

# **Arson and Criminal Damage**

## **Arson**

## **Criminal Damage**

# **Arson**

**56A**      **Arson Endangering Life**

**56B**      **Arson not Endangering Life**

## 56A Arson Endangering Life Classification (1 of 1)

56/1 Arson endangering life.  
(V) *Criminal Damage Act 1971 Sec 1(pt).*

### CLARIFICATION - ENDANGERING LIFE

'Endangering life' does not require an attempt to kill, and there is no requirement for any actual injury. It is sufficient that life was endangered. If there was an attempt to kill then an offence under attempted murder (class 2) should be considered.

The offence also covers damage to your own property.

### DEFINITION - LEGAL: DESTROYING OR DAMAGING PROPERTY

#### CRIMINAL DAMAGE ACT 1971 SEC 1

- (2) "A person who without lawful excuse destroys or damages any property, whether belonging to himself or another –
- (a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and
  - (b) intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be therefore endangered; ...".
- (3) "An offence committed under this section by destroying or damaging property by fire shall be charged as arson."

## 56A Arson Endangering Life Counting Rules (1 of 1)

**GENERAL RULE:** ONE CRIME FOR EACH SPECIFIC, INTENDED OWNER OF PROPERTY DAMAGED WHERE LIFE ENDANGERED.

**EXAMPLE 1:** Vandals set light to a ground floor flat. The smoke and fire affect the two flats above and the fire brigade have to rescue six people living in these flats;

(i) Only the ground floor flat is damaged.

*One crime (class 56A).*

(ii) All of the flats are damaged by fire.

*One crime (class 56A).*

**EXAMPLE 2:** A youth sends a lit rocket firework through a letter box of a house. The sparks from the launch set fire to the hall and stair carpets. The rocket explodes on a bed in the back bedroom setting fire to the bedding. The couple asleep in the bed wake up and leave the house in a state of shock.

*One crime (class 56A).*

### APPLICATION OF THE RULE

**Where dwellings are involved, the householder will be treated as the owner.**

Example 1: A property developer sets fire to a block of three flats, intending all the flats are damaged by fire so that the residents will be re-housed by the council into his new development which he has struggled to sell. The occupant of the top flat has to be rescued from the flat. All the flats are damaged.

*Three crimes (class 56A).*

**Principal Crime: see also General Rules Section F & Annex C.**

Example 1: Two people die in a fire deliberately set.

*Two crimes of homicide.*

Example 2: An offender deliberately sets light to a house intending to kill the woman occupant. She is rescued by the fire brigade with minor burns.

*One crime of attempted murder (class 2).*

## 56B Arson not Endangering Life Classification (1 of 1)

56/2 Arson not endangering life  
(V) *Criminal Damage Act 1971 Sec 1(pt).*

### **DEFINITION - LEGAL: DESTROYING OR DAMAGING PROPERTY**

#### CRIMINAL DAMAGE ACT 1971 SEC 1

- (1) "A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged ...".
- (3) "An offence committed under this section by destroying or damaging property by fire shall be charged as arson."

## 56B Arson not Endangering Life Counting Rules (1 of 2)

**GENERAL RULE:** ONE CRIME FOR EACH SPECIFIC, INTENDED OWNER OF PROPERTY DAMAGED.

**EXAMPLE 1:** Five fires are set around one building.

*One crime (class 56B).*

**EXAMPLE 2:** A fire set in one building spreads to an adjacent one (under different ownership).

*One crime (class 56B).*

**EXAMPLE 3:** Offenders break into a yard and set alight four vehicles (all have different owners). The fire also damages the building.

*If there is no evidence that the vehicles were set alight separately, then one crime (class 56B).*

### APPLICATION OF THE RULE

**Vehicles should be counted separately, if separately owned.**

Example 1: Three cars parked in a street are individually set on fire.

(i) All three have different owners.

*Three crimes (class 56B).*

(ii) All three have the same registered owner.

*One crime (class 56B).*

**Finished Incident:** see also General Rules Section E. If a vehicle is stolen or taken without consent, then any further offences to the vehicle by the same offender (or group of offenders) should be considered a continuation of the same incident.

Example 1: A vehicle is stolen and later found abandoned and deliberately burnt out (in the same police force area as the theft).

(i) The owner reported the theft before the vehicle was found.

*One crime of theft (class 48) (Whilst this is **not** the principal crime over arson, in these circumstances class 48 should be recorded).*

(ii) The owner did not report the theft before the vehicle was found.

*One crime of theft (class 48) (Whilst this is **not** the principal crime over arson, in these circumstances class 48 should be recorded).*

(iii) As (i) or (ii) but there is evidence that the arson was committed by someone unconnected with the theft.

*One crime of theft (class 48) and one crime of arson (class 56B).*

## 56B Arson not Endangering Life Counting Rules (2 of 2)

**Principal Crime:** see also General Rules Section F & Annex C.

Example 1: Two people die in a fire deliberately set.

*Two crimes of homicide.*

Example 2: An offender burgles a property and sets fire to it before leaving.

*One crime of arson not endangering life (class 56B).*

### RECORDING PRACTICE: ARSON NOT ENDANGERING LIFE

HOCR is victim based. However, strict application of this rule and the general rule for this section “**ONE CRIME FOR EACH SPECIFIC, INTENDED OWNER OF PROPERTY DAMAGED**” can create a perverse situation in arson cases where the intended victim can not be found, but other victims of the offence can. Where other victims are found, then one crime should be recorded under class 56B.

Example 1: A car has been abandoned in a car park by its owner, after stripping out the interior, removing the engine and number plates. Local youths set fire to this car which spreads to two cars parked next to it. All three cars are destroyed and police are unable to locate the owner of the abandoned car following extensive enquiries. Police have full details of the other two owners.

*One crime of arson not endangering life (class 56B).*

Example 2: Youths set fire to a fence at the bottom of a derelict house. The fire spreads and destroys the fences of the two neighbouring inhabited properties. Despite extensive enquiries the owner of the property where the original seat of fire can not be found.

*One crime of arson not endangering life (class 56B).*

Example 3: An offender sees an ideal opportunity to get back at his neighbours by setting fire to an abandoned car. His neighbour's cars are parked both sides of the abandoned car and he knows that the fire will spread to both of them. All three cars are destroyed and police are unable to trace the owner of the abandoned car.

*Two crimes of arson not endangering life (class 56B).*

# **Criminal Damage**

**58A**      **Criminal Damage to a Dwelling**

**58B**      **Criminal Damage to a Building other than a Dwelling**

**58C**      **Criminal Damage to a Vehicle**

**58D**      **Other Criminal Damage**

**58J**      **Racially or Religiously Aggravated Criminal Damage**

## 58A Criminal Damage to a Dwelling Classification (1 of 1)

57(pt)  
(V) Criminal damage to a dwelling endangering life.  
*Explosive Substances Act 1883 Sec 2(pt).*  
*Explosive Substances Act 1883 Sec 3(pt).*  
*Criminal Damage Act 1971 Sec 1(2).*

149(pt)  
(V) Other criminal damage to a dwelling.  
*Explosive Substances Act 1883 Sec 2(pt).*  
*Explosive Substances Act 1883 Sec 3(pt).*  
*Criminal Damage Act 1971 Sec 1(1).*

58(pt)  
(V) Other criminal damage to a dwelling  
*Criminal Damage Act 1971 Sec 1(1).*  
*Explosive Substances Act 1883 Sec 2(pt).*  
*Explosive Substances Act 1883 Sec 3(pt).*

### CLARIFICATION: NON-PERMANENT CRIMINAL DAMAGE

If the damage is easily rectified and non-permanent, i.e. it can be cleaned off or removed at no cost and with little effort, record an incident and deal with in accordance with NSIR but do not record a crime.

For examples see class 58A Counting Rules page 1 of 3.

### DEFINITION - LEGAL: CAUSING EXPLOSIONS - WITH INTENT TO ENDANGER LIFE OR PROPERTY

#### EXPLOSIVE SUBSTANCES ACT 1883 SECS 2 & 3

- (2) "A person who in the United Kingdom or (being a citizen of the United Kingdom and Colonies) in the Republic of Ireland unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, ...".
- (3) "A person who in the United Kingdom or a dependency or (being a citizen of the United Kingdom and Colonies) elsewhere unlawfully and maliciously -
  - (a) does any act with intent to cause, or conspires to cause, by an explosive substance an explosion of a nature likely to endanger life, or cause serious injury to property, whether in the United Kingdom or the Republic of Ireland or
  - (b) makes or has in his possession or under his control an explosive substance with intent by means thereof to endanger life, or cause serious injury to property, whether in the United Kingdom or the Republic of Ireland, or to enable any other person so to do, shall, whether any explosion does or does not take place, and whether any injury to person or property is actually caused or not, ...".

### DEFINITION - LEGAL: DESTROYING OR DAMAGING PROPERTY

#### CRIMINAL DAMAGE ACT 1971 SEC 1(1, 2)

- (1) "A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged ...".
- (2) "A person who without lawful excuse destroys or damages any property, whether belonging to himself or another -
  - (a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and
  - (b) intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be therefore endangered; ...".

## 58A Criminal Damage to a Dwelling Counting Rules (1 of 3)

**GENERAL RULE:** ONE CRIME FOR EACH HOUSEHOLD WHOSE DWELLING IS DAMAGED.

**EXAMPLE 1:** A person deliberately drives a vehicle into the side of a house causing the wall to collapse, narrowly missing the two occupants.

*One crime (class 58A).*

**EXAMPLE 2:** A group of offenders damage five houses on their way home from a party.

*Five crimes (class 58A).*

**EXAMPLE 3:** Vandals damage three flats in a block.

*Three crimes (class 58A).*

**EXAMPLE 4:** A man enters the flat of his ex-girlfriend as a trespasser, taking with him a spray can with the intention of spraying graffiti on the bedroom walls. He is apprehended prior to causing the damage but fully admits his intention to cause damage.

*One crime (class 28E).*

**EXAMPLE 5:** A man enters the flat of his ex-girlfriend as a trespasser. He places graffiti on the bedroom walls using items found inside the premises. He is apprehended on leaving the building and admits to causing the damage.

*One crime (class 58A).*

### APPLICATION OF THE RULE

**If the dwelling is damaged by more than one person, count separately for each offender acting independently.**

Example 1: A person reports to the police for the first time, his house being vandalised on three occasions by the same group of children.

*One crime (class 58A).*

**Non-permanent damage: If the damage is easily rectified and non-permanent, i.e. it can be cleaned off or removed at no cost and with little effort, record an incident and deal with in accordance with NSIR but do not record a crime.**

Example 1: A person throws an egg at a house window. There is no damage and the window is easily cleaned with water and a cloth.

*Register an incident and deal with in accordance with NSIR.*

Example 2: Eggs are thrown at a house and by the time they are discovered they have soaked into the brickwork and need to be jet-washed off.

*One crime (class 58A). This is not easily rectified.*

## 58A Criminal Damage to a Dwelling Counting Rules (2 of 3)

### APPLICATION OF THE RULE (CONTINUED)

#### Criminal damage to non owner occupied property:

**A tenant of a home owned by a Registered Social Landlord (RSL) or a private landlord reports criminal damage to the fabric of his/her home:**

Example 1: Police investigate the incident at the time of reporting and establish that there is verifiable information to show that this is a false report in order to get free repairs to accidental damage.

*Register the incident and deal with in accordance with NSIR (recognising that in addition this may also be dealt with as a crime).*

Example 2: Police investigate the incident at the time of reporting and consider that this is a genuine report of crime.

*One crime (class 58A).*

Example 3: Police do not have sufficient resources to investigate the incident.

*One crime (class 58A).*

Example 4: Having recorded a crime, police are informed by the RSL, Local Authority or landlord that their investigation has found additional verifiable information to show that no crime has been committed.

*The recorded crime (class 58A) can be cancelled under Section C of General Rules.*

Example 5: Overnight vandals have ripped the wheels and lids of the wheelie bins belonging to five council properties.

*Five crimes (class 58D). The household is the victim.*

**How to Classify: see also General Rules Section B. Any damage to an entry point of a house should be assumed to be an attempt to enter and burgle the house, if on the balance of probabilities, attempted burglary is considered to be the more likely offence than the criminal damage.**

Example 1: The lock to a front door has been damaged. Attempted burglary is considered more likely than criminal damage.

*One crime of attempted burglary residential (class 28F).*

Example 2: A ground floor window has been broken. It could have been used to enter the house, and as the house is in an isolated location it is considered the more likely intent than mere vandalism.

*One crime of attempted burglary residential (class 28F).*

## 58A Criminal Damage to a Dwelling Counting Rules (3 of 3)

**Principal Crime:** see also General Rules Section F & Annex C.

Example 1: A person deliberately drives a vehicle into the side of a house causing the wall to collapse and seriously injuring the two occupants.

*Two crimes of assault with intent to cause serious harm (class 5D).*

Example 2: Criminal damage occurs in the course of an aggravated burglary in a dwelling.

*One crime of aggravated burglary residential (class 29A).*

Example 3: An offender enters the premises of ex-girlfriend, commits common assault and damages girlfriend's property to the value of £20. Offender also causes serious damage to the fabric of the building to a value in excess of £5000, which is council property.

*One crime (class 58A) as the maximum penalty for this offence where value is over £5000 is 10 years on indictment. Although the council owns the building the girlfriend is the householder.*

Example 4: An offender enters the premises of ex-girlfriend, commits common assault and damages girlfriend's property to the value of £20.

*One crime (class 105A).*

## 58B Criminal Damage to a Building other than a Dwelling Classification (1 of 2)

- |               |  |                |   |
|---------------|--|----------------|---|
| 57(pt)<br>(V) | Criminal damage to a building other than a dwelling endangering life.<br><i>Explosive Substances Act 1883 Sec 2(pt).</i><br><i>Explosive Substances Act 1883 Sec 3(pt).</i><br><i>Criminal Damage Act 1971 Sec 1(2).</i> | 149(pt)<br>(V) | Other criminal damage to a building other than a dwelling.<br><i>Explosive Substances Act 1883 Sec 2(pt).</i><br><i>Explosive Substances Act 1883 Sec 3(pt).</i><br><i>Criminal Damage Act 1971 Sec 1(1).</i> |
| 58(pt)<br>(V) | Other criminal damage to a building other than a dwelling.<br><i>Explosive Substances Act 1883 Sec 2(pt).</i><br><i>Explosive Substances Act 1883 Sec 3(pt).</i><br><i>Criminal Damage Act 1971 Sec 1(1).</i>            |                |   |

### CLARIFICATION: NON-PERMANENT CRIMINAL DAMAGE

If the damage is easily rectified and non-permanent, i.e. it can be cleaned off or removed at no cost and with little effort, record an incident and deal with in accordance with NSIR but do not record a crime.

For example see class 58A Counting Rules page 1 of 3.

### DEFINITION - LEGAL: CAUSING EXPLOSIONS - WITH INTENT TO ENDANGER LIFE OR PROPERTY

#### EXPLOSIVE SUBSTANCES ACT 1883 SECS 2 & 3

- (2) "A person who in the United Kingdom or (being a citizen of the United Kingdom and Colonies) in the Republic of Ireland unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, ...".
- (3) "A person who in the United Kingdom or a dependency or (being a citizen of the United Kingdom and Colonies) elsewhere unlawfully and maliciously –
- (a) does any act with intent to cause, or conspires to cause, by an explosive substance an explosion of a nature likely to endanger life, or cause serious injury to property, whether in the United Kingdom or the Republic of Ireland or
  - (b) makes or has in his possession or under his control an explosive substance with intent by means thereof to endanger life, or cause serious injury to property, whether in the United Kingdom or the Republic of Ireland, or to enable any other person so to do, shall, whether any explosion does or does not take place, and whether any injury to person or property is actually caused or not, ...".

## **58B Criminal Damage to a Building other than a Dwelling Classification (2 of 2)**

### **DEFINITION - LEGAL: DESTROYING OR DAMAGING PROPERTY**

CRIMINAL DAMAGE ACT 1971 SEC 1(1&2)

- (1) "A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged ...".
- (2) "A person who without lawful excuse destroys or damages any property, whether belonging to himself or another-
  - (a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and
  - (b) intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be therefore endangered; ...".

## 58B Criminal Damage to a Building other than a Dwelling

### Counting Rules (1 of 2)

**GENERAL RULE:** ONE CRIME FOR EACH OWNER OF PROPERTY DAMAGED.

**EXAMPLE 1:** A person damages five units on an industrial estate.

*Five crimes (class 58B).*

**EXAMPLE 2:** Five of a party of hotel guests acting together are reported to the police for vandalising their hotel rooms.

*One crime (class 58B).*

#### APPLICATION OF THE RULE

**If a building is damaged more than once, count crimes separately only for each offender acting independently.**

Example 1: A warehouse is damaged by a group of five people.

*One crime (class 58B).*

Example 2: Five individual people damage a warehouse on five separate occasions.

*Five crimes (class 58B).*

**Sites under Common Ownership: Groups of building on the same site and belonging to the same owner should be counted as one crime if damaged.**

Example 1: Three of a company's buildings on the same site are vandalised by a group of four people.

*One crime (class 58B).*

**Shops, Offices, etc: Units within the same building should be counted separately if damaged. The definition of a separate shop unit is the same as for theft from a shop (class 46); and the general definition of separate commercial units is consistent with burglary in a building other than a dwelling (class 30A).**

Example 1: A person vandalises the office units of three separate companies in the same block.

*Three crimes (class 58B).*

Example 2: A group of offenders daub slogans on the windows of five branches of the same chain.

*Five crimes (class 58B).*

## 58B Criminal Damage to a Building other than a Dwelling

### Counting Rules (2 of 2)

**Whether to record: see also General Rules Section A.**

Example 1: An anonymous caller reports persons spraying graffiti on the wall of a non-domestic building.

- (i) Follow up enquiries by the police fail to locate the owner and the police find no grounds to suggest recently sprayed graffiti.

*Register the incident and deal with in accordance with NSIR.*

- (ii) The police find recently sprayed racist or religious graffiti, with no one present at the scene but subsequent enquiries fail to locate the owner of the building.

*Register a crime related incident report but do not record the crime.*

- (iii) The owner of the building confirms the damage, but does not want the matter taken further.

*One crime of criminal damage (class 58B).*

**Finished Incident: see also General Rules Section E.**

Example 1: An offender admits to the police that he has damaged the same warehouse on four separate occasions.

- (i) Each incident separately reported.

*Four crimes (class 58B).*

- (ii) Only the first one previously reported.

*Two crimes (class 58B).*

- (iii) None of the incidents previously reported.

*One crime (class 58B).*

**Principal Crime: see also General Rules Section F & Annex C.**

Example 1: Criminal damage occurs in the course of an aggravated burglary in a building other than a dwelling.

*One crime of aggravated burglary business and community (class 31A).*

## 58C Criminal Damage to a Vehicle Classification (1 of 2)

57(pt)  
(V) Criminal damage to a vehicle endangering life.  
*Explosive Substances Act 1883 Sec 2(pt).*  
*Explosive Substances Act 1883 Sec 3(pt).*  
*Criminal Damage Act 1971 Sec 1(2).*

149(pt)  
(V) Other criminal damage to a vehicle.  
*Explosive Substances Act 1883 Sec 2(pt).*  
*Explosive Substances Act 1883 Sec 3(pt).*  
*Criminal Damage Act 1971 Sec 1(1).*

58(pt)  
(V) Other criminal damage to a vehicle.  
*Explosive Substances Act 1883 Sec 2(pt).*  
*Explosive Substances Act 1883 Sec 3(pt).*  
*Criminal Damage Act 1971 Sec 1(1).*

### CLARIFICATION: NON-PERMANENT CRIMINAL DAMAGE

If the damage is easily rectified and non-permanent, i.e. it can be cleaned off or removed at no cost and with little effort, record an incident and deal with in accordance with NSIR but do not record a crime.

For examples see class 58A Counting Rules page 1 of 3.

### DEFINITION - LEGAL: CAUSING EXPLOSIONS - WITH INTENT, TO ENDANGER LIFE OR PROPERTY

#### EXPLOSIVE SUBSTANCES ACT 1883 SECS 2 & 3

- (2) "A person who in the United Kingdom or (being a citizen of the United Kingdom and Colonies) in the Republic of Ireland unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, ...".
- (3) "A person who in the United Kingdom or a dependency or (being a citizen of the United Kingdom and Colonies) elsewhere unlawfully and maliciously-
- (a) does any act with intent to cause, or conspires to cause, by an explosive substance an explosion of a nature likely to endanger life, or cause serious injury to property, whether in the United Kingdom or the Republic of Ireland or
  - (b) makes or has in his possession or under his control an explosive substance with intent by means thereof to endanger life, or cause serious injury to property, whether in the United Kingdom or the Republic of Ireland, or to enable any other person so to do, shall, whether any explosion does or does not take place, and whether any injury to person or property is actually caused or not, ...".

## **58C Criminal Damage to a Vehicle Classification (2 of 2)**

### **DEFINITION - LEGAL: DESTROYING OR DAMAGING PROPERTY**

#### CRIMINAL DAMAGE ACT 1971 SEC 1(P.T)

- (1) "A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged ...".
- (2) "A person who without lawful excuse destroys or damages any property, whether belonging to himself or another-
  - (a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and
  - (b) intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be therefore endangered; ...".

## 58C Criminal Damage to a Vehicle Counting Rules (1 of 2)

**GENERAL RULE:** ONE CRIME FOR EACH OWNER OF VEHICLE DAMAGED.

**EXAMPLE 1:** Two motor vehicles owned by separate persons were damaged by each party on a tit for tat basis.

*Two crimes (class 58C).*

**EXAMPLE 2:** Three cars belonging to the same car company are damaged on the forecourt of the car showroom.

*One crime (class 58C).*

**EXAMPLE 3:** Three separately owned cars parked in a street are damaged.

*Three crimes (class 58C).*

**EXAMPLE 4:** A car door has been scratched or a car door lock has been super glued but no apparent intent to enter vehicle.

*One crime of criminal damage (class 58C).*

**EXAMPLE 5:** A car has its front windscreen smashed. There are no grounds for believing this was an attempt to get into the vehicle as the windscreen has been made of toughened glass and none of the side windows had been broken.

*One crime of criminal damage (class 58C).*

**APPLICATION OF THE RULE (See also vehicle interference counting rules regarding damage to doors.)**

**Non-permanent damage: If the damage is easily rectified and non-permanent, i.e. it can be cleaned off or removed at no cost and with little effort, record an incident and deal with in accordance with NSIR but do not record a crime.**

Example 1: A liquid is thrown at a car whilst parked in a driveway.

(i) The liquid is easily washed off.

*Register an incident and deal with in accordance with NSIR.*

(ii) The liquid stains the car and the stain needs to be removed and there is cost incurred.

*One crime of criminal damage to a vehicle (class 58C).*

Example 2: The owner of a motor vehicle finds graffiti on the boot of his car. He is able to remove this after five minutes with T cut and a cloth that he had in his garage.

*One crime of criminal damage to a vehicle (class 58C). This is not little effort.*

### **Abolition of the Collective Protection Rule**

**The Collective Protection rule has been abolished. Therefore, damage to several vehicles in a secure compound should be counted as one crime per separately owned vehicle (rather than one crime in total). The practical application of this is whether the owner of the secure compound will make good any damage/losses incurred by each individual owner of the vehicles. If they will not do this then each individual vehicle owner bears the loss/damage and so there will be a number of separate crime records.**

Example 1: Offenders break into a secure compound and smash the wing mirrors on six privately owned vehicles parked there. The owner of the compound refuses to pay for the damage.

*Six crimes of criminal damage to a vehicle (class 58C).*

## 58C Criminal Damage to a Vehicle Counting Rules (2 of 2)

**Principal Crime: see also General Rules Section F & Annex C.**

Example 1: A company reports having a warehouse burgled and several of its vans damaged.

- (i) The vans were in the warehouse.

*One crime of burglary - business and community (class 30C).*

- (ii) The vans were parked outside.

*One crime of burglary – business and community (class 30C).*

## 58D Other Criminal Damage Classification (1 of 2)

57(pt)  
(V) Criminal damage endangering life, other.  
*Explosive Substance Act 1883 Sec 2(pt).*  
*Explosive Substance Act 1883 Sec 3(pt).*  
*Criminal Damage Act 1971 Sec 1(2).*  
*Malicious Damage Act 1861 Secs 35,36,47,48.*

58(pt)  
(V) Other criminal damage, other.  
*Explosive Substance Act 1883 Sec 2(pt),3(pt).*  
*Criminal Damage Act 1971 Sec 1(1).*  
*Malicious Damage Act 1861 Secs 35,36,47,48.*  
*Ancient Monuments & Archaeological Areas Act 1979 Sec 28(1).*

149(pt)  
(V) Other criminal damage, other.  
*Explosive Substance Act 1883 Sec 2(pt),3(pt).*  
*Criminal Damage Act 1971 Sec 1(1).*  
*Malicious Damage Act 1861 Secs 35, 36, 47,48.*  
*Ancient Monuments & Archaeological Areas Act 1979 Sec 28(1).*

### CLARIFICATION - JOINTLY OWNED PROPERTY

Any damage caused to jointly owned property by one of the joint owners should be recorded as a crime.

For examples see class 58D Counting Rules page 1 of 1.

### CLARIFICATION - NON-PERMANENT CRIMINAL DAMAGE

If the damage is easily rectified and non-permanent, i.e. it can be cleaned off or removed at no cost and with little effort, record an incident and deal with in accordance with NSIR but do not record a crime.

For examples see class 58A Counting Rules page 1 of 3.

### COVERAGE - LEGAL: MISCELLANEOUS CRIMINAL DAMAGE

MALICIOUS DAMAGE ACT 1861 SECS 35, 36, 47 & 48

35. Placing wood, etc., on railway, taking up rails etc., turning points, showing or hiding signals etc., with intent to obstruct or overthrow any engine, etc.
36. Obstructing engines or carriages on railways.
47. Exhibiting false signals (ships, vessels or boats).
48. Removing buoys, etc.

## 58D Other Criminal Damage Classification (2 of 2)

### **DEFINITION - LEGAL: CAUSING EXPLOSIONS - WITH INTENT TO ENDANGER LIFE OR PROPERTY**

#### EXPLOSIVE SUBSTANCES ACT 1883 SECS 2 & 3

- (2) "A person who in the United Kingdom or (being a citizen of the United Kingdom and Colonies) in the Republic of Ireland unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, ...".
- (3) "A person who in the United Kingdom or a dependency or (being a citizen of the United Kingdom and Colonies) elsewhere unlawfully and maliciously-
  - (a) does any act with intent to cause, or conspires to cause, by an explosive substance an explosion of a nature likely to endanger life, or cause serious injury to property, whether in the United Kingdom or the Republic of Ireland or
  - (b) makes or has in his possession or under his control an explosive substance with intent by means thereof to endanger life, or cause serious injury to property, whether in the United Kingdom or the Republic of Ireland, or to enable any other person so to do, shall, whether any explosion does or does not take place, and whether any injury to person or property is actually caused or not, ...".

### **DEFINITION - LEGAL: DESTROYING OR DAMAGING PROPERTY**

#### CRIMINAL DAMAGE ACT 1971 SEC 1(PT)

- (1) "A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged ...".
- (2) "A person who without lawful excuse destroys or damages any property, whether belonging to himself or another-
  - (a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and
  - (b) intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be therefore endangered; ...".

## 58D Other Criminal Damage Counting Rules (1 of 1)

**GENERAL RULE:** ONE CRIME FOR EACH OWNER OF PROPERTY DAMAGED.

**EXAMPLE 1:** A person damages three statues, belonging to the same corporation, in a city centre.

*One crime (class 58D).*

**EXAMPLE 2:** A person pours paint into a post box.

*One crime (class 58D).*

**EXAMPLE 3:** A woman reports to police that her husband has damaged their jointly owned television during a domestic argument.

*One crime (class 58D).*

**EXAMPLE 4:** A man temporarily estranged from his partner returns to their home and damages property owned by his partner, as well as some property owned by a third party staying in the home.

*Two crimes (class 58D).*

**EXAMPLE 5:** A company report to police that overnight vandals have painted graffiti on four of their phone boxes.

*One crime (class 58D) unless there is evidence that the crimes were committed separately by different offenders.*

### **Whether to record: see also General Rules Section A.**

Example 1: An anonymous caller reports a bus shelter being vandalised.

- (i) The police find the shelter recently damaged and report it to the bus company who have already examined it and believe it to have been accidentally caused.

*Register the incident and deal with in accordance with NSIR.*

- (ii) The police find no grounds to suggest recent damage.

*Register the incident and deal with in accordance with NSIR.*

- (iii) The bus company (or whoever owns the shelter) confirms the damage, but does not want the matter taken further.

*One crime of criminal damage (class 58D).*

## 58J Racially or Religiously Aggravated Criminal Damage Classification (1 of 1)

58/4 Racially or religiously aggravated criminal  
(V) damage.  
*Crime & Disorder Act 1998 Sec 30(1)*  
and (2) (as added to by *Anti-terrorism,*  
*Crime & Security Act 2001 Sec 39*).

### DEFINITION - LEGAL: DESTROYING OR DAMAGING PROPERTY

CRIMINAL DAMAGE ACT 1971 SEC 1(1,2)

See box on class 58A classification page 1 of 1.

### DEFINITION - LEGAL: RACIALLY OR RELIGIOUSLY AGGRAVATED

CRIME & DISORDER ACT 1998 SEC 28  
(as added to by *Anti-terrorism, Crime and Security Act 2001 Sec 39*)

- (1) "An offence is racially or religiously aggravated for the purposes of sections 29 to 32 if-
  - (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group; or
  - (b) the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of those groups.
- (2) In subsection (1)(a) above-  
"membership", in relation to a racial or religious group, includes association with members of those groups; "presumed" means presumed by the offender.
- (3) It is immaterial for the purposes of paragraph (a) or (b) of subsection (1) above whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in that paragraph.
- (4) In this section "racial group" means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.
- (5) In this section "religious group" means a group of persons defined by reference to religious belief or lack of religious belief."

### DEFINITION - LEGAL: RACIALLY OR RELIGIOUSLY AGGRAVATED CRIMINAL DAMAGE

CRIME AND DISORDER ACT 1998 SEC 30  
(as added to by *Anti-terrorism, Crime and Security Act 2001 Sec 39*)

- (1) "A person is guilty of an offence under this section if he commits an offence under section 1(1) of the Criminal Damage Act 1971 (destroying or damaging property belonging to another) which is racially or religiously aggravated for the purposes of this section ...".

### RECORDING PRACTICE: RACIALLY OR RELIGIOUSLY AGGRAVATED CRIMINAL DAMAGE

A crime of criminal damage should be recorded as racially or religiously aggravated if evidence of racial or religious aggravation (under section 28) exists at the time of recording.

## 58J Racially or Religiously Aggravated Criminal Damage Counting Rules (1 of 2)

**GENERAL RULE:** ONE CRIME FOR EACH HOUSEHOLD WHOSE DWELLING IS DAMAGED.

**EXAMPLE 1:** Vandals inflict racially or religiously aggravated damage to three flats in a block.

*Three crimes (class 58J).*

**GENERAL RULE:** ONE CRIME FOR EACH OWNER OF PROPERTY DAMAGED.

**GENERAL RULE:** ONE CRIME FOR EACH OWNER OF VEHICLE DAMAGED.

### APPLICATION OF THE RULE: DWELLINGS

**If the dwelling is damaged by more than one person, count separately for each offender acting independently.**

**Example 1:** A person reports to the police for the first time, his house being vandalised on three occasions by the same group of children shouting racial or religious abuse.

*One crime (class 58J).*

**Criminal damage to a dwelling should be classified as burglary in a dwelling if, on the balance of probabilities, attempted burglary is considered to be the more likely offence than the criminal damage.**

### APPLICATION OF THE RULE: OTHER BUILDINGS

**If a building is damaged more than once, count crimes separately only for each offender acting independently.**

**Shops, Offices, etc:** Units within the same building should be counted separately if damaged. The definition of a separate shop unit is the same as for theft from a shop (class 46); and the general definition of separate commercial units is consistent with burglary in a building other than a dwelling (class 30A).

**Sites under Common Ownership:** Groups of building on the same site and belonging to the same owner should be counted as one crime if damaged.

## 58J Racially or Religiously Aggravated Criminal Damage Counting Rules (2 of 2)

**Finished Incident: see also General Rules Section E.**

Example 1: An offender admits to the police that he has inflicted racially or religiously aggravated damage on the same warehouse on four separate occasions.

- (i) Each incident separately reported.

*Four crimes (class 58J).*

- (ii) Only the first one previously reported.

*Two crimes (class 58J).*

- (iii) None of the incidents previously reported.

*One crime (class 58J).*

**Principal Crime: see also General Rules Section F & Annex C.**

**Whether to record: see also General Rules Section A.**

Example 1: An anonymous caller reports recently sprayed racist or religious graffiti on the wall on a non-domestic building.

- (i) Follow up enquiries by the police fail to locate the owner and the police find no grounds to suggest recently sprayed graffiti.

*Register the incident and deal with in accordance with NSIR.*

- (ii) The police find recently sprayed graffiti but subsequent enquiries fail to locate the owner of the building.

*Classify as a crime related incident but do not record the crime.*

- (iii) The owner of the building confirms the damage, but does not want the matter taken further.

*One crime of criminal damage (class 58J).*

<b>Maximum Sentence - Arson and Criminal Damage</b>				
	<b>Life</b>	<b>14 years</b>	<b>6 months</b>	
	56/1	58/4	149	
	56/2			
	57*			
	58*			
* Maximum sentence varies depending on which Act is used				