

Arson and Criminal Damage Offences Guidelines Consultation response

The Heritage Alliance is England's largest coalition of independent heritage interests. We unite nearly 120 organisations which together have over 7 million members, volunteers, trustees and staff. The vast majority of England's historic environment is owned, managed and cared for by Heritage Alliance members.

We welcome the opportunity to respond to [the consultation](#) on sentencing guidelines on arson. We have responded to the most relevant questions below.

While we welcome the inclusion of damage to heritage assets as an aggravating factor, and the recognition that heritage assets are irreplaceable. However, it is for this reason that serious damage to heritage should be considered alongside value when considering levels of harm and culpability.

Arson (criminal damage by fire)

Q1 Do you agree with the proposed factors within culpability? If not, please tell us why

No, we do not agree. High culpability should also include an intention to cause damage to a heritage asset especially listed buildings, scheduled monuments or structure about to be so designated.

Listed buildings are recognised by the Government as having national importance. Grade I buildings are of exceptional interest, only 2.5% of listed buildings are Grade I, Grade II* buildings are particularly important buildings of more than special interest; 5.8% of listed buildings are Grade II* and Grade II buildings are of special interest. Locally listed buildings are designated by some local authorities to recognise that building as having special importance to a local area. Conservation Areas are designated heritage assets for their special interest and should have high culpability where they are intentionally destroyed. Indeed, the arson may have been intentionally designed to avoid the planning restrictions on listed buildings or in conservation areas. For the same reason in rare cases unscrupulous owners may burn a building whilst it is being considered for listing.

Q2 Do you agree with the proposed harm factors for this offence? If not, please tell us why

No, we do not agree with the level of harm caused by arson being determined by value alone. Category 1 should include 'serious harm caused to a heritage asset especially listed buildings or scheduled monuments'.

Even a Grade 1 listed building, say a medieval dovecote in bad repair, may not have a high monetary value but listed buildings are recognised as having a high social value which should be protected by law.

Because listed buildings are protected by law – there is a perception by some that unscrupulous owners set fire to listed buildings to side step legal controls on what can be done with them. We recognise that this is a rare situation for which conclusively obtaining evidence is difficult. However, in the context of sentencing for arson this should be a relevant factor.

It is illogical, to give monetary value a priority in this context over buildings recognised in law as having national or local significance.

Q5 Do you agree that the proposed aggravating and mitigating factors cover the most likely factors that would apply to these offences? If not, please tell us why.

No, while we welcome the inclusion of 'damage caused to heritage assets' in the other aggravating factors, this should not be at the expense of heritage assets in the calculation of culpability or level of harm.

Criminal damage/arson with intent to endanger life or reckless as to whether life endangered

Q6 Do you agree with the proposed approach to culpability for this offence?

N/A

Q7 Do you agree with the proposed harm factors for this offence? If not, please tell us why.

The same issues relating to value as opposed to the loss of nationally important buildings apply here. Category 1 should include 'serious harm caused to legally recognized heritage assets'.

Q10 Do you agree that the proposed aggravating and mitigating factors cover the most likely factors that would apply to these offences? If not, please tell us why.

No, while we welcome the inclusion of 'damage caused to heritage assets' in the other aggravating factors, this should not be at the expense of including the loss of heritage assets in the calculation of the level of harm.

Criminal Damage (other than by fire) value over £5,000, and racially or religiously aggravated criminal damage

Q11 Do you agree with the proposed culpability factors? If not, please tell us why.

No, we do not agree. High culpability should also include an intention to cause damage to heritage assets. This is a better indication of value than monetary value for these purposes as they cannot be replaced.

Q12 Do you agree with the proposed harm factors for this offence? If not, please tell us why.

The same issues relating to value as opposed to the loss of nationally important buildings apply here. Category 1 should include 'serious harm caused to heritage assets'.

Criminal damage (other than by fire) value under £5,000

Q15 Do you agree with the proposed culpability factors? If not, please tell us why.

No, we do not agree. High culpability should also include an intention to cause damage to listed buildings, conservation areas, scheduled monuments or other heritage assets, given that these are protected by law as nationally important. This is a better indication of value than monetary value for these purposes as they cannot be replaced

Q16 Do you agree with the proposed harm factors for this offence? If not, please tell us why.

The same issues relating to value as opposed to the loss of nationally important buildings and sites apply here. Category 1 should include 'serious harm caused to listed buildings, conservation areas, scheduled monuments or other heritage assets'.

Section six: Threats to destroy or damage property

Q23 Do you agree that the proposed aggravating and mitigating factors cover the most likely factors that would apply to these offences? If not, please tell us why.

No, the aggravating factors should include the threat relating to listed buildings, scheduled monuments or other heritage assets' in addition to 'considerable damage threatened'.

For more information please contact Joe O'Donnell

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