



A Memorandum of Understanding on the Prevention, Investigation, Enforcement and Prosecution of Heritage and Cultural Property Crime and Anti-Social Behaviour

The National Police Chiefs' Council

The Crown Prosecution Service

Historic England

Cadw, Welsh Government



1. Purpose

- 1.1 This Memorandum of Understanding (MoU) outlines how the parties will work in partnership on the prevention, investigation, enforcement and prosecution of heritage and cultural property crime and anti-social behaviour, both at a national strategic level and a local casework level.
- 1.2 There will be an annual national strategic threat assessment for heritage and cultural property crime and anti-social behaviour which will inform an action plan for the parties to this MoU to follow.
- 1.3 Heritage and cultural property crime is defined for the purposes of this MoU as –

'Any offence which harms the value of England and Wales's heritage assets and their settings to this and future generations and includes all offences involving cultural property.'
- 1.4 Heritage assets in England and Wales include:
 - Listed buildings;
 - Scheduled monuments;
 - Protected marine wreck sites;
 - Protected military remains of aircraft and vessels of historic interest;
 - Known battlefield locations including registered battlefields;
 - Registered parks and gardens;
 - Conservation areas;
 - World Heritage Sites; and,
 - Undesignated but acknowledged heritage buildings and sites.
- 1.5 Cultural property is defined in the [Convention for the Protection of Cultural Property in the Event of Armed Conflict](#) as 'movable or immovable property of great importance to the cultural heritage of every people' and includes objects such as paintings, jewellery, literature, sculpture, ceramics and pottery very often found within museums, archives, libraries, and private or stately homes are also identified as heritage assets. Many heritage commodities also have an intrinsic value in that they are fashioned from precious stones, metals or other valuable materials.

2. The Parties to the Agreement

- 2.1 The parties to this agreement are:
 - The National Police Chiefs' Council
 - The Crown Prosecution Service
 - Historic England
 - Cadw, Welsh Government

3. Functions of signatories and associated bodies

3.1 **The National Police Chiefs' Council (NPCC) of England, Wales and Northern Ireland** works on behalf of the police service to develop policing policy and for the purposes of this Memorandum of Understanding is a signatory on behalf of all Police forces in England and Wales.

3.2 The **Police** have a duty to preserve life, protect property and to prevent and detect crime. They have a role in preventing and investigating criminal offences involving heritage and the historic environment and are the lead agency for the investigation of those criminal offences identified in *Appendix 1*.

3.3 **The Crown Prosecution Service (CPS)** is an independent prosecutor and is responsible for:

- i. Providing advice to the police throughout the investigative and prosecution process. This includes advice on the law, possible reasonable lines of inquiry, potential charges, evidential requirements, pre-charge procedures, disclosure management, asset recovery and the overall investigation strategy. This can include decisions to refine or narrow the scope of the criminal conduct and the number of suspects under investigation.
- ii. Advising on asset recovery and the financial strategy and selecting charges that allow a confiscation order to be made in appropriate cases. Cases in which restraint may be required should be referred to CPS POC as soon as the issue arises.
- iii. Identifying and advising on evidential deficiencies and bringing to an early conclusion those cases that cannot be strengthened by further investigation.
- iv. Providing pre and post charge action plans for further investigative measures, where it is proportionate and necessary, with appropriate timescales.
- v. Providing written advice on charge, including whether it is appropriate and in the public interest for the case to be dealt with by an adult or youth caution or conditional caution.
- vi. Complying with prosecutor disclosure obligations.
- vii. Serving all documents within the time set by law or by order of the court.
- viii. Conducting criminal proceedings, including appeals.

- ix. Making decisions to terminate proceedings, to drop or add charges, and to accept pleas to a lesser offence. Where possible, the prosecutor will consult with the police before such decisions are made; and they will explain their rationale for all such decisions.
 - x. Selecting and instructing counsel to advise on cases and to conduct proceedings, where appropriate. Advocates must have the necessary skills and expertise to prosecute the case in question, whether an approved member of the CPS Advocate's Panel, from the self-employed Bar, or a CPS Crown Advocate.
 - xi. Notifying police of witness requirements and making applications for special measures for witnesses, where appropriate.
 - xii. Notifying police of the final outcome of the case.
- 3.4 **Historic England (HE)** is a non-departmental public body with responsibility for all aspects of protecting and promoting the historic environment in England. Historic England is the Government's statutory adviser on the historic environment.
- 3.5 **Cadw** is the historic environment service of the Welsh Government and is part of the Culture, Sport and Tourism Department. Cadw works to protect the historic monuments, buildings and structures, landscapes, and heritage sites of Wales, so that the public can visit them, enjoy them and understand their significance. Cadw manages 130 Properties in Care.
- 3.6 **Local authorities (LA)** are independently elected and autonomous bodies that are largely independent of central government and are directly accountable to their electorates. Their responsibilities vary depending on the type of authority but includes for example planning, heritage, education, waste management, housing, community safety and crime reduction etc. Their powers are conferred on them by Acts of Parliament. Some powers are given to all local authorities and some only to specific types. Local authorities play a vital role in representing the interests of their citizens and commissioning local services.
- 3.7 Under the Town and Country Planning Act 1990 and the Planning and Compensation Act 1991 District Councils, County Councils, Unitary Councils, Metropolitan District Councils and London Borough Councils and in National Parks the National Park Authority, are designated as local planning authorities. Local planning authorities have a duty to prepare development plans for their area, such plans should take account of the historic environment. They control development through the granting and refusal of planning applications and are also responsible for determining applications for listed building consent and conservation area consent in their area.

- 3.8 They have the power to enforce against unauthorised development (breaches of planning control), the unauthorised demolition or alteration of listed buildings and the unauthorised demolition of unlisted buildings in conservation areas. They also have the power to enforce conditions attached to planning permissions, listed building and conservation area consents.
- 3.9 Within the terms of Section 17 Crime and Disorder Act 1998 responsible authorities have a statutory duty to work with other local agencies and organisations to develop and implement strategies to tackle crime and disorder including anti-social behaviour that adversely affects the local environment within their local government area. Such a strategy should include the historic environment and associated heritage assets within that defined area.
- 3.10 A local government area in England for this purpose is a district or London Borough (this includes a unitary authority), the City of London, the Isle of Wight and the Isles of Scilly. The responsible authority is the Council for that area and, where it is a district (and not a unitary authority), the Council for the County that includes the district. *Appendix 2* shows a current list of Local Authorities, National Parks and Associated Bodies that are signatories to this memorandum.
- 3.11 NPCC, HE, Cadw and LAs will work closely with the **National Heritage & Cultural Property Crime Working Group (NHCPWG)** and the wider stakeholder group **ARCH - Alliance to Reduce Crime against Heritage**.
- 3.12 The aim of NHCPWG and ARCH will be to contribute their understanding of the nature of heritage and cultural property crime from time to time to inform the National Strategic Threat Assessment and to assist in the effective implementation of that tactical plan arising from that strategic assessment at a regional and local level.

4. Investigations

- 4.1 The parties to this MoU are committed to ensuring that any investigation into a heritage or cultural property crime is thorough, efficient, and conducted to a high standard and in accordance with any internal processes in force at the time within respective organisations. The National Heritage and Cultural Property Crime Priorities and Control Strategy, identified within the National Strategic Threat Assessment, will provide focus to the partnership approach but decisions in relation to who will lead an investigation, and the direction it will take, should be timely, informed by the best available evidence and technical expertise, and should take account of this MoU and the wider public interest. Should there be any issue as to who is to be involved in investigating heritage and cultural property crime then the parties will work together to reach a conclusion.
- 4.2 In England and Wales, the police are responsible for investigating most offences relating to heritage assets and cultural property, with assistance from subject matter experts from HE and Cadw.

- 4.3 In England, HE will lead on investigations involving unauthorised works to scheduled monuments. The police will provide assistance where appropriate.
- 4.4 In Wales, the regional police force will lead on investigations involving unauthorised works and damage to scheduled monuments, with subject matter expert assistance from Cadw.
- 4.5 The Maritime and Coastguard Agency (MCA) will lead on those investigations relating to unlawful salvage. The police, HE and Cadw will provide subject matter assistance where appropriate.
- 4.6 Police forces will identify that the offences relate to the loss of or damage to heritage assets and/or cultural property when a file is submitted to the CPS for early advice or decision to prosecute. This will ensure that the CPS regional Heritage and Cultural Property Crime Coordinator will be aware of on-going investigations and cases.
- 4.7 Cases that are eligible under the [Director's Guidance on charging](#) which are investigated by the police should be referred to the CPS for a charging decision. In cases meeting the criteria under annex 6 of the Director's Guidance on charging (6th edition), consideration should be given to seeking early advice from CPS Area Rural, Wildlife and Heritage Crime Coordinators.
- 4.8 Where one organisation agrees to lead on a case that body shall normally continue to take that case to its conclusion even if it is decided not to pursue an enforcement action that the respective body would normally be responsible for. If this is not possible, cases will only be passed to another relevant enforcement body for action if that other body agrees in advance. All information relating to that case will then be made available without delay including all exhibits and undisclosed material.
- 4.9 The CPS is responsible for reviewing and prosecuting cases referred to it by the police, in line with the Code for Crown Prosecutors. Before offenders are charged with offences relating to the loss of or damage to heritage assets or cultural property or a decision to take no further action is taken, police will make early contact with HE, Cadw and associated partner agencies to discuss the potential implications of the decision and, where appropriate, inform victims, witnesses and prepare a media statement.
- 4.10 In cases where a scheduled monument consent or licensing condition has been breached in England, HE will act as the primary investigating and prosecuting authority but may request assistance from the police if required. This will be particularly relevant if the offence is classified as a 'critical incident'¹ or 'major incident'² that will require a coordinated multi-agency response and investigation.

¹ College of Policing - [Introduction \(college.police.uk\)](#)

² [Definitions \(college.police.uk\)](#)

- 4.11 In cases where a scheduled monument consent or licensing condition has been breached in Wales, the relevant Police force will undertake the investigation in collaboration with Cadw. In these cases, the CPS act as the prosecuting authority for the substantive offences for which the consent or licences were issued to mitigate. This relates to offences committed by the owner, occupier, or manager of a scheduled monument.

5. Legal action

- 5.1 The decision whether to commence criminal proceedings rests with the appropriate prosecuting body, namely the Crown Prosecution Service or HE. Nonetheless, enforcement action taken by one organisation does not preclude another taking action if considered appropriate, provided there is no double jeopardy or other abuse of process issue.
- 5.2 As well as prosecution HE and Cadw have access to a number of enforcement mechanisms, including advice and guidance, warning letters, civil sanctions (appropriate offences) and cautions. These outcomes address offences in a transparent, accountable, consistent, proportionate, and targeted manner. The introduction of Community Resolutions, as an outcome, will, where appropriate allow the police to deal with offences proportionately and in particular, when dealing with offences against heritage assets, can have a positive impact on the historic environment.
- 5.3 Where an investigation has been undertaken in partnership, the organisations party to this MoU that have contributed to that investigation can make representations on case decisions. But the decision to start or continue a prosecution rests with the police/CPS. The CPS will make its decisions in accordance with the Code for Crown Prosecutors.

Roles and Responsibilities to Prevent, Investigate, Prosecute, Assist and Advise on Heritage Crime

6. Listed Buildings

- 6.1 Participating local authorities (LA) as part of their function as local planning authority have a duty to prevent, investigate and where appropriate prosecute unauthorised works or deliberate damage (where this is caused by the owner or occupier) to listed buildings, breaches of conditions attached to listed building consent and breaches of listed building enforcement notices. These specific regulatory crimes are set out in summary in *Appendix 1*.

- 6.2 The Police, HE, and Cadw will provide assistance and advice in campaigns to prevent crime and anti-social behaviour and, where their expertise is needed and resources allow, in the investigation and prosecution of any such crimes.
- 6.3 The police are responsible for prevention and investigation of crime and anti-social behaviour involving harm and loss to listed buildings, such as theft and criminal damage.
- 6.4 The CPS is responsible for the prosecution of such crimes where there is sufficient evidence, and it is in the public interest to do so.
- 6.5 Participating local authorities (LA) where this affects their local government area; and, HE and Cadw have a duty to assist and advise in any campaigns to prevent crime and anti-social behaviour, and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes.

7. Conservation Areas

- 7.1 Participating local authorities (LA) as part of their function as local planning authority have a duty to prevent, investigate and prosecute unauthorised demolitions within conservation areas, any breaches of conditions of conservation area consent and conservation area enforcement notices. These specific regulatory crimes are set out in summary in *Appendix 1*.
- 7.2 The police, HE and Cadw will provide assistance and advice in any campaigns to prevent crime and anti-social behaviour and, where their expertise is needed and resources allow, in the investigation and prosecution of any such offences. The police are responsible for prevention and investigation of crime and anti-social behaviour involving loss or harm to conservation areas, such as theft, criminal damage, public disorder etc.
- 7.3 The CPS is responsible for prosecution of such crimes where the cases are referred by the police and there is sufficient evidence, and it is in the public interest to do so.
- 7.4 Participating LAs where this affects their local government area and HE and Cadw have a duty to assist and advise in any campaigns to prevent crime and anti-social behaviour and, where their expertise is needed and resources allow, in the investigation and prosecution of any relevant offences.

8. Scheduled Monuments

- 8.1 HE has a duty to prevent, investigate and prosecute unauthorised works and damage to scheduled monuments (works without scheduled monument consent).
- 8.2 Cadw has a duty to prevent and to support the police and the CPS in investigating and prosecuting unauthorised works and damage to scheduled monuments (works without scheduled monument consent).
- 8.3 The police and participating LAs will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes.
- 8.4 The police are responsible for the prevention and investigation of crimes leading to harm to scheduled monuments including damage and unlawful illegal metal detecting. This will include the theft or removal of associated objects or artefacts.
- 8.5 The CPS is responsible for prosecution of such crimes where the cases are referred by the police and there is sufficient evidence, and it is in the public interest to do so.
- 8.6 Participating LAs where this affects their local government area, HE and Cadw have a duty to assist and advise in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes. The specific regulatory crimes for this heritage asset are set out in summary in *Appendix 1*.

9. Protected Marine Wrecks Sites

- 9.1 The police in partnership with the Maritime and Coastguard Agency (MCA), Receiver of Wreck (RoW), HE and Cadw are responsible for the prevention and investigation of unauthorised activities in respect of wreck sites designated as 'restricted areas' as defined by the Protection of Wrecks Act 1973.
- 9.2 The RoW will work in partnership with the police, HE and Cadw where there has been a failure to report the finding of wreck under the Merchant Shipping Act 1995. Again, the specific regulatory crimes are set out in summary in *Appendix 1*.
- 9.3 The CPS is responsible for prosecution of such crimes where the cases are referred by the police and there is sufficient evidence, and it is in the public interest to do so.
- 9.4 Participating LAs where this affects their local government area will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of such offences when they are not prosecuted by the CPS.

10. Protected Military Remains of Aircraft and Vessels of Historic Interest

- 10.1 The police will, in partnership with the Ministry of Defence (MoD), take responsibility for the prevention and investigation of unauthorised activities in respect of crashed military aircraft and sunk or stranded military vessels which are within a protected place or controlled site. This MoU is concerned with those aircraft and military vessels which are of historic interest. Again, the specific regulatory crimes for this heritage asset are set out in summary in *Appendix 1*.
- 10.2 The CPS is responsible for prosecution of such crimes where the cases are referred by the police and there is sufficient evidence, and it is in the public interest to do so.
- 10.3 Participating LAs where this affects their local government area and HE and Cadw will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of such crimes.

11. Other Sites of Historic Significance

- 11.1 There are significant sites that have no separate consent regime and no specific regulatory offences which relate to them, these sites include Registered Parks and Gardens, Battlefields and World Heritage Sites.
- 11.2 However, crime such as theft, criminal damage, and offences of anti-social behaviour can lead to harm to these heritage assets. This also applies to undesignated sites of historic importance such as archaeological sites of national importance (which have not been scheduled as monuments) and buildings of local importance.
- 11.3 The police are responsible for prevention and investigation of crimes leading to harm to these sites, such as theft, criminal damage, and offences of anti-social behaviour.
- 11.4 The CPS is responsible for prosecution of such crimes where the cases are referred by the police and there is sufficient evidence, and it is in the public interest to do so.
- 11.5 Participating LAs where this affects their local government area and HE and Cadw will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes which are not prosecuted by the CPS.

12. Items Illegally Removed from Heritage Assets

- 12.1 Where items that are suspected of having been removed from a heritage asset come to the attention of HE, Cadw and LAs, each has a responsibility to notify the police who are responsible for investigation of possible related crimes such as theft and handling stolen goods.
- 12.2 The CPS is responsible for prosecution of such crimes where there is sufficient evidence, and it is in the public interest to do so.
- 12.3 Participating LAs where this affects their local government area and HE and Cadw will provide assistance and advice in any campaigns of prevention and, where their expertise is needed and resources allow, in the investigation and prosecution of any crimes where they are not prosecuted by the CPS.
- 12.5 The reporting of Treasure is co-ordinated in England through the British Museum's Portable Antiquities Scheme and in Wales by Amgueddfa Cymru's Portable Antiquities Scheme Cymru, who also record for the public benefit all non-treasure archaeological objects found and reported voluntarily by members of the public.

13. Information Sharing and Disclosure

- 13.1 In the interest of best practice, data exchange between the organisations is encouraged but will only take place in appropriate circumstances and in compliance with data protection and other relevant legislation. Any personal data being shared on a regular basis will require an information sharing agreement to ensure that all parties understand what data will be shared; that the information being shared is justified, proportionate and necessary; and that the data is shared securely. An Information Sharing Agreement (ISA) will also help to prevent data breaches.
- 13.2 Where necessary the organisations will establish procedures to share data and intelligence at a local and national level. All parties are encouraged to share data and intelligence with OPAL – the National Acquisitive Crime Intelligence Unit.
- 13.3 All prosecuting bodies have duties regarding disclosure of unused material and there is an expectation that other parties of the MOU will assist in relation to provision of third-party material.

14. Partnership Working

- 14.1 Partnership working plays a fundamental role in tackling Heritage and Cultural Property Crime both at a local operational level and nationally at a strategic level. Partnership working will enable all parties to focus resources and efforts towards the Heritage and Cultural Property Crime Priorities.

- 14.2 In England and Wales, Local Heritage and Cultural Property Crime Partnerships will enable HE and Cadw, LAs, CPS and the police to tackle Heritage and Cultural Property Crime effectively and expediently at a national and local level. Local Heritage and Cultural Property Crime Partnerships will identify operational roles and responsibilities and set out effective working arrangements between the participating bodies. This will ensure, amongst other issues, that the partner with the most appropriate enforcement powers takes the primary enforcement action on individual cases. Local Heritage and Cultural Property Crime Partnerships are a developing concept in England and Wales and the parties to this MoU will seek to encourage and foster existing and new initiatives.
- 14.3 In Wales, Cadw's partnership is with the Heritage Crime Liaison Officers from the four Welsh Police forces, and with the pan-Wales heritage crime single point of contact currently hosted by Dyfed-Powys Police.
- 14.4 All parties within this MoU will work closely with the NPCC National Working Group for Heritage and Cultural Property Crime and ARCH – the Alliance to Reduce Crime against Heritage. This will enable the Working Group to provide a strategic overview of enforcement activity, consider and develop responses to strategic problems, look at issues of strategic concern in order to meet its objective to draw attention to the growing problem of Heritage and Cultural Property Crime and raise awareness of the need for enforcement action; and, to inform the preparation of strategic assessment and tactical plan arising from that assessment at a national, regional and local level.

15. Guidance and Training

- 15.1 In the spirit of partnership working all parties believe that the sharing of knowledge and working practices is beneficial in tackling heritage crime. All parties will provide information, guidance and training to each other without charge as their resources allow. HE and Cadw will produce reasonable information, guidance and training to local police forces, the CPS in England and Wales and officers from partnership agencies involved in the prevention of crime and anti-social behaviour in the historic environment. The CPS will provide training and guidance to its Rural, Wildlife and Heritage Crime Coordinators as appropriate. The police will provide information, guidance, and training on collecting intelligence, undertaking investigations, the preparation of casework and an awareness of the Police and Criminal Evidence Act 1984.

16. Costs and Charging

- 16.1 It is anticipated that the services provided by all parties subject to this MoU will be without charge to each other in all respects (whether case related or in other areas such as the provision of training). No charges will be levied without prior agreement.

- 16.2 The CPS does not routinely apply for investigative costs but where there are circumstances in any particular case which make it just and reasonable to do so, the CPS will make applications in accordance with the law and principles set out in our legal guidance.
- 16.3 Where such an order is sought the relevant police force will give early notification to the relevant CPS unit and will provide a rationale as to why recovery of costs is just and reasonable.

17. Publicity

- 17.1 All parties will endeavour to raise awareness of heritage crime for example by highlighting key issues and prosecution cases. Every possible media option should be considered, and use of joint press releases should be the default where a joint investigation has led to a prosecution.
- 17.2 Press releases in Wales should be bilingual and where joint press releases are issued, the lead party should make arrangements for translation. Any press release involving Cadw, will require prior approval by the Press Office for the Welsh Government.

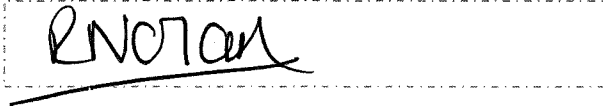
18. Communication

- 18.1 For the purposes of this Memorandum of Understanding the following are lead contact points:
- The contact for the **National Police Chiefs' Council** is the Assistant Chief Constable's Staff Officer (Heritage and Cultural Property Crime) Detective Superintendent Jon Burgess.
 - The contact for the **Crown Prosecution Service** is Iwan Jenkins.
 - For **Historic England** the national contact is Mark Harrison FSA, Head of Heritage Crime Strategy
 - In Wales, Dr Jonathan Berry FSA is the contact for both the police and **Cadw**.
- 18.2 Each police service will nominate a strategic and tactical point of contact for issues relating to heritage assets and the historic environment.

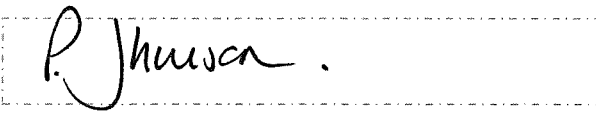
19. Review

- 19.1 All parties will review this Joint Memorandum of Understanding every two years (from the date of signature of this document). If forthcoming legislation requires the document to be reviewed earlier all parties will commit to doing so at the earliest opportunity.

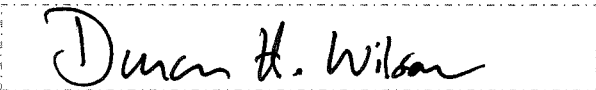
Signatories

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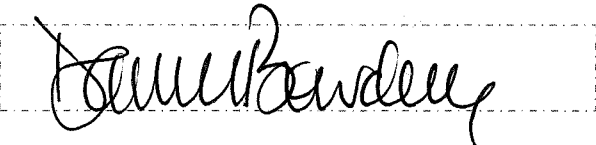
National Police Chiefs' Council, Assistant Chief Constable Rachel Nolan, Lead for Heritage and Cultural Property Crime

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Crown Prosecution Service, Paul Stimson, Deputy Chief Crown Prosecutor

A handwritten signature in black ink, enclosed in a dashed rectangular box. The signature appears to be 'Duncan H. Wilson'.

Historic England, Duncan Wilson, Chief Executive

A handwritten signature in black ink, enclosed in a dashed rectangular box. The signature appears to be 'Dawn Bowden'.

Cadw, Dawn Bowden, Deputy Minister for Arts and Sport, and Chief Whip, Welsh Government