Appeal	A person who is given a direction and feels they have been incorrectly dealt with should speak to the duty inspector at the local police station. Details should be given to the person on the written notice.
Legislation	Sections 34 to 42 of the Anti-social Behaviour, Crime and Policing Act 2014.
protecting the vulnerable	<ul style="list-style-type: none"> ■ Consideration should be given to how the use of this power might impact on the most vulnerable members of society. ■ Consideration should also be given to any risks associated with displacement, including to where people may be dispersed to. ■ There is value in working in partnership to resolve ongoing problems and find long term solutions.

Community protection notice

Purpose	To stop a person aged 16 or over, business or organisation committing anti-social behaviour which spoils the community's quality of life.
Who can issue a CPN	<ul style="list-style-type: none"> ■ Council officers; ■ Police officers; ■ Social landlords (if designated by the council).
Test	<p>Behaviour has to:</p> <ul style="list-style-type: none"> ■ Have a detrimental effect on the quality of life of those in the locality; ■ Be of a persistent or continuing nature; and ■ Be unreasonable.
Details	<ul style="list-style-type: none"> ■ The Community Protection Notice (CPN) can deal with a range of behaviours; for instance, it can deal with noise nuisance and litter on private land. ■ The CPN can include requirements to ensure that problems are rectified and that steps are taken to prevent the anti-social behaviour occurring again. ■ A written warning must first be issued informing the perpetrator of problem behaviour, requesting them to stop, and the consequences of continuing. ■ A CPN can then be issued including requirement to stop things, do things or take reasonable steps to avoid further anti-social behaviour. ■ Can allow council to carry out works in default on behalf of a perpetrator.
Penalty on breach	<ul style="list-style-type: none"> ■ Breach is a criminal offence. ■ A fixed penalty notice can be issued of up to £100 if appropriate. ■ A fine of up to level 4 (for individuals), or a fine for businesses.
Appeal	<ul style="list-style-type: none"> ■ Terms of a CPN can be appealed by the perpetrator within 21 days of issue. ■ The cost of works undertaken on behalf of the perpetrator by the council can be challenged by the perpetrator if they think they are excessive.
Legislation	The legislation Sections 43 to 58 of the Anti-social Behaviour, Crime and Policing Act 2014.
protecting the vulnerable	Particular care should be taken to consider how use of the power might impact on more vulnerable members of society.

Public spaces protection order

Purpose	Designed to stop individuals or groups committing anti-social behaviour in a public space.
Who can issue a CPN	<ul style="list-style-type: none"> ■ Councils issue a Public Spaces Protection Order (PSPO) after consultation with the police, Police and Crime Commissioner, the owner or occupier of land in the restricted area and other community representatives they see fit.
Test	<p>Behaviour being restricted has to:</p> <ul style="list-style-type: none"> ■ be having, or be likely to have, a detrimental effect on the quality of life of those in the locality; ■ be persistent or continuing nature; and ■ be unreasonable.
Details	<ul style="list-style-type: none"> ■ Restrictions and requirements set by the council. ■ These can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times. ■ Can restrict access to public spaces (including certain types of highway) where that route is being used to commit anti-social behaviour. ■ Can be enforced by a police officer and council officers.
Penalty on breach	<ul style="list-style-type: none"> ■ Breach is a criminal offence. ■ Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate. ■ A fine of up to level 3 on prosecution.
Appeal	<ul style="list-style-type: none"> ■ Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue. ■ Further appeal is available each time the PSPO is varied by the council.
Legislation	Sections 59 to 75 of the Anti-social Behaviour, Crime and Policing Act 2014.
protecting the vulnerable	<ul style="list-style-type: none"> ■ Consideration should be given to how the use of this power might impact on the most vulnerable members of society. ■ Consideration should also be given to any risks associated with displacement, including to where people may be dispersed to ■ There is value in working in partnership to resolve ongoing problems and find long term solutions.

Closure power

Purpose	To allow the police or council to close premises quickly which are being used, or likely to be used, to commit nuisance or disorder.
Applicants	<ul style="list-style-type: none"> ■ Local council. ■ Police.
Test	<p>The following has occurred, or is likely to occur, if the closure power is not used:</p> <p>(a) Closure Notice (up to 48 hours):</p> <ul style="list-style-type: none"> ■ Nuisance to the public; or • Disorder near those premises. <p>(b) Closure Order (up to six months):</p> <ul style="list-style-type: none"> ■ Disorderly, offensive or criminal behaviour on the premises; ■ Serious nuisance to the public, or ■ Disorder near the premises.
Details	<ul style="list-style-type: none"> ■ A police officer or local authority can issue a Closure Notice. Flowing from this the Closure Order can be applied for no later than 48 hours after service through the courts. ■ Notice: can close premises for up to 48 hours out of court but cannot stop owner or those who habitually live there accessing the premises. ■ Order: can close premises for up to six months and can restrict all access. ■ Both the Notice and the Order can cover any land or any other place, whether enclosed or not including residential, business, non-business and licensed premises.
Penalty on breach	<p>Breach is a criminal offence.</p> <ul style="list-style-type: none"> ■ Notice: Up to three months in prison. ■ Order: Up to 51 weeks in prison. ■ Both: Up to an unlimited fine for residential and non-residential premises.
Who can appeal	<ul style="list-style-type: none"> ■ Any person who the Closure Notice was served on; ■ Any person who had not been served the Closure Notice but has an interest in the premises; ■ The council (where Closure Order was not made and they issued the notice); ■ The police (where Closure Order was not made and they issued the notice).
Legislation	Sections 76 to 93 of the Anti-social Behaviour, Crime and Policing Act 2014.

7.11 Warning letters and meetings

Early intervention, in the form of warnings, has traditionally been seen as an effective way to stop offenders from continuing or escalating their criminal behaviour. In recent years, there has been a move away from measures, such as simple cautions, that have no engagement or follow-up. A community resolution should always be considered, but in some circumstances a simple warning letter – preferably one confirming a meeting with the offender – may be a proportionate and appropriate outcome.

This type of intervention is most suitable where there is very little or no damage caused to the heritage asset, the offender was genuinely mistaken, the offender has no previous convictions and/or there is a genuine willingness to cooperate with the enforcement agency. For example, a warning letter could be sent to the owner of a scheduled monument who has carried out minor works without consent and no or very minor damage has been caused. In most cases, it is very likely to be beneficial for the agency to arrange a meeting with the offender to explain the offence, the designation of the heritage asset and any procedures that should be followed to avoid committing a further offence and to safeguard the asset. A warning letter should then be sent, confirming what was discussed.

Where young offenders (under the age of 18) are concerned, a warning meeting might be held: for example, with the children and their parents where complaints have been made about their behaviour. A number of agencies, such as the youth offending team, the police and social services, may be involved in such a warning meeting. In all cases, consideration should be given as to whether a youth community resolution may be a more suitable outcome, as it ensures contact with the youth offending team and follow-up with the young offender – but no criminal record or conviction.

Warning meetings and letters can be very useful interventions for low-level, low-risk and first-time offenders. It is good practice for agencies to keep a record of any warning given. Although a warning is non-citable, which means it cannot be referred to in later court proceedings before conviction, it can be used as evidence to support an assertion of an aggravating feature where in subsequent enforcement action the court considers sentence. It can also be considered by the agency when determining what enforcement action to take should the offender commit a further offence.

7.12 Prosecution

The decision to prosecute is a serious step. As with an alternative disposal, a prosecutor must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction for the offence in question and, if so, consider whether a prosecution is required in the public interest.

[The Code for Crown Prosecutors](#) states that a prosecution will usually take place unless the prosecutor is sure that there are public interest factors tending against prosecution that outweigh those tending in favour, or unless the prosecutor is satisfied that the public interest may be properly served in the first instance by offering the offender an out of court disposal.

It follows that the more serious the offence, or the offender's record of criminal behaviour – previous convictions or out of court disposals, for example – the more likely it is that a prosecution will be in the public interest.

In deciding whether or not a prosecution is appropriate, the prosecutor should take account of the victim's views regarding the impact of the offence.

8

Proceeds of Crime Act 2002

The Proceeds of Crime Act 2002 (POCA) contains a range of powers that can be used to disrupt and dismantle the criminal enterprises of major or locally based criminals. They include the ability to confiscate assets after criminal conviction and powers for civil recovery and taxation of unlawfully obtained assets. Part 2 of POCA makes the Crown Court the main venue for confiscation for offences committed after 23 March 2003.

The Crown Court has the power to make a confiscation order against a convicted individual, requiring payment to the state of a sum of money based upon the benefit obtained from their criminal conduct. This is referred to as the 'recoverable amount'. This amount will either be the full amount the court has found to be the defendant's benefit or the value of all of the defendant's assets, called the 'available amount'. The order can be made against anyone convicted of an indictable offence (one that can be heard in the Crown Court) or anyone committed to the Crown Court by the magistrates' court either for sentence or with a view to a confiscation order being made.

A confiscation order can be made either at the request of the prosecution or if the court believes it is appropriate to do so. One of the means of enforcement of a confiscation order is imprisonment.

How might this relate to heritage crime?

There have been a number of cases in which powers under POCA have been used to confiscate money earned via means that are in breach of a planning enforcement notice. An example of this is the case of *R v Del Basso and Goodwin* [2010] EWCA Crim 119, in which a confiscation order was made, on conviction of the defendants, for failure to comply with an enforcement notice that required the use of land as a commercial park and ride facility to cease. A confiscation order was made for the benefit obtained from the illegal park and ride facility.

As it is possible to obtain confiscation orders for ignoring planning legislation, it should follow that confiscation orders can be made where there are breaches of heritage legislation. For example, the unauthorised demolition of a listed building under the Planning (Listed Buildings and Conservation Areas) Act 1990 could produce considerable financial gain to a developer.

Summary of specific heritage crime offences for Designated Heritage Assets

Listed buildings

Planning (Listed Buildings and Conservation Areas) Act 1990-

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

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

Control of works affecting listed buildings:

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

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

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

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

(a) on summary conviction to a fine not exceeding £20,000 or a maximum of 6 months imprisonment or both; or

(b) on indictment to a fine or a maximum of 2 years imprisonment or both. (see section 9(4))

Both notifiable offences - Home Office Code 94 Planning Laws.

Failure to comply with a listed building enforcement notice:

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

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

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

(b) on indictment to a fine. (see section 43(5)).

Notifiable offence – Home Office Code 94 Planning Laws.

Damage to a listed building:

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

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

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

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

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

Not notifiable. Record as an incident.

Conservation Areas

Planning (Listed Buildings and Conservation Areas) Act 1990 -

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

Control of Works affecting unlisted buildings in Conservation Areas:

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

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

Section 9(2) – failure to comply with a condition attached to a conservation area consent. Both notifiable offences – Home Office Code 94 Planning Laws.

Failure to comply with a conservation area enforcement notice:

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

Notifiable Offence – 94 Planning Laws.

Scheduled Monuments

Ancient Monuments and Archaeological Areas Act 1979 –

Scheduled Monuments are designated by the Secretary of State on the basis of their national importance. The Secretary of State is responsible for compiling and maintaining the schedule of monuments (see section 1).

Control of works affecting scheduled monuments:

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

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

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

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

(b) on indictment to a fine.

(see section 2(10))

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

Offence of damaging certain ancient monuments:

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

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

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

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

(see section 28(4)).

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

Restrictions on the use of metal detectors:

Section 42(1) using a metal detector in a ‘protected place’ without the written consent of Historic England.

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

Section 42(3) removal of an object of archaeological or historical interest which is discovered by the use of a metal detector in a ‘protected place’ without the written consent of Historic England.

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

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

Section 42(5) –

(a) using a metal detector in a ‘protected place’ in accordance with a consent granted by Historic England and failing to comply with a condition attached to it;

(b) removing or otherwise dealing with any object which is discovered by the use of a metal detector in a ‘protected place’ in accordance with a consent granted by Historic England and failing to comply with a condition attached to it.

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

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

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

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

Protected Marine Wreck Sites

Protection of Wrecks Act 1973-

Restricted areas:

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

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

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

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

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

(b) on indictment to a fine. (see section 3(4)).

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

Prohibited areas:

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

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

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

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

d) on indictment to a fine. (see section 3(4)).

Notifiable offence – Home Office Code 98/65 other notifiable

Protection of Military Remains

Protection of Military Remains Act 1986-

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

Protected Places:

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

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

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

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

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

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

Controlled sites:

Controlled sites require specific designation by the Secretary of State by location. They are sites (within the UK, UK territorial or international waters) which appears to the Secretary of State to contain the remains of any crashed military aircraft or vessel (UK or other) which has sunk or been stranded within the last 200 years. It is only the wreckage of UK military aircraft and vessels that can be designated as a controlled site if in international waters.

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

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

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

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

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

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

(b) on indictment to a fine

(see section 2(7)).

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

Other specific heritage crime offences not related to particular designations

Merchant Shipping Act 1995

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

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

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

- (a) if they are the owner of it give notice to the receiver stating that they have found or taken possession of it and describing the marks by which it may be recognised;
- (b) if they are not the owner of it, give notice to the receiver that they have found or taken possession of it, and as directed by the receiver, either hold it to the receivers order or deliver it to the receiver.

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

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

Not notifiable. Record as an incident.

Dealing in Cultural Objects (Offences) Act 2003-

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

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

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

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

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

(a) on summary conviction to a fine not exceeding the statutory maximum, or to a maximum of 6 months imprisonment or to both; or

(b) on indictment to a fine, or to a maximum of 7 years imprisonment or to both.

(see section 1(3)).

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

Treasure Act 1996 –

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

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

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

Not notifiable. Record as an incident.

Town and Country Planning Act 1990 –

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

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

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