



Historic England

# Heritage Crime Impact Statements





# Summary

This general guidance on heritage crime impact statements is written to assist those responsible for the prevention and enforcement of heritage crime, including police officers, local authority officials, the Crown Prosecution Service and Historic England staff. It covers the use of heritage crime impact statements, who should provide them and what information they should contain.

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



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# 1

# Introduction

This general guidance on heritage crime impact statements is written to assist agencies responsible for the investigation and prosecution of heritage crime cases. It covers the use of such statements, who should provide them and what information they should contain. A document titled [A Memorandum of Understanding on the Prevention, Investigation, Enforcement and Prosecution of Heritage Crime](#) has been signed by Historic England, the Crown Prosecution Service, the National Police Chiefs' Council and other partners. It defines the roles and responsibilities of each party regarding the aspects outlined in its title. This guidance is produced in support of that Memorandum of Understanding.

Heritage Crime Impact Statements take the following forms:

- [Community Impact Statement \(CIS\)](#)
- [Impact Statement for Business \(ISB\)](#)
- [Victim Personal Statement \(VPS\)](#)

This guidance explains the different forms of impact statement, their purpose and their compilation and use.

# 2

## 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 criminal offences to protect them against damage or unauthorised alteration and a consent regime:
  - scheduled monuments
  - protected wreck sites/restricted areas
  - listed buildings
  - protected military remains of aircraft and vessels of historic interest (controlled sites/protected places subject to similar controls to prevent interference)
  - conservation areas (it is a criminal offence to demolish an unlisted building in a conservation area)
- Statutory designations that do not have related criminal offences to protect them against damage or unauthorised alteration or a consent regime:
  - registered parks and gardens
  - registered battlefields
- Non-statutory designations that do not have related criminal offences to protect them against damage or unauthorised alteration or a consent regime:
  - World Heritage Sites

- Non-designated heritage assets:
  - undesignated but acknowledged buildings, monuments, sites, places, areas or landscapes of heritage significance; usually of local interest (including locally listed buildings). Where there is archaeological interest, these can be of national importance where they are demonstrably of equivalent significance to scheduled monuments.

Registered parks and gardens, registered battlefields and World Heritage sites 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 they have been subjected to crime.

### **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.'*<sup>1</sup>

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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1 Crown Prosecution Service

# 3

## What is a heritage crime impact statement?

Many [heritage assets](#) – whether buildings, monuments, sites, places, areas or landscapes – are designated, which not only gives them protection under law or policy but also highlights their special interest and value to current and future generations. When dealing with heritage crime, prosecutors and the courts need to be able to make decisions based on the most complete information. It is, therefore, important to provide evidence to fulfil two distinct purposes:

- **To prove whether an offence has been committed and by whom.** In some cases, such as criminal offences involving statutory designations, a heritage professional, such as a Historic England specialist, may need to give a statement to prove that the heritage asset concerned is included on the relevant designation schedule. Where possible, this should include evidence of the significance of the asset and a summary of the loss or harm caused.
- **To prove the impact of heritage crime.** This may take different forms depending on who has been impacted by the crime. The person making the statement does not necessarily have to have seen the crime happen. Evidence they give may provide further evidence of the significance of the asset but also relate to the consequences of the crime on their community, their business or individual victims.

Such evidence may be provided as follows:

- **Community Impact Statement (CIS).** This provides evidence of the wider impact of the crime on the community. This community may be geographic (defined by a shared physical environment), a ‘community of identity’ (people connected by their heritage, belief system or physical being) or a ‘community of interest’ (people with an identified need or interest that may cross other community boundaries). It is important to note that some heritage crimes – for example, racist or homophobic graffiti on historic memorials – may also be [hate crimes](#). Separate [Crown Prosecution Service guidance](#) on this subject is available. If a heritage professional provides a statement to prove the designation of a particular asset, that statement may also deal with any CIS evidence at the same time.

- **Impact Statement for Business (ISB)**. Under the Victims' Code, all businesses and enterprises, such as charities, that have been the victim of crime are entitled to make an ISB to set out how the offence has affected their business. The Code provides guidance on how to do this. Many heritage assets are owned or occupied by businesses and charities. An ISB may be made by an authorised 'nominated individual' (often a director, manager or owner), either at the same time as an evidential witness statement or Victim Personal Statement, or, indeed, separately. It provides an opportunity to tell the court how the crime has impacted the business, both financially and in wider terms (for example, staff morale, reputational damage and so on).
- **Victim Personal Statement (VPS)**. This is a statement by a victim of crime, possibly the owner, manager or custodian of a heritage asset. It helps others to understand the impact the crime has had on them personally, whether physically, emotionally, psychologically, financially or in any other way. In some cases, a VPS may be included in an evidential witness statement.

In summary, a heritage crime impact statement may take the form of a CIS, an ISB or a VPS. It would usually be taken by an investigating police officer and be made in the form of a Section 9 witness statement (Criminal Justice Act 1967). In all cases, the evidence of the impact of heritage crime may be given as a separate document or included within an evidential witness statement. In some cases, for example where an Historic England specialist is involved, one individual may be able to provide a witness statement to prove an offence, dealing with issues of designation, significance and harm or loss as well as impact. In others, witness statements may be required from two or more witnesses to ensure that the evidence provided is comprehensive and covers all of these issues..

For example, if a Grade I listed house is destroyed by arson, an evidential witness statement would be needed to support the charge of causing damage by fire. A statement would also need to provide evidence that the property was included on the list maintained by Historic England on behalf of the Secretary of State and was considered to be of special architectural or historic interest. This statement, perhaps by a historic buildings specialist from Historic England, might then go on to address the CIS element. It would adduce evidence of the loss of a heritage asset at a community level – regularly visited by local people and community groups due to its architectural and historic interest – and also evidence of the importance and significance of the building at a national level. In addition, a VPS from the owner and victim might set out the financial loss suffered, the fear and distress caused, and the impact of the loss of a family home with historic associations.



Heritage crime impact statements may play an important role in sentencing decisions, in line with the Crown Court and Magistrates' Court [Sentencing Guidelines](#). This is most likely to apply to offences of criminal damage and theft, as the guidelines now specifically refer to offences against heritage assets as relevant considerations in determining sentence. Nonetheless, heritage crime impact statements can help to inform decision making at all stages of the prosecution process, including whether to prosecute a suspect. In appropriate cases, they may also assist in establishing any 'special measures' considerations, whereby vulnerable or intimidated witnesses may be enabled to give best evidence to a court.

The Crown Prosecution Service has to decide whether or not to prosecute a case. The test comprises two stages:

- **Evidential stage:** Whether there is a realistic prospect of conviction based on the evidence
- **Public interest stage:** Whether a prosecution is in the public interest

The case will not proceed unless both stages of the test are met. While the heritage crime impact statement will have no effect on the evidential stage, it might affect the public interest stage.

As part of its [Heritage Crime Programme](#), Historic England has encouraged the use of heritage crime impact statements. The documents have proved invaluable to decision makers in enforcement and prosecution authorities, and also to the courts when considering sentence. This has led to appropriate levels of sentencing that properly reflect the harm caused to a heritage asset by crime.

A flow chart at Appendix 1 shows how and when to obtain information to enable a heritage crime impact statement to be written. This document also includes a number of example statements, based on the differing types of heritage asset, which investigators can use as the basis to produce their own heritage crime impact statement.

Further information about the Heritage Crime Programme can be found on the Historic England website.

# 4

## What is the purpose of a heritage crime impact statement?

A heritage crime impact statement (provided in the form of a Section 9 Criminal Justice Act 1967 witness statement) describes the crime or anti-social behaviour that has taken place and its effect on the heritage asset and/or historic environment. This allows enforcement agencies (the police or National Crime Agency, for example), prosecutors and the courts to understand the harm that has been caused.

Assessing the seriousness of heritage crime offences requires an understanding of the significance of the heritage asset. It also requires a detailed analysis of the often irreversible harm caused and the wider consequences for the historic environment.

Heritage crime will often cause both direct and indirect harms. For example, the loss of irreplaceable historic fabric from a listed building through vandalism or theft will not only damage the fabric of the heritage asset itself, but it may also have social or economic consequences for the local area. A crime impact statement allows heritage practitioners to explain these harms.

The [Sentencing Guidelines](#) for theft state that financial loss and other harms, including 'damage to heritage assets', should be taken into account by the court. The Sentencing Guidelines for criminal damage and arson include 'damage caused to heritage/and or cultural assets' as an aggravating factor that has a bearing on seriousness. This means that evidence of harm to heritage assets should be presented alongside evidence of financial loss – repairs, increased insurance premiums and the costs of additional crime prevention measures, for example.

The word 'prevalence' has a specific connotation in relation to the sentencing of defendants in the criminal courts and refers to evidence of crime trends in a particular area and their impacts on the local community. Care is required to ensure that such evidence complies with the guidance on community impact evidence. The leading case in this regard is R v Marco Bondzie (Practice Note) [2016] [EWCA Crim 552](#):

- Evidence must be provided to the court by a responsible body or senior police officer.
- The relevant statements or reports must be made available to the Crown and defence in good time, so that meaningful representations can be made in connection with that material.
- Even if such material is provided, the judge would only be entitled to treat prevalence as an aggravating factor if satisfied that the level of harm caused in the particular locality was significantly higher than that caused elsewhere.
- The judge would need to be satisfied that the circumstances can be described as exceptional and that it is just and proportionate to increase the sentence for such factors.

# 5

## When to prepare a heritage crime impact statement

Early on in an investigation of a heritage crime, it is important to establish whether the building, monument, site, place, area or landscape is a heritage asset and, if so, whether it is designated or undesignated. It is then important to clarify the impact that the crime has had on the heritage asset and its setting, and which, if any, specific heritage or other criminal offences apply.

A full heritage crime impact statement may not be necessary in every case. However, any aggravating factors should be highlighted and understood by the enforcement agency at an early stage. This information will be useful as part of the preparation for interviewing suspects. It will also help the enforcement agency to decide on the most appropriate response to the crime. For example, it may influence decisions by the Crown Prosecution Service, police or Historic England about prosecution, out of court disposals or no further action (taking account of public interest).

Generally, heritage crime impact statements are only necessary if there is a police investigation on referral to the Crown Prosecution Service for review, or when criminal proceedings are issued to assist the court in sentencing (see [Section 6](#)).

The flow chart in [Appendix 1](#) sets out the steps that an enforcement agency, such as the police, might take to secure a heritage crime impact statement. However, each case should be reviewed on an individual basis, particularly where a serious crime has occurred.

# 6

## Who can give a heritage crime impact statement?

A heritage crime impact statement will usually be provided by a professional witness, such as an archaeologist, buildings expert or other heritage practitioner. The person making the statement does not have to have seen the crime actually taking place. Such a witness should have the necessary qualifications and experience to explain the significance of a heritage asset and to provide an assessment of the harm caused by the crime. A statement could also be given by a local expert or a member of an archaeological/local history society with the necessary knowledge and expertise.

It is common for heritage assets to have more than one designation. For example, in addition to being a scheduled monument, an asset may also be designated as a listed building or may have in its grounds a registered park or garden. For buildings, monuments, sites, places, areas or landscapes with multiple designations, one heritage crime impact statement should be prepared to cover all designations, if possible. However, on occasion, this may not be achievable because expertise in particular areas is required.

Where an owner, manager or guardian of a heritage asset or community group also wishes to make a VPS, they should be encouraged to do so. This may form part of a heritage crime impact statement or be submitted as a separate statement. The Crown Prosecution Service has issued [legal guidance](#) on VPSs.

# 7

## Information to include

When preparing a heritage crime impact statement, it is important that the person making the statement is able to provide the following:

- A description of the loss of historical, architectural, archaeological or artistic information that would have informed our understanding of the past and formed part of the national record
- An account of the impact of the crime on the heritage asset or damage to it, both direct and indirect. This should include an assessment of the loss/harm to the asset itself (and whether this is reversible or irreversible), the impact on the wider historic environment and any loss of information about its history

The following information and evidence should also be considered for inclusion within a heritage crime impact statement, although this is not an exhaustive list:

- A description of the heritage asset that has been affected by crime, including any designations (national and local)
- If the heritage asset is designated, an explanation of that designation, including how it is regulated by law
- The significance of the heritage asset in local, national and, where appropriate, international terms (whether designated or not)
- A map or plan showing clearly the designated area in relation to its surroundings
- Photographs or video evidence to help explain otherwise complex evidence
- Evidence in the form of a CIS (where the witness is able to provide this evidence from their own knowledge; in some cases another witness may be better placed to provide this)
- Evidence in the form of a VPS (where the witness is able to provide this evidence from their own knowledge; in some cases another witness may be better placed to provide this)

- Evidence in the form of an ISB (where the witness is able to provide this evidence from their own knowledge; in some cases another witness may be better placed to provide this)
- Evidence of ‘prevalence’ (see [Section 4](#)). Police recorded crime statistics might, for example, indicate the disproportionately high number of times that historic churches in a specific area have had lead stolen from the roof, compared with national statistics for the same time period

Other useful information that might be provided by the heritage practitioner, victim or specialist police officer includes the cost of repairs and any other financial loss directly attributable to the crime. For example, removing graffiti or replacing a lead roof often needs to be done by a specialist contractor; a heritage attraction may need to close to visitors for repairs to be carried out or to install additional security measures.

A statement about the impact of heritage crime on a community, person or business (CIS, VPS or IBS) should not offer an opinion on, or make a recommendation about, what sentence the court should impose.

## Format and content

A heritage crime impact statement must be in the proper form where criminal proceedings are issued. It must be either a witness statement in compliance with Section 9 of the Criminal Justice Act 1967 or an expert’s report, and it will be served upon the defendant’s solicitor or the defendant (if unrepresented) prior to sentence. The purpose of a written statement is to allow all parties, including the court, to form a preliminary understanding of the evidence that a person may give. A witness may be required to attend a court hearing and be questioned on any statement they have made.

If a police investigation is referred to the Crown Prosecution Service for a decision on prosecution, the heritage crime impact statement should be in the proper form and submitted with the file at that stage.

It cannot be assumed that the court or legal representatives will have an understanding of heritage assets, their significance, and how they are protected and regulated. It is important to make sure the heritage crime impact statement is written in plain English, that technical terms are fully explained and that the statement can be readily understood by anyone.

Hearsay evidence, that is to say evidence used to prove something at court from a witness not present to provide that evidence, is generally inadmissible, subject to certain exceptions. One such exception is in anti-social behaviour cases when applying for a Criminal Behaviour Order, providing that advance notice is given (Section 22, Anti-social Behaviour, Crime and Policing Act 2014).

An example heritage crime impact statement is included in the Appendix along with statement templates for various asset types; these may assist in drafting witness statements in relation to heritage crime.



# 8

## When can a heritage crime impact statement be used?

Although heritage crime impact statements are intended for use at the sentencing stage, such statements (or information obtained for their preparation) may be of considerable benefit throughout the investigative and prosecution process. They can be used to enable better informed decisions to be made, taking into account community and victim concerns. Such decisions may include charging, sentencing, restorative justice and reparation interventions. The possibility of securing evidence using heritage crime impact statements should, therefore, be considered at an early stage in the investigative process. The potential of such evidence at different stages in the process is briefly set out below.

### Active investigation stage

Information about harm to a heritage asset, its significance and its impact on victims and communities may inform investigative and suspect interview strategies. It may even, on some occasions, explain criminal motivations. For example, the historic and cultural significance of an asset to a particular community may explain why the suspect targeted it for damage or protest activity.

### Crown Prosecution Service/police: public interest test

The Crown Prosecution Service has to decide whether or not to prosecute a case. In all cases, the Crown Prosecution Service has to decide if there is enough evidence to secure a prosecution and if it is in the public interest to prosecute. In less serious cases, such as anti-social behaviour crimes, the police may make initial decisions about charging. The public interest decision is one that may be affected by a VPS, ISB or CIS. The availability of a high-quality statement describing the heritage crime impact (or the information gathered for the preparation of such a statement) may, therefore, have a bearing on no further action decisions or decisions to opt for out of court disposals or, indeed, prosecution.

## Interventions: out of court disposals

Heritage crime impact statements may be used by the enforcement agency concerned when considering an out of court disposal as an alternative to prosecution. These measures include:

- Youth community resolution
- Youth caution
- Youth conditional caution
- Adult community resolution
- Adult conditional caution
- Community protection notice
- Penalty notice for disorder (criminal damage under £500)

An out of court disposal may include a form of restorative justice, intended to bring victims, offenders and communities together. A heritage crime impact statement (or the information gathered for its preparation) can be very helpful in selecting appropriate restorative justice measures, including, perhaps, a reparative measure involving mitigation of the harm caused to the asset. This may involve removing unauthorised works, removing graffiti or funding an emergency archaeological survey, for example.

## Interventions: prosecution (court disposal)

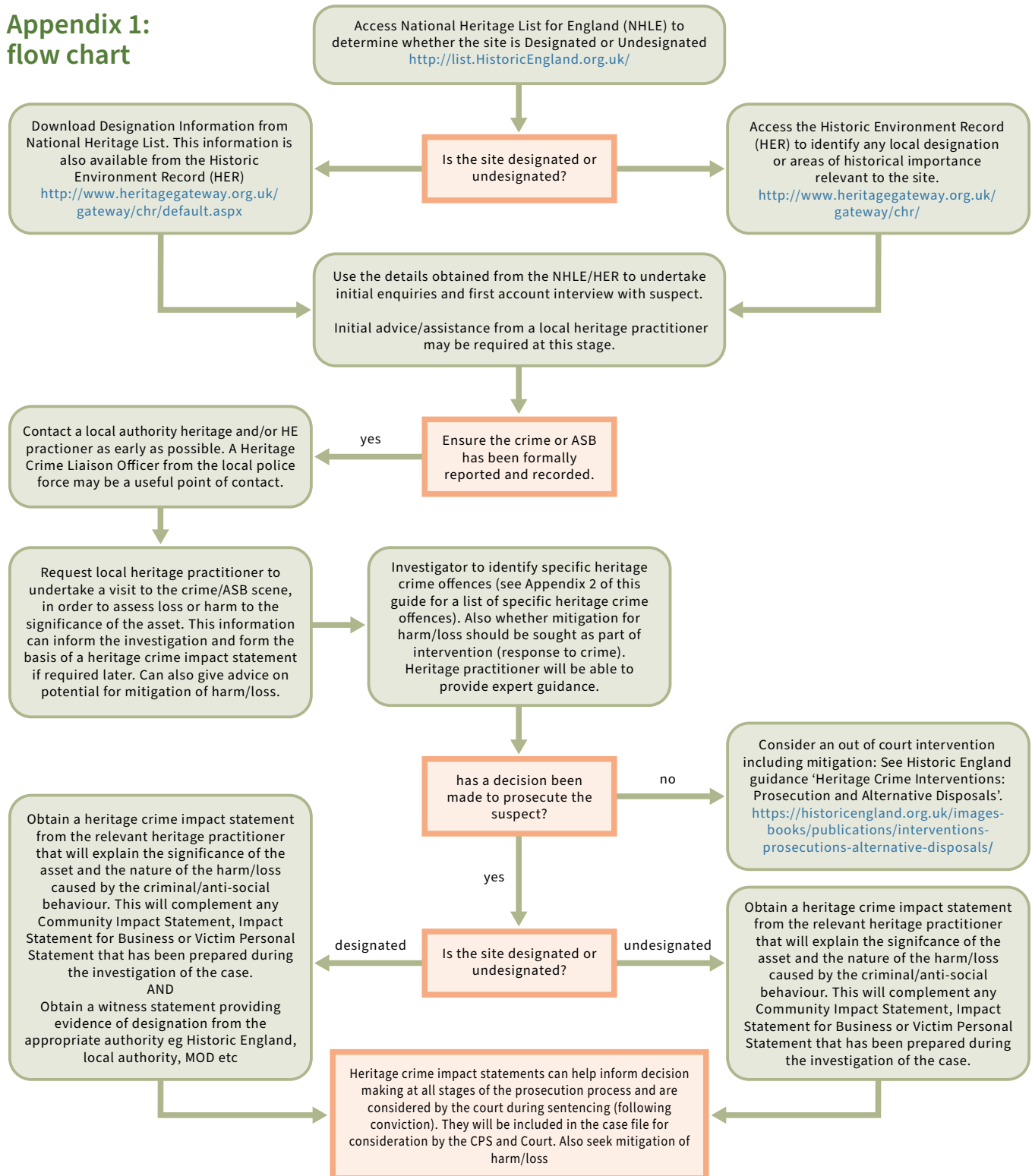
A heritage crime impact statement can only be used in court once a defendant has been found guilty or pleaded guilty to the offence(s) charged. Such a statement is not relevant to the question of guilt. Once guilt has been determined, the statement should be considered and taken into account by the court prior to passing sentence. The statement provides the court with essential information so that it has a fuller understanding of the nature and impact of the crime when determining an appropriate sentence.

Historic England has produced further guidance on these matters titled Interventions: [Heritage Crime Interventions: Prosecution and Alternative Disposals](#) (2023) and [Guidance for Sentencers](#) (2017).

# 9

# Appendices

## Appendix 1: flow chart



It is important to understand the extent of information required about the heritage asset and impact of the crime. A view will need to be taken on a case by case basis.

## Appendix 2: summary of specific heritage crime offences for Designated Heritage Assets

### Listed buildings

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

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

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

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

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

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

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

The offences under section 9 are triable 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.

### Appendix 3: example of heritage crime impact statement

(An adapted scenario relating to church roof metal theft, intended to indicate the type of content that may be relevant)

#### Witness statement

Criminal Justice Act 1967 Section 9  
Magistrates' Courts Act 1980 Sections 5A(3)(a) and 5B  
Criminal Procedure Rules 2020  
Rule 16.2

**Statement of:** John Smith

**Age of witness:** Over 18

**Occupation of witness:** Historic buildings and areas inspector

This statement, consisting of [ ] pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Signature:** \_\_\_\_\_ dated the [ ] day of [ ] 20[ ]

#### Qualifications and experience

My name is John Smith and I have worked for the Historic Buildings and Monuments Commission for England, known as Historic England, for 15 years.

I am currently employed as historic buildings and areas inspector for Historic England in the Midlands office. I have held this position, with responsibility for advising on historic churches in the Southchester diocese, which covers the county of Blankshire, since joining the organisation (then called English Heritage).

I hold a Master's degree in archaeology and a BA in history from University College London, as well as a post-graduate diploma in historic environment conservation from Birmingham University. Prior to working at English Heritage, I was a conservation officer in local government. I am a member of the Institute of Historic Building Conservation.

I have gained experience via my principal inspectorial duties. These involve providing statutory advice on planning applications affecting Grade I and II\* listed buildings and demolitions in Grade II listed buildings; advising on changes to listed places of worship; assessing grants to owners of listed buildings and listed places of worship; advising local authorities on statutory interventions to buildings at risk; monitoring compliance with inheritance tax exemptions; and general advice in relation to the National Planning Policy Framework.

**Signed** ..... *John Smith*

The Historic Buildings and Monuments Commission for England uses the name Historic England in all its day-to-day dealings and any reference to Historic England should be construed accordingly. Historic England is the lead body on all matters relating to the historic environment generally. It advises the Secretary of State for Digital, Culture, Media and Sport on the historic environment, including the listing of buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990. It is also a statutory consultee for certain listed building consent and planning applications. Its role is to champion the interests of this valuable resource by providing advice and by encouraging people to preserve, value, understand and enjoy our common heritage. Central to its role is the advice it gives to local planning authorities and ecclesiastical bodies on development proposals affecting listed buildings, scheduled monuments and other designated heritage assets. It also publishes wide-ranging guidance on the management of the historic environment.

## **Background**

I am aware of the investigation by Blankshire police into the theft of lead from a Church of England place of worship – St Mary’s Church, Southchester, a Grade I listed building – which took place on 25 September 2020. I have been asked to provide this witness statement on the heritage crime impact, in support of the investigation.

## **The framework for the protection of listed buildings**

Listed buildings are buildings of special architectural or historic interest that appear on lists compiled or approved by the Secretary of State under Section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act).

The Principles of Selection for Listed Buildings sets out the general principles the Secretary of State applies when deciding whether a building is of special architectural or historic interest. Buildings may be considered of special architectural interest for their architectural design, decoration, plan form and/or craftsmanship. They may also be nationally important examples of particular building types and techniques. To have historic interest, a building must illustrate important aspects of England’s social, economic, cultural or military history, and/or have close historic associations with nationally important people. Generally, it must have some quality of interest in its physical fabric. When listing a building, the Secretary of State may also consider a building’s group value.

Listed buildings are buildings of national importance that are graded to reflect their exceptional interest. Some are considered to be internationally important. There are currently approximately 500,000 listed buildings in England. Grade I listed buildings make up 2.5 per cent of the total; they are buildings of exceptional interest. Grade II\* listed buildings make up 5.8 per cent of the total; they are particularly important buildings of more than special interest. Grade II listed buildings make up 91.7 per cent of the total; they are buildings of special interest, justifying every effort to preserve them.

Listing marks and celebrates a building’s special architectural and historic interest. Furthermore, under the 1990 Act, listed status protects a building against unauthorised demolition, alteration and extension. This is controlled through the listed building consent approval system, which provides criminal sanctions for failure to comply. Designation also ensures that a building’s special interest is taken into account in the planning process.

**Signed .....** *John Smith*



These buildings of special architectural or historic interest are a fragile, finite and irreplaceable resource, vulnerable to damage and destruction through a wide range of human activities, including crime, and natural processes.

### **The significance of St Mary's Church, Southchester**

The Church of England Church of St Mary, Church Lane, Southchester, is a nationally important listed building, designated under the 1990 Act. It was designated as a Grade I listed building on 23 June 1975, being a building of exceptional interest. I produce, as exhibit JS/1, a copy of the list entry and description for this listed building.

The Church of St Mary stands on an ancient site and dates back to medieval times. The present building was constructed in the 15th and 16th centuries and has a notable Georgian interior, remodelled by wealthy local merchants. The church is noted for its historic monuments from the mid-16th century, including a terracotta tomb-chest of a former sheriff and mayor of Southchester who died in 1530. There is a fine 18th-century pulpit and an organ made by one of the leading organ builders in England in the late 18th and early 19th centuries. Today, St Mary's is used for musical performances as well as being a regular place of worship. The roof of the church, both over the nave (the central area of the church) and the aisles, is clad in lead sheet, much of it historic metal.

The church community is active, but faces challenges from the high cost of ongoing repair and maintenance. In 2016, the Church of St Mary was awarded a grant of £75,900 from the Heritage Lottery Fund. This was to help meet the cost of urgent repairs to the flooring and pews, and installing a new heating system to make the building more usable and better able to host activities that engage the community with the church's heritage. The energy the community put into fundraising, organising and managing this project is testament to its commitment to the building and its desire to share its remarkable heritage with the wider community and visitors to Southchester. Theft of roofing lead can jeopardise the finances of parish churches and also affect and distress those who care for them. The incident in September this year is, therefore, a matter of serious concern to Historic England.

### **Impact of lead theft**

#### **Direct impact**

Lead sheet has a long history as a durable roofing material. In the medieval period, lead was used for roofing, cisterns, tanks and gutters. It is a soft, malleable and reusable metal, which can be shaped with hand tools without risk of fracture. The main use of lead in local historic buildings is for roofs, flashings, down pipes, gutters and rainwater heads. Properly specified and detailed, it can last for 150 to 200 years.

**Signed** ..... *John Smith*

The theft of lead from historic buildings creates a number of problems:

- The cost of replacement and associated repairs can be considerable, requiring the skills and expertise of specialist contractors.
- The substrate (the surface below the lead) is often damaged when the lead sheet, or flashings, is removed.
- The surrounding roofing materials to the flashings, such as tiles and slates, are liable to be damaged during the theft.
- Guttering and down pipes may be broken or cracked when the lead is removed.
- The theft of a lead roof can cause major damage to the fabric and contents of a listed building through water ingress.

Maintaining roofs and clearing valleys and guttering are essential when conserving heritage assets, such as listed buildings. It is vital to keeping buildings in good order. If damage goes unnoticed for any period of time, the resulting water ingress can cause serious problems. After lead is removed, the damage that is caused by water penetration in just one or two days can be very serious – ruining ceilings, decorations and flooring. If flashings are removed but the theft is not immediately apparent, then roof valleys and abutments can leak for weeks or months. This longer timescale of water ingress can create conditions for wet rot and dry rot, both of which have the potential to affect the structural stability of the building. This can be very expensive to repair. In cases where lead sheet has been removed, the substrate (or underlying roof surface) also has to be repaired and any underlay replaced.

At the Church of St Mary, approximately 12m<sup>2</sup> of lead sheet was cut from the south aisle (side) of the church. I produce a photograph of this damaged area as exhibit JS/2. I also produce, as exhibit JS/3, a photograph of the south side of the aisle, which shows the lead roof intact for comparison.

The churchwarden, James Brown, has referred in his statement to a quotation of £8,304 (including VAT) for repairs. This includes the cost of scaffolding, necessary to carry out the work safely. The weight of lead stolen is estimated to have been approximately 360.6kg (based on contemporary Code 7 lead weighing 30.05kg per m<sup>2</sup>).

### **Indirect impact**

In the past few years, Historic England has become increasingly involved in addressing the problem of lead theft from church roofs in the county of Blankshire. In its role as the government's statutory adviser, it has provided advice to parishes, the Diocesan Advisory Committee and local authorities on the replacement of lead roof coverings with alternative materials after incidents of theft.

The theft of a lead roof affects the historic significance of the church, because the material is traditional in historic churches. Lead reflects their status as important buildings in the medieval and post-medieval periods, and is characteristic of church architecture. The theft can also cause irreplaceable loss of individual historic features and markings on the lead itself. It causes harm to the character and appearance of a historic building, particularly when inappropriate short-term materials, such as plastic, are considered as permanent replacements. In addition, removing lead can cause a huge amount of damage to fabric through water ingress.

Signed ..... *John Smith*

The continued theft of lead, therefore, has much wider repercussions. Potentially, it leads to inferior materials being used, which may reduce the building's future resilience to decay and alter its visual appearance, which many have striven hard to protect. Carrying out the theft can also damage historic stonework and damage and disturb features in the churchyard.

Historic England issued revised guidance in September 2021, with the title Theft of Metal from Church Roofs: Replacement Materials. This document reflects the extent of the problem and acknowledges that, sometimes, a different material should be considered after a theft, to ensure the long-term future of the building. For example, terne-coated stainless steel can be used as an alternative to replacing stolen lead on a like-for-like basis where there is a high risk of repeated theft. At the Church of St Mary, this option was dismissed because less than a third of the total area of lead sheet had been stolen from the south aisle roof and a repair was considered economic and more in keeping with the remaining historic lead sheeting. This decision was made despite the fact that replacing the stolen lead with terne-coated stainless steel would have almost completely removed the risk of theft.

On the morning after the theft at the Church of St Mary, it rained heavily and water ran down into the roof of the south aisle. This was spotted by a volunteer cleaning the church, which meant the theft was identified at an early stage. Had this not happened, there would have been a risk of damage to the historic roof timbers internally, as well as to the plaster work and, potentially, the church organ. Fortunately, the damage to the roof was identified promptly and temporary arrangements were put in place to limit the risk of further water ingress and any consequential damage until a full repair could be completed. Volunteers spent 12 hours in total, moving furnishings and books away from the area (to minimise damage), mopping up and drying pews.

The care of historic church buildings in the Church of England is funded entirely by local parishes. They are not supported by central church funding and have only limited access to public funding for urgent works required to keep buildings windproof and watertight. This means that all the practical and financial responsibility rests on those who attend church services and the generosity of the wider community. The upkeep of listed buildings is a huge challenge for the volunteers who care for them. Meeting the costs of repair can be a significant financial burden, even for large congregations. For the volunteers looking after these churches, an attack by lead thieves can be a major blow to their finances, to the ability to maintain the building as a whole and to any ambitions the parish might have to increase community use of the building. In some cases, insurance claims for metal theft from churches may be limited, depending on the security measures in place. This is obviously a concern, as most parishes do not have the reserves to pay for this type of work themselves. As a result, the damage could go unrepaired for some length of time while funds are raised.

At the Church of St Mary, it is anticipated that most, if not all, of the claim will be met by insurance. However, it is noted in the statement of James Brown, the churchwarden, that an additional expense of £4,750 was incurred in order to implement additional security measures on the recommendation of the insurance company and PC Jane Green, crime prevention adviser, Blankshire Police. Ongoing additional maintenance costs of approximately £1,000 per year are anticipated. These costs will be borne by the parish. Typically, a Sunday congregation at the Church of St Mary comprises 40 to 50 parishioners. This additional financial burden will, therefore, be imposed on a small number of people who already support day-to-day essential costs, such as insurance, heating and lighting, and the minister's expenses.

Signed ..... *John Smith*

In addition to financial impacts, thefts such as this can often cause emotional distress and feelings of vulnerability and even despair among congregations and the dedicated volunteers who look after our nation's historic churches. As places of worship, these buildings are respected by many as places of great significance, both to communities and individuals. Based on my discussions with the churchwarden, James Brown, and conversations with a number of members of the congregation and local residents during a site visit on 26 September 2020 (the day after the theft), it is evident that the offence has caused considerable distress and upset to local people. One aspect, in particular, was drawn to my attention. It was evident that a vehicle had been driven from Church Lane approximately 50m across the churchyard to a position immediately below the aisle roof. Lead is extremely heavy and a vehicle would have been essential to remove the quantity of lead stolen (estimated to have been 360.6kg). Two deep tyre tracks were evident across the grass of the churchyard, terminating immediately below the aisle roof from where the lead was stolen. A number of graves, including one recent burial, had been driven over to position a vehicle in this location, with track marks cut into the turf. I produce a photograph of this damaged area as exhibit JS/4.

The fact that churches still stand and are freely open to worshippers, visitors and local people is a tribute not only to generations of commitment and care, but also to the hard work and personal effort of a very small number of people. Those who steal lead, vandalise and damage these buildings are not only destroying historic fabric but also abusing the substantial contributions of time and money made by those individuals for the benefit of the whole community.

I am willing to attend court if required to do so.

Signed ..... *John Smith*

## Appendix 4: template statement - scheduled monuments

[This is a template of a Witness/Impact Statement for Heritage Crime which can be adapted to suit particular circumstances. The paragraphs in square brackets may not be required in every case. It is expected that the sections headed “*The Significance of...*” and “*The Impact of...*” will always be required as they are the most important part of the statement.]

### Witness Statement

Criminal Justice Act 1967 s9  
Magistrates’ Courts Act 1980 ss 5A(3)(a) and 5B  
Criminal Procedure Rules 2020 r16.2

**Statement of:** [ ]

**Age of witness:** Over 18

**Occupation of witness:** [ ]

This statement, consisting of [ ] pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Signature:** dated the [ ] day of [ ] 20[ ]

### Qualifications and Experience

My name is [*insert name of witness*] and I have worked for [The Historic Buildings and Monuments Commission for England (*if appropriate*) or other *employment details*] as an [*insert job title*] for [*period of employment*]. My duties include [*insert main duties*].

I hold a [*insert qualifications*] from [*insert University/Institute*]. I have gained experience through work with [*set out experience*].

Signed .....

*[If an Historic England employee include:*

The Historic Buildings and Monuments Commission for England uses the name ‘Historic England’ in all its day to day dealings and any reference to Historic England should be construed accordingly. Historic England is the lead body on all matters relating to the historic environment generally. It advises the Secretary of State for Culture Media and Sport on the historic environment including the scheduling of ancient monuments under the Ancient Monuments and Archaeological Areas Act 1979 (the 1979 Act). It is also a statutory consultee for planning applications that are likely to affect scheduled monuments. Its role is to champion the interests of this valuable resource by providing advice and encouraging people to preserve, value, understand and enjoy our common heritage.]

**Background**

I am aware of the investigation by [ ] into [ ] at [ ] which took place on [ ].

*[insert any other relevant background information that has led to this statement being prepared]*

I have been asked to provide this witness statement on the heritage crime impact, in support of the investigation.

**[The framework for the scheduling and protection of archaeological sites**

Monuments and sites of archaeological or historic interest represent a unique source of information about the lives of our ancestors and how they adapted to and changed their environment. They are a finite, irreplaceable and fragile resource, vulnerable to damage and destruction through a wide range of human activities and natural processes.

‘Scheduling’ is the process through which nationally important sites and monuments of archaeological and historic interest are given legal protection through designation. Under the 1979 Act the Secretary of State for the Department of Culture Media and Sport, has a duty to compile and maintain a list of monuments which should be included within the schedule. Historic England is statutory consultee on the designation of monuments and takes the lead on identifying sites in England that should be considered by the Secretary of State for inclusion in the schedule.

**Signed.....**



Once a monument is included in the schedule it has statutory protection under the 1979 Act. Permission is required from the Secretary of State (known as scheduled monument consent) before any works are carried out which would have the effect of demolishing, destroying, damaging, removing, altering, adding to, flooding or tipping on the monument, ensuring that the case for preservation is fully considered when works are proposed. Scheduled monument consent for works that would result in material loss is wholly exceptional.

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

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

The Secretary of State has published a policy statement on the non-statutory criteria used for determining whether a monument or site is of national importance. The criteria are set out in annex 1 of that policy statement '*Identifying, Protecting, Conserving and Investigating nationally important archaeological sites under the Ancient Monuments and Archaeological Areas Act 1979*'.

[These include period, rarity, documentation, group value, survival/condition, fragility/vulnerability, diversity and potential. (*You may wish to include this here or under significance below*)]

I produce a copy of this document as exhibit [ ].

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

There are currently approximately 20,000 scheduled monuments in England which is just a small percentage of the many thousands of the nationally important archaeological sites and monuments in England.]

Signed .....

**The Significance of** *[scheduled monument name]*

*[name of monument, location and, monument no.]* is a nationally important scheduled monument designated under the 1979 Act.

The scheduling documentation including the description and map are exhibited to the witness statement of *[name of witness]* dated *[date]* as exhibits *[exhibit numbers]* *[or it can be exhibited to this statement if not produced by another witness]*.

*[include here a description of the monument and its importance, including local, national and where appropriate international importance. Reference can be made to heritage values – Historic England guidance, Conservation Principles.]*

**The impact of the** *[unauthorised works/unauthorised metal detecting/damage/or other crime]*

*[set out what you understand to have happened and the impact of that criminal activity to the asset and its setting including any harm/loss to its significance.]*

[It may also be relevant to refer to collateral or indirect impacts; for example, where damage is caused to the fabric of a building and its contents when water ingress occurs as a result of the theft of lead from its roof. Financial impacts should also be clearly itemised; this should include the value of a stolen item or the cost of damage. Any directly attributable costs such as loss of revenue due to closure of a building or the cost of additional security measures should also be stated.]

[In exceptional circumstances it may be appropriate to include comparative statistics to evidence ‘prevalence’, where it can be shown that the level of harm caused in the particular locality was significantly higher than that caused elsewhere. Strict rules apply to evidence of this nature (see [Section 3](#) of the main guidance document.)]

[In some cases, depending on the circumstances it may be appropriate to include elements of a Personal, Community or Business Impact Statement. This should include reference to the impact of any hate crime aspects of the case (see Introduction to the main guidance document). A Community Impact Statement should be provided by someone able to articulate the implications for the communities affected, including any loss of community assets, any charity or voluntary involvement and any additional burden imposed on charitable fundraising as a result of the offence.]

I am willing to attend court if required to do so.

**Signed** .....

## Appendix 5: template statement - listed buildings

[This is a template of a Witness/Impact Statement which can be adapted to suit particular circumstances. The paragraphs in square brackets may not be required in every case. It is expected that the sections headed “*The Significance of...*” and “*The Impact of.....*” will always be required as they are the most important part of the statement.]

### Witness Statement

Criminal Justice Act 1967 s9  
Magistrates’ Courts Act 1980 ss 5A(3)(a) and 5B  
Criminal Procedure Rules 2020 r16.2

**Statement of:** [ ]

**Age of witness:** Over 18

**Occupation of witness:** [ ]

This statement, consisting of [ ] pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Signature:** dated the [ ] day of [ ] 20[ ]

### Qualifications and Experience

My name is [*insert name of witness*] and I have worked for [The Historic Buildings and Monuments Commission for England (*if appropriate*) or *other employment details*] as an [*insert job title*] for [*period of employment*]. My duties include [*insert main duties*].

I hold a [*insert qualifications*] from [*insert University/Institute*]. I have gained experience through work with [*set out experience*].

Signed .....

*[If an Historic England employee include:*

The Historic Buildings and Monuments Commission for England uses the name ‘Historic England’ in all its day to day dealings and any reference to Historic England should be construed accordingly. Historic England is the lead body on all matters relating to the historic environment generally. It advises the Secretary of State for Culture Media and Sport on the historic environment generally including the listing of buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990. It is also a statutory consultee for certain listed building consent and planning applications. Its role is to champion the interests of this valuable resource by providing advice and encouraging people to preserve, value, understand and enjoy our common heritage.]

**Background**

I am aware of the investigation by [ ] into [ ] at [ ] which took place on [ ].

*[insert any other relevant background information that has led to this statement being prepared]*

I have been asked to provide this witness statement on the heritage crime impact, in support of the investigation.

**[The framework for the protection of listed buildings**

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

The Principles of Selection for Listed Buildings sets out the general principles the Secretary of State applies when deciding whether a building is of special architectural or historic interest. Buildings may be considered of special architectural interest for their architectural design, decoration, plan form, craftsmanship and also nationally important examples of particular building types and techniques. To have historic interest a building must illustrate important aspects of England’s social, economic, cultural or military history and/or, have close historical associations with nationally important people and normally have some quality of interest in its physical fabric. When listing a building the Secretary of State may also take into account a building’s group value.

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

**Signed.....**

Listing helps us acknowledge and understand our shared history. It marks and celebrates a building's special architectural and historic interest. Further under the 1990 Act, listed status protects a building against unauthorised demolition, alteration and extension controlled through the listed building consent approval system which provides criminal sanctions for failure to comply. Designation also ensures that a building's special interest is taken into account in the planning process. In the case of places of worship and their surroundings the equivalent denominational authorisation to Listed Building Consent is referred to as Ecclesiastical Exemption.

These buildings of special architectural or historic interest are a fragile, finite and irreplaceable resource vulnerable to damage and destruction through a wide range of human activities, including crime, and natural processes.

There are currently approximately 500,000 listed buildings in England.]

**The Significance of** *[name of listed building]*

*[Name of listed building and address]* is a nationally important listed building designated under the 1990 Act.

Evidence of the designation is exhibited to the witness statement of *[name of witness]* dated *[date]* as exhibit *[exhibit number]* *[or it can be exhibited to this statement if not produced by another witness]*.

*[include here a description of the listed building and its importance, including local, national and where appropriate international importance. Reference can be made here to heritage values – Historic England guidance, Conservation Principles.]*

**The impact of the** *[unauthorised works/damage/or other crime]*

*[set out what you understand to have happened and the impact of that criminal activity to the asset and its setting including any harm/loss to its significance.]*

[It may also be relevant to refer to collateral or indirect impacts; for example, where damage is caused to the fabric of a building and its contents when water ingress occurs as a result of the theft of lead from its roof. Financial impacts should also be clearly itemised; this should include the value of a stolen item or the cost of damage. Any directly attributable costs such as loss of revenue due to closure of a building or the cost of additional security measures should also be stated.]

[In exceptional circumstances it may be appropriate to include comparative statistics to evidence 'prevalence', where it can be shown that

the level of harm caused in the particular locality was significantly higher than that caused elsewhere. Strict rules apply to evidence of this nature (see [Section 3](#) of the main guidance document.)]

[In some cases, depending on the circumstances it may be appropriate to include elements of a

Personal, Community or Business Impact Statement. This should include reference to the impact of any

hate crime aspects of the case (see Introduction to the main guidance document). A Community Impact Statement should be provided by someone able to articulate the implications for the communities affected, including any loss of community assets, any charity or voluntary involvement and any additional burden imposed on charitable fundraising as a result of the offence.]

I am willing to attend court if required to do so.

**Signed.....**

## Appendix 6: template statement - protected wrecks

[This is a template of a Witness/Impact Statement for Heritage Crime which can be adapted to suit particular circumstances. The paragraphs in square brackets may not be required in every case. It is expected that the sections headed “The Significance of...” and “The Impact of.....” will always be required as they are the most important part of the statement.]

### Witness Statement

Criminal Justice Act 1967 s9  
Magistrates’ Courts Act 1980 ss 5A(3)(a) and 5B  
Criminal Procedure Rules 2020 r16.2

**Statement of:** [ ]

**Age of witness:** Over 18

**Occupation of witness:** [ ]

This statement, consisting of [ ] pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Signature:** dated the [ ] day of [ ] 20[ ]

### Qualifications and Experience

My name is [*insert name of witness*] and I have worked for [The Historic Buildings and Monuments Commission for England (*if appropriate*)] as an [*insert job title*] for [*period of employment*]. My duties include [*insert main duties*].

I hold a [*insert qualifications*] from [*insert University/Institute*]. I have gained experience through work with [*set out experience*].

Signed.....

*[If an Historic England employee include:*

The Commission uses the name ‘Historic England’ in all its day to day dealings and any reference to Historic England should be construed accordingly. Historic England is the lead body on all matters relating to the historic environment generally. It advises the Secretary of State for Culture Media and Sport on the historic environment including the designation of shipwreck sites under the Protection of Wrecks Act 1973 (the 1973 Act). Its role is to champion the interests of this valuable resource by providing advice and encouraging people to preserve, value, understand and enjoy our common heritage.]

**Background**

I am aware of the investigation by [ ] into [ ] at [ ] which took place on [ ].

*[insert any other relevant background information that has led to this statement being prepared]*

I have been asked to provide this witness statement on the heritage crime impact in support of the investigation.

**[The framework for the designation and protection of wrecks.**

Shipwreck sites, both designated and non-designated represent a unique source of information about the diverse maritime heritage surrounding the UK. They are a finite, irreplaceable and fragile resource, vulnerable to damage and destruction through a wide range of human activities and natural processes.

If the Secretary of State is satisfied a wreck site should be protected from unauthorised interference, he or she may designate an area around the site as restricted. A Statutory Instrument identifies the location of the site and also the extent of the restricted area used to ensure the protection of the site. Historic England offers advice to the Secretary of State and acts as an authoritative organisation in managing and protecting the sites.

**Signed.....**



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

[Historic England has published a document called ‘Protected Wreck Sites’ explaining the non-statutory criteria used to assess the significance of a wreck site which is considered for designation. This document is produced as exhibit [ ].

The purpose of designation is to capture a representative sample of our nationally important archaeological resource where designation is deemed to be the most appropriate mechanism to secure their long-term preservation for this and future generations. There are currently 54 designated wreck sites in England which is just a small percentage of the many hundreds of the known wreck sites on English coastline and in our seas.]

#### **The Significance of** *[Protected Wreck Site Name]*

*[name of wreck]* is a nationally important wreck site designated under the 1973 Act.

The designation documentation including the description and map are exhibited to the witness statement of *[name of witness]* dated *[date]* as exhibits *[exhibit numbers]* *[or it can be exhibited to this statement if not produced by another witness]*.

*[include here a description of the wreck and its importance, including local, national and where appropriate international importance. Reference can be made to heritage values – Historic England guidance, Conservation Principles]*

#### **The impact of the** *[unauthorised diving/unauthorised access/damage/or other crime]*

*[set out what you understand to have happened and the impact of that criminal activity to the asset and its setting including any harm/loss to its significance]*

[It may also be relevant to refer to collateral or indirect impacts; for example, where an historic metal item is stolen from the seabed irreparable damage may be caused if the object is not stabilised through desalination. Financial impacts should also be included; this should include the value of a stolen item or the cost of damage. Any directly attributable costs such as the cost of additional security measures should also be stated.]

[In exceptional circumstances it may be appropriate to include comparative statistics to evidence ‘prevalence’, where it can be shown that the level of harm caused in the particular locality was significantly higher than that caused elsewhere. Strict rules apply to evidence of this nature (see [Section 3](#) of the main guidance document.)

[In some cases, depending on the circumstances it may be appropriate to include elements of a Personal, Community or Business Impact Statement. This should include reference to the impact of any hate crime aspects of the case (see Introduction to the main guidance document). A Community Impact Statement should be provided by someone able to articulate the implications for the communities affected, including any loss of community assets, any charity or voluntary involvement and any additional burden imposed on charitable fundraising as a result of the offence.]

I am willing to attend court if required to do so.

**Signed.....**

## Appendix 7: template statement - conservation areas

[This is a template of a Witness/Impact Statement for Heritage Crime which can be adapted to suit particular circumstances. The paragraphs in square brackets may not be required in every case. It is expected that the sections headed “*The Significance of...*” and “*The Impact of....*” will always be required as they are the most important part of the statement.]

### Witness Statement

Criminal Justice Act 1967 s9  
Magistrates’ Courts Act 1980 ss 5A(3)(a) and 5B  
Criminal Procedure Rules 2020 16.2

**Statement of:** [ ]

**Age of witness:** Over 18

**Occupation of witness:** [ ]

This statement, consisting of [ ] pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Signature:** dated the [ ] day of [ ] 20[ ]

### Qualifications and Experience

My name is [*insert name of witness*] and I have worked for [The Historic Buildings and Monuments Commission for England (*if appropriate*) or other *employment details*] as an [*insert job title*] for [*period of employment*]. My duties include [*insert main duties*].

I hold a [*insert qualifications*] from [*insert University/Institute*]. I have gained experience through work with [*set out experience*].

Signed.....

*[If an Historic England employee include:*

The Historic Buildings and Monuments Commission for England uses the name 'Historic England' in all its day to day dealings and any reference to Historic England should be construed accordingly. Historic England is the lead body on all matters relating to the historic environment generally and advises the Secretary of State for Culture Media and Sport on the historic environment. It is a statutory consultee on some planning applications that affect conservation areas. Its role is to champion the interests of this valuable resource by providing advice and encouraging people to preserve, value, understand and enjoy our common heritage.]

**Background**

I am aware of the investigation by [ ] into [ ] at [ ] which took place on [ ].

*[insert any other relevant background information that has led to this statement being prepared]*

I have been asked to provide this witness statement on the heritage crime impact in support of the investigation.

**Conservation Areas**

Conservation areas are designated under sections 69 and 70 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. The purpose of designation is to provide a broader form of protection beyond protection for an individual building. It recognises that historic buildings and architecturally interesting buildings do not exist in a vacuum but are part of an urban or rural context providing a setting for them, which may itself have a special character or appearance. It recognises that areas can have special architectural and historic interest. They may be areas with a high number of nationally designated heritage assets, a variety of architectural styles and historic associations. Others may be more homogenous, linked to an industry or have a particular local interest. Some are designated because of the quality of the public realm or green spaces. Designation is not tied to areas where there are listed buildings, they may be designated anywhere that has a special architectural or historic interest. Designation also provides protection for buildings within conservation areas from unauthorised demolition and ensures that the significance of these areas are given due regard in the planning system.

**Signed.....**

Most conservation areas are designated by local planning authorities. There are currently over 8,000 conservation areas in England ranging from town centres of historic towns and cities, fishing and mining villages to model housing estates.

These areas of architectural or historic interest are an important resource for us and future generations often having a national as well as a local interest. This unique source of information is a finite, irreplaceable and fragile resource, vulnerable to damage and destruction through a wide range of human activities, including crime, and natural processes.

**The Significance of** *[name of Conservation area]*

*[name and location of Conservation area]* is a conservation area of special architectural or historic interest designated by *[name of local authority]*.

The conservation area map and conservation area appraisal are exhibited to the witness statement of *[name of witness]* dated *[date]* as exhibits *[exhibit numbers]* *[or they can be exhibited to this statement if not produced by another witness]*.

*[include here a description of the conservation and its importance, including local, national importance. Reference can be made here to heritage values – Historic England guidance, Conservation Principles.]*

**The impact of the** *[crime type/illegal activity]*

*[Set out what you understand to have happened and the impact of that criminal activity to the asset and its setting including any harm/loss to significance.]*

[It may also be relevant to refer to collateral or indirect impacts where, for example, unauthorised demolition of a building in a Conservation Area detracts from the historical or architectural character of that area. Financial impacts should also be clearly itemised; this should include the value of damage. Any directly attributable costs such as loss of revenue due to closure of a building or the cost of additional security measures should also be stated.]

[In exceptional circumstances it may be appropriate to include comparative statistics to evidence ‘prevalence’, where it can be shown that the level of harm caused in the particular locality was significantly higher than that caused elsewhere. Strict rules apply to evidence of this nature (see [Section 3](#) of the main guidance document.)

[In some cases, depending on the circumstances it may be appropriate to include elements of a Personal, Community or Business Impact Statement. This should include reference to the impact of any hate crime aspects of the case (see Introduction to the main guidance document).

A Community Impact Statement should be provided by someone able to articulate the implications for the communities affected, including any loss of community assets, any charity or voluntary involvement and any additional burden imposed on charitable fundraising as a result of the offence.]

I am willing to attend court if required to do so.

Signed.....

## Appendix 8: template statement - battlefields

[This is a template of a Witness/Impact Statement for Heritage Crime which can be adapted to suit particular circumstances. The paragraphs in square brackets may not be required in every case. It is expected that the sections headed “*The Significance of...*” and “*The Impact of....*” will always be required as they are the most important part of the statement.]

### Witness Statement

Criminal Justice Act 1967 s9  
Magistrates’ Courts Act 1980 ss 5A(3)(a) and 5B  
Criminal Procedure Rules 2020 r16.2)

**Statement of:** [ ]

**Age of witness:** Over 18

**Occupation of witness:** [ ]

This statement, consisting of [ ] pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Signature:** dated the [ ] day of [ ] 20[ ]

### Qualifications and Experience

My name is [*insert name of witness*] and I have worked for [The Historic Buildings and Monuments Commission for England (*if appropriate*) or other *employment details*] as an [*insert job title*] for [*period of employment*]. My duties include [*insert main duties*].

I hold a [*insert qualifications*] from [*insert University/Institute*]. I have gained experience through work with [*set out experience*].

Signed.....

*[If an Historic England employee include:*

The Historic Buildings and Monuments Commission for England uses the name 'Historic England' in all its day to day dealings and any reference to Historic England should be construed accordingly. Historic England is the lead body on all matters relating to the historic environment generally and advises the Secretary of State for Culture Media and Sport on the historic environment. Its role is to champion the interests of this valuable resource by providing advice and encouraging people to preserve, value, understand and enjoy our common heritage.]

**Background**

I am aware of the investigation by [ ] into [ ] at [ ] which took place on [ ].

*[insert any other relevant background information that has led to this statement being prepared]*

I have been asked to provide this witness statement on the heritage crime impact in support of the investigation.

**[Registered Battlefields**

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

The register currently identifies 47 battlefields being the most important military battles on English soil. They range in date from 991 (Maldon) to 1685 (Sedgemoor), representing many different phases in our history.

Signed.....



Battlefields are significant in four ways:

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

These sites of archaeological and historic interest represent a unique source of information that is a finite, irreplaceable and fragile resource, vulnerable to damage and destruction through a wide range of human activities and natural processes.]

**The Significance of** *[name of Battlefield]*

*[name and location of battlefield]* is a battlefield of special historic interest registered on the Historic England Register of Historic Battlefields.

I produce as exhibit *[initials of witness/1]* a copy of the Historic England battlefield report. I also produce as exhibit *[initials of witness/2]* a map showing its location.

*[include here a description of the battlefield and its importance, including local, national and where appropriate international importance. Reference can be made to heritage values – Historic England guidance, Conservation Principles.]*

**The impact of the** *[crime type/illegal activity]*

*[Set out what you understand to have happened and the impact of that criminal activity to the asset and its setting including any harm/loss to significance.]*

[It may also be relevant to refer to collateral or indirect impacts; for example, where a stolen or damaged item is caused further damage or deteriorates due to the offence. Financial impacts should be clearly itemised; this should include the value of a stolen item or the cost of damage. Any directly attributable costs such as the cost of additional security measures should also be stated.]

[In exceptional circumstances it may be appropriate to include comparative statistics to evidence ‘prevalence’, where it can be shown that the level of harm caused in the particular locality was significantly higher than that caused elsewhere. Strict rules apply to evidence of this nature (see [Section 3](#) of the main guidance document.)]

[In some cases, depending on the circumstances it may be appropriate to include elements of a Personal, Community or Business Impact Statement. This should include reference to the impact of any hate crime aspects of the case (see [Introduction](#) to the main guidance document). A Community Impact Statement should be provided by someone able to articulate the implications for the communities affected, including any loss of community assets, any charity or voluntary involvement and any additional burden imposed on charitable fundraising as a result of the offence.]

I am willing to attend court if required to do so.

**Signed.....**

## Appendix 9: template statement - registered parks and gardens

[This is a template of a Witness/Impact Statement for Heritage Crime which can be adapted to suit particular circumstances. The paragraphs in square brackets may not be required in every case. It is expected that the sections headed “*The Significance of...*” and “*The Impact of....*” will always be required as they are the most important part of the statement.]

### Witness Statement

Criminal Justice Act 1967 s9  
Magistrates’ Courts Act 1980 ss 5A(3)(a) and 5B  
Criminal Procedure Rules 2020 r16.2

**Statement of:** [ ]

**Age of witness:** Over 18

**Occupation of witness:** [ ]

This statement, consisting of [ ] pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Signature:** dated the [ ] day of [ ] 20[ ]

### Qualifications and Experience

My name is [*insert name of witness*] and I have worked for [The Historic Buildings and Monuments Commission for England (*if appropriate*) or other *employment details*] as an [*insert job title*] for [*period of employment*]. My duties include [*insert main duties*].

I hold a [*insert qualifications*] from [*insert University/Institute*]. I have gained experience through work with [*set out experience*].

Signed.....

*[If an Historic England employee include:*

The Historic Buildings and Monuments Commission for England uses the name 'Historic England' in all its day to day dealings and any reference to Historic England should be construed accordingly. Historic England is the lead body on all matters relating to the historic environment generally. It advises the Secretary of State for Culture Media and Sport on the historic environment. Its role is to champion the interests of this valuable resource by providing advice and encouraging people to preserve, value, understand and enjoy our common heritage.]

**Background**

I am aware of the investigation by [ ] into [ ] at [ ] which took place on [ ].

*[insert any other relevant background information that has led to this statement being prepared]*

I have been asked to provide this witness statement on the heritage crime impact in support of the investigation.

**[Registered Parks and Gardens**

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

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

**Signed.....**

The register currently identifies over 1,600 sites assessed to be of national importance in England. These sites are divided into three grades to give added guidance on significance. Grade I sites are of exceptional interest; Grade II\* sites are of particular importance, being more than special interest; and Grade II sites are of special interest warranting every effort to preserve them.

Historic parks and gardens represent a fragile, finite and irreplaceable resource, vulnerable to damage and destruction through a wide range of human activities, including crime, and natural processes. From town gardens, cemeteries and public parks to the great country estates, such places are an important, distinctive and much cherished part of our heritage.]

**The Significance of [name of park or garden]**

[name and location of park or garden and list number] is a nationally important park/garden registered on the Historic England Register of Historic Parks and Gardens of Special Historic Interest in England.

I produce as exhibit [initials of witness]/1 a copy of the Historic England register entry and map for [park/garden]. I also produce as exhibit [initials of witness]/2 a map showing its location.

*[include here a description of the park/garden and its importance, including local, national and where appropriate international importance. Reference can be made to heritage values – Historic England guidance, Conservation Principles.]*

**The impact of the [crime type/illegal activity]**

*[set out what you understand to have happened and the impact of that criminal activity to the asset and its setting including any harm/loss to its significance.]*

[It may also be relevant to refer to collateral or indirect impacts; for example, where a stolen or damaged item is caused further damage or deteriorates due to the offence. Financial impacts should be clearly itemised; this should include the value of a stolen item or the cost of damage. Any directly attributable costs such as the cost of additional security measures should also be stated.]

[In exceptional circumstances it may be appropriate to include comparative statistics to evidence ‘prevalence’, where it can be shown that the level of harm caused in the particular locality was significantly higher than that caused elsewhere. Strict rules apply to evidence of this nature (see [Section 3](#) of the main guidance document.)

[In some cases, depending on the circumstances it may be appropriate to include elements of a Personal, Community or Business Impact Statement. This should include reference to the impact of any hate crime aspects of the case (see Introduction to the main guidance document). A Community Impact Statement should be provided by someone able to articulate the implications for the communities affected, including any loss of community assets, any charity or voluntary involvement and any additional burden imposed on charitable fundraising as a result of the offence.]

I am willing to attend court if required to do so.

**Signed.....**

## Appendix 10: template statement - military remains

[This is a template of a Witness/Impact Statement for Heritage Crime which can be adapted to suit particular circumstances. The paragraphs in square brackets may not be required in every case. It is expected that the sections headed “*The Significance of...*” and “*The Impact of....*” will always be required as they are the most important part of the statement.]

### Witness Statement

Criminal Justice Act 1967 s9  
Magistrates’ Courts Act 1980 ss 5A(3)(a) and 5B  
\Criminal Procedure Rules 2020 r16.2

**Statement of:** [ ]

**Age of witness:** Over 18

**Occupation of witness:** [ ]

This statement, consisting of [ ] pages, each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Signature:** dated the [ ] day of [ ] 20[ ]

### Qualifications and Experience

My name is [*insert name of witness*] and I have worked for [*name of employer*] as an [*insert job title*] for [*period of employment*]. My duties include [*insert main duties*].

I hold a [*insert qualifications*] from [*insert University/Institute*]. I have gained experience through work with [*set out experience*].

Signed.....

## Background

I am aware of the investigation by [ ] into [ ] at [ ] which took place on [ ].

*[insert any other relevant background information that has led to this statement being prepared]*

I have been asked to provide this witness statement on the heritage crime impact in support of the investigation.

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

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

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

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

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

Signed.....



## **[The United Kingdom's policy with regard to its sunken military craft.**

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

With regard to the protection of sunken warships, military aircraft and other sunken Government property, the UK's position is as set out in the following communication from the UK Foreign and Commonwealth Office, July 4th 2003:

"Under international law, warships, naval auxiliaries, and other vessels or aircraft owned or operated by a State and used only on government non-commercial service ("State vessels and aircraft") enjoy sovereign immunity. State vessels and aircraft continue to enjoy sovereign immunity after sinking, unless they were captured by another state prior to sinking or the flag State has expressly relinquished its rights. The flag State's rights are not lost merely by the passage of time. Further many sunken State vessels and aircraft are maritime graves, which should be respected. No intrusive action may be taken in relation to the United Kingdom's sovereign immune State vessels and aircraft without the express consent of the United Kingdom."

### **The Significance of [Protected Place or Controlled Site]**

[Name of Protected Place or Controlled Site] is a [Protected Place/Controlled Site] under the Protection of Military Remains Act 1986.

[For Controlled Sites or Protected Places comprising a designated vessel include a copy of the statutory instrument designating the place or site and for both include the location].

[Include here a description of the site or place and its importance, including local, national and where appropriate international importance].

### **The impact of the [unauthorised diving/unauthorised access/damage/or other crime]**

[Set out what you understand to have happened and the impact of that criminal activity to the site or place including any harm/loss to its significance.]

[It may also be relevant to refer to collateral or indirect impacts; for example, where a stolen or damaged item is caused further damage or deteriorates due to the offence. Financial impacts should be clearly itemised; this should include the value of a stolen item or the cost of damage. Any directly attributable costs such as the cost of additional security measures should also be stated.]

[In exceptional circumstances it may be appropriate to include comparative statistics to evidence ‘prevalence’, where it can be shown that the level of harm caused in the particular locality was significantly higher than that caused elsewhere. Strict rules apply to evidence of this nature (see [Section 3](#) of the main guidance document.)]

[In some cases, depending on the circumstances it may be appropriate to include elements of a Personal, Community or Business Impact Statement. This should include reference to the impact of any hate crime aspects of the case (see Introduction to the main guidance document). A Community Impact Statement should be provided by someone able to articulate the implications for the communities affected, including any loss of community assets, any charity or voluntary involvement and any additional burden imposed on charitable fundraising as a result of the offence.]

I am willing to attend court if required to do so.

**Signed.....**

## Contact Historic England

### East of England

Brooklands  
24 Brooklands Avenue  
Cambridge CB2 8BU

Tel: 01223 582749  
Email: [eastofengland@HistoricEngland.org.uk](mailto:eastofengland@HistoricEngland.org.uk)

### Fort Cumberland

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Eastney  
Portsmouth PO4 9LD

Tel: 023 9285 6704  
Email: [fort.cumberland@HistoricEngland.org.uk](mailto:fort.cumberland@HistoricEngland.org.uk)

### London and South East

4th Floor  
Cannon Bridge House  
25 Dowgate Hill  
London EC4R 2YA

Tel: 020 7973 3700  
Email: [londonseast@HistoricEngland.org.uk](mailto:londonseast@HistoricEngland.org.uk)

### Midlands

The Foundry 82 Granville Street,  
Birmingham B1 2LH,

Tel: 0121 625 6888  
Email: [midlands@HistoricEngland.org.uk](mailto:midlands@HistoricEngland.org.uk)

### North East and Yorkshire

Bessie Surtees House  
41-44 Sandhill  
Newcastle Upon Tyne NE1 3JF

Tel: 0191 403 1635  
Email: [northeast@HistoricEngland.org.uk](mailto:northeast@HistoricEngland.org.uk)

37 Tanner Row  
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