

The reform of
treasuretrove
arrangements in Scotland



**THE REFORM OF TREASURE TROVE
ARRANGEMENTS IN SCOTLAND**

The Scottish Executive's Response to the Normand Review

1 October 2003

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1. SUMMARY

1. In November 2002 the then Queen's and Lord Treasurer's Remembrancer, Andrew Normand, was asked to carry out a review of the Treasure Trove arrangements in Scotland. His report, "Review of Treasure Trove Arrangements in Scotland" was presented to the Scottish Executive in April 2003. This document sets out the Scottish Executive's response to the Normand Review and seeks further comments on a number of the recommendations that were made in that report.

2. The Scottish Executive accepts the majority of the 29 recommendations in the Normand review. These include:

- A clear statement of the Scottish Executive's policy on Treasure Trove;
- Agreement to the drawing up of a Code of Practice;
- A commitment to produce new guidance material;
- Local advice on Treasure Trove issues to be available from the new regional museum development offices network;
- Greater recognition for finders of Treasure Trove;
- A new fast track procedure for normal allocation cases;
- Improved audit arrangements for Treasure Trove finds; and
- A new requirement for an annual report to be produced on Treasure Trove and to be presented to the Scottish Parliament.

3. The Scottish Executive is minded to accept a number of other proposals in the Normand Review, but would welcome further views on this before taking a final decision. These include:

- The need for a new statutory basis for Treasure Trove;
- An opportunity for finders to challenge the valuation;
- The merger of the Treasure Trove Advisory Panel with the Finds Disposal Panel, and the size of the new panel if this merger takes place; and
- Time targets for the Treasure Trove process.

4. Views are invited on these issues by 6 February 2004.

INTRODUCTION

5. In 1999, the Scottish Executive Education Department published two information booklets on Treasure Trove in Scotland. The Executive also gave a commitment at the time to review the criteria for allocation and the allocation process in the light of experience of their operation following the publication of these two booklets. In reviewing the position in 2002, it became clear to the Executive that there would be merit in a more wide-ranging review so that concerns that were emerging about various aspects of the Treasure Trove arrangements in Scotland could be addressed. It would also provide an opportunity to consider whether the system in other countries, and in particular the revised arrangements in England and Wales, included best practice that could be adopted in Scotland.

6. In November 2002, the then Queen's and Lord Treasurer's Remembrancer, Andrew Normand, was therefore asked to carry out a review of the Treasure Trove arrangements in Scotland. The following terms of reference were agreed:

To review the arrangements for dealing with finds of portable antiquities in Scotland under the law relating to Treasure Trove and *bona vacantia*, including in particular the criteria and process for claiming and allocating such finds and related questions concerning reorganisation of responsibilities for this work.

7. Andrew Normand was assisted in the review by an Advisory Group and benefited from the views that were expressed at a seminar held in November 2002 on "Treasure Trove: Problems and Potential" organised by the Society of Antiquaries of Scotland. A review of available documentary material and consultation with those parties with an interest in the Treasure Trove arrangements were also undertaken.

8. Andrew Normand's report, "Review of Treasure Trove Arrangements in Scotland", was presented to the Scottish Executive in April 2003. This report is being published along with this document. The report sets out in detail the current arrangements for Treasure Trove in Scotland and they are not repeated in this document.

9. There are 29 recommendations in the Review. The Executive accepts the majority of these recommendations. There are a number of recommendations on which the Scottish Executive would welcome further views. There are also a number of additional changes to the Treasure Trove arrangements that the Scottish Executive intends to introduce.

10. The following table sets out the recommendations and the Scottish Executive's response to them and other proposed changes.

**NORMAND REVIEW
RECOMMENDATION**

SCOTTISH EXECUTIVE RESPONSE

GENERAL

<p>1. I recommend a clear and authoritative statement of policy, affirming the Scottish Executive's commitment to the preservation and protection of Scotland's portable heritage and public access to it. (<i>Paragraph 6.2</i>)</p>	<p>The Treasure Trove system forms an important part of the Scottish Executive's approach to the preservation of our cultural heritage. The Treasure Trove system will be used to safeguard Scotland's heritage of portable antiquities and archaeological objects by preserving significant claimed objects in the public domain. In accordance with the Executive's policy of increasing access to, and understanding of, our cultural heritage, claimed objects will be held by suitable institutions (usually the National Museums for Scotland or a local museum) for the benefit of the Scottish public. The presumption will be that display worthy objects will be placed on exhibition and, where appropriate, will be made available on loan to other museums.</p>
<p>2. I recommend that action is taken to ensure that the development of the arrangements for Treasure Trove is fully co-ordinated with, and those arrangements are consistent with, the new museums strategy and the related Action Plan that is proposed, once that issues from the Scottish Executive. (<i>Paragraph 6.5</i>)</p>	<p>Agreed. The Minister for Tourism, Culture and Sport announced on 22 August an Action Framework for Museums in Scotland. As part of this, a network of regional museum development officers will be appointed. The Executive proposes that these officers would also provide local advice on the Treasure Trove system.</p>
<p>3. I recommend that a Code of Practice should be produced covering all aspects of the Treasure Trove system in Scotland. (<i>Paragraph 6.6</i>)</p>	<p>Agreed. A comprehensive and authoritative Code of Practice should be drawn up by the TTAP to reflect the Executive's response to the recommendations and the best practice identified in the Normand Review.</p>

FINDING AND REPORTING

<p>4. I recommend the creation of a clear statutory reporting requirement to apply to all finders, whether chance finders, metal detectorists or archaeologists in the course of any fieldwork/excavation. There should be a time requirement for reporting and offence provisions covering both failure to report and possession of unreported finds. Removal of finds from the Scottish jurisdiction without reporting should be prohibited by law, with penal sanction. (<i>Paragraph 6.12</i>)</p>	<p>The Executive would welcome further views on this recommendation. A new statutory basis would clarify any uncertainties of the current system. The Treasure Act 1996 and the Dealing in Cultural Objects (Offences) Bill achieved this to a significant extent in England, Wales and Northern Ireland. The publication of the Code of Practice, the appointment of regional museum development officers and new guidance</p>
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	material on Treasure Trove could significantly improve matters in Scotland. It would prove difficult to find space for a Bill in the current Scottish Parliamentary session (i.e. before 2007).
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CLAIMING AND DISCLAIMING

5. I recommend that the criteria for claiming should be defined and articulated as clearly as possible and they should be publicised. They should relate to the “significance” of a find. The guidance in the 1999 information booklet on <i>Guidelines for Fieldworkers</i> , should be retained meantime, informed as appropriate by the National Audit definitions. Consideration should be given to an expert consultation exercise to devise more specific criteria. (<i>Paragraphs 6.18 and 6.19</i>)	Agreed. The Treasure Trove Advisory Panel should review the current criteria used and prepare guidance material setting out the criteria for claiming.
6. I recommend that the claiming procedure should also be more clearly stated. (<i>Paragraph 6.20</i>)	Agreed. This will be set out in the new Code of Practice on Treasure Trove.
7. I recommend that the Treasure Trove Advisory Panel should only be consulted exceptionally about the claiming of finds in difficult or unusual cases and that consideration should be given to producing appropriate internal guidance. (<i>Paragraph 6.24</i>)	Agreed. The network of regional museum development officers will provide a source of local advice on the claiming process which should minimise the numbers of cases on which the Treasure Trove Advisory Panel should be consulted.
8. I recommend that the existing delegation to the Secretariat of authority to disclaim finds should be maintained, it continuing to be open to the Secretariat to consult the Q<R’s advisers (the Panel and the Q<R’s solicitor) about disclaiming, as necessary. (<i>Paragraph 6.27</i>)	Agreed.
9. I recommend that there should be appropriate consultation with and information to local museum(s) before and after a find is disclaimed. Finders should be kept fully informed throughout the process, including if possible being provided with information about the object. There should also be appropriate acknowledgement of their reporting of the object. (<i>Paragraph 6.27</i>)	Agreed. Proper recognition should be given to the finder in addition to any monetary award.

ALLOCATION

<p>10. I recommend that there should be standard, basic allocation criteria and a fast-track procedure for normal cases, with more detailed criteria and more complex procedure only necessary for the smaller number of contested cases. (<i>Paragraph 6.29</i> and see <i>Paragraphs 6.30</i> and <i>6.46-6.47</i> further as to criteria and procedure.)</p>	<p>Agreed. The aim should be to reduce the time taken to process all cases, but particularly those that are uncontested. The new procedures will be set out in the new guidance material on Treasure Trove.</p>
<p>11. I recommend that the approach to the allocation of objects, as between the national museum and local museums or between separate local museums, should be consistent with the policy and strategic approach to the organisation and functions of museums in Scotland. (<i>Paragraph 6.35</i>)</p>	<p>The NMS was established and is funded to fulfil a national function. Finds of international or national importance should be kept intact and offered to the NMS in the first instance. In other cases, the presumption will be that the find will be offered to the local museum. As part of its national role, the NMS will look for opportunities to work collaboratively with local museums, providing support and advice and loans of objects for exhibitions.</p>
<p>12. I recommend that wherever possible consideration should be give to the use of joint ownership or loan arrangements to secure resolution of otherwise contested allocation. (<i>Paragraph 6.31</i>)</p>	<p>Agreed. In addition, recently concordats have been drafted in two parts of the country to avoid competing applications. The Executive would encourage more concordats to be concluded with a view to achieving national coverage in due course.</p>
<p>13. I recommend the retention of existing criteria relating to “special” circumstances, such as special conservation requirements, preservation of integrity of assemblages and research. (<i>Paragraph 6.32</i>)</p>	<p>Agreed.</p>
<p>14. I recommend retention of the current arrangements for review and appeal. (<i>Paragraph 6.49</i>)</p>	<p>Agreed.</p>
<p>15. I recommend that consideration should be given to all finds from archaeological excavations being dealt with by a single Panel. (<i>Paragraph 6.50</i>)</p>	<p>Agreed. See recommendation 22.</p>
<p>16. I recommend that consideration be given to the introduction of follow-up or audit arrangements, specifically relating to TT finds. (<i>Paragraph 6.51</i>)</p>	<p>Agreed. The Treasure Trove Advisory Panel will keep a register of allocations and those institutions acquiring Treasure Trove finds should be asked to inform them of any changes in the ownership of the find or if the item is to be withdrawn from exhibition to the public.</p>

VALUATION

<p>17. I recommend that the TTAP should make greater use of outside experts and consideration should be given to establishing a list of approved experts who should be consulted on values. <i>(Paragraph 6.53)</i></p>	<p>It will be for the TTAP to consider whether greater use of outside experts should be made, while bearing in mind the low commercial value of many finds and the limited expertise available outwith the TTAP.</p>
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REWARD

<p>18. I recommend that rewards should continue to be based on market value. <i>(Paragraph 6.54)</i></p>	<p>Agreed.</p>
<p>19. I recommend the retention and clarification of arrangements for the abatement or non-payment of rewards. Finders should continue to be made aware of the option to decline a reward. <i>(Paragraphs 6.55 and 6.56)</i></p>	<p>Agreed.</p>
<p>20. I recommend that the process of valuation should be more transparent and finders who are eligible to receive a reward should have greater opportunity than at present to be informed of the indicative valuation and to challenge it. <i>(Paragraph 6.58)</i></p>	<p>The Executive is minded to agree to the process set out in the Normand Review in paragraph 6.58 but would welcome further views. Finders would be advised by the TTAP secretariat of the provisional valuation in time to allow them to make representations to the TTAP. Any challenge would need to be supported by relevant evidence to support the challenge.</p>
<p>21. I recommend that the system should provide other forms of reward or recognition than financial reward. <i>(Paragraph 6.59)</i></p>	<p>Agreed. The Executive supports the view that finders should receive proper recognition. It supports the proposal of the Chair of the TTAP that finders should receive a certificate from the Q&LTR giving relevant details about the find.</p>

ORGANISATIONAL ARRANGEMENTS

<p>22. I recommend the retention of the TTAP, a clear restatement of its responsibilities and that consideration should be given to merging the FDP with the TTAP. <i>(Paragraphs 6.60 and 6.61)</i></p>	<p>The role and responsibilities of the TTAP will be set out in the revised guidance material on Treasure Trove. The Executive sees some merit in the recommendation that the TTAP and FDP should be merged, but there are issues about Historic Scotland’s current role in relation to the FDP that are not addressed in the Normand Report, such as the future provision of storage grants for artefacts. The Executive would therefore welcome further views on this proposal.</p>
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<p>23. I recommend that the Panel should sit more frequently than at present – say six times a year. (<i>Paragraph 6.62</i>)</p>	<p>Not accepted. The Executive believes that the introduction of the fast track procedure should reduce the workload of the TTAP. However, if the TTAP and FDP were merged the frequency of meetings would be reviewed.</p>
<p>24. I recommend that the Panel should be chaired by an independent chair and should have at least one independent “lay” member, but that otherwise its members should be representatives of the main relevant constituencies. The number of members should be increased. The Chairperson should be remunerated. (<i>Paragraph 6.63</i>)</p>	<p>The Executive agrees that if the TTAP and FDP are merged there should be an increased membership. The Executive would welcome further views on the size of such a new Panel. The Executive agrees with the proposed composition of the Panel. The Executive is not persuaded of the need to alter the remuneration of the Chair of the Panel.</p>
<p>25. I recommend that the position of the TTAP Secretariat be clarified and that the wider role that the Secretariat plays in the system should be recognised by re-badging it as the “TT Secretariat” and appointing one of its staff as “TT Registrar”. (<i>Paragraphs 6.68 and 6.69</i>)</p>	<p>Agreed. The revised guidance will set out the role of the TTAP secretariat. It will also set out the arrangements for servicing the TT secretariat.</p>
<p>26. I recommend the appointment of Liaison Officers or Co-ordinators to be located around Scotland. (<i>Paragraph 6.70</i>)</p>	<p>Agreed. See recommendation 2</p>
<p>27. I recommend that time targets should be set for the process in Scotland. (<i>Paragraph 6.73</i>)</p>	<p>Agreed. The Executive would welcome views on appropriate targets.</p>

PUBLICITY

<p>28. I recommend that an annual report should be produced. (<i>Paragraph 6.75</i>)</p>	<p>Agreed. The Q&LTR will present this to the Scottish Parliament and it will be available on the Scottish Executive website.</p>
<p>29. I recommend that representative bodies, such as the NCMD should be encouraged to give more publicity to the Scottish TT system and to re-draft/expand their conduct codes to cover Scottish circumstances specifically.</p>	<p>Agreed. The Executive will work with the NCMD to achieve this.</p>

NEXT STEPS

11. Copies of this paper and of the Normand Review will be sent to all those parties who were consulted by Andrew Normand. As suggested by Mr Normand, this document will also be brought to the attention of archaeological bodies based outside Scotland. This document and the Normand Review are available on the Scottish Executive website (www.scotland.gov.uk).

12. The Executive would welcome views by 6 February 2004. Comments should be sent to:

William B Fox
Scottish Executive
Sport, Arts and Culture Division
1A Victoria Quay
Edinburgh
EH6 6QQ

13. It would help if those responding could explain who they are and, where relevant, whom they represent. We would also be grateful to hear if there are any other agencies/individuals/organisations who should be directly consulted on this issue. All responses will be made public unless specified as confidential.

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