

Revising the definition of treasure in the Treasure Act 1996 and revising the related codes of practice

Response Form

You can reply to the consultation by downloading and completing this response form and sending it to treasure@culture.gov.uk. You do not have to reply to all parts of the consultation, you can reply only to the parts that interest you.

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Instructions

Open and save the form, including your name or organisation in the title. Please click on the grey area in each box in order to type in your answer. There is a 1250 character limit (including spaces) for responses on the form. Please email treasure@culture.gov.uk if you have any difficulties with the form.

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I have read and understood the disclosure of responses statement and I agree with its terms

YES

NO

Introduction

The Treasure Act 1996 (The Act) replaced the common law of treasure trove in England, Wales and Northern Ireland in 1997 (Scotland has its own law of treasure trove). Under the Act, finds that are declared treasure by the coroner belong to the Crown. The Secretary of State for Digital, Culture, Media and Sport is responsible for the treasure process and for the preparation and publication of a Code of Practice associated with the Act. Northern Ireland has its own Code, which reflects its different legislation governing archaeological digging.

When a find is declared treasure it is offered to a local or national museum. If a museum expresses an interest in acquiring the find, the finder and landowner and/or occupier of the site become eligible for a share of a reward matching the market value of the find which is paid by the museum. This value is recommended to the Secretary of State by a committee of experts, the Treasure Valuation Committee (TVC). This recommendation can be reviewed by the Secretary of State.

This consultation deals with proposed changes to the Treasure Act 1996 ('the Act'), its associated Code of Practice ('the Code') and the process for finds that may be treasure following a review of the treasure process. The aim of the Act is to ensure that important archaeological items are preserved in public collections.

Aim

The aim of the proposed changes are to improve the treasure process making it more efficient and focused on the aim of preserving significant finds for public collections, and more rational and easier to understand. We are also keen to ensure that there is a sustainable future for the treasure process. The aim of the consultation is to gather views on the proposed changes, and obtain information that will help us to assess the impact of these changes on groups and individuals. We also ask for opinions, suggestions and evidence which will support the development of future policies on the Act, the Code and the treasure process.

Scope of Consultation

The scope of the consultation is divided into five parts. You may wish to complete the whole survey or just the parts most relevant to you.

The five parts are:

- **Section 1: Changes to the Codes of Practice.** The Code has not been updated fully for nearly 20 years. We are proposing amendments which reflect current practice and changes to the treasure process which will make it more efficient. We are not asking specific questions in the consultation where the changes are purely administrative.
- **Section 2: Changes in the definition of treasure.** Under the Act the Secretary of State has the power to change the definition of treasure through secondary legislation. The proposed changes consulted on here are a static date for treasure, a definition based on the value of a find, and the extension of the definition of treasure to include single gold coins minted from AD43 to 1344 and base metal objects of Roman date, found together.
- **Section 3: Exemption of finds subject to Church of England legal controls.** The Act removed the condition that a find had to have been buried with an apparent intention by the owner to retrieve it, in order to be defined as treasure. This meant that finds that were subject to the Church of England's legal controls were also subject to the Act. During the passage of the Act, the Government undertook to address this issue. We are proposing that finds subject to the legal controls are exempted from the definition of treasure.
- **Section 4: Commencement of sections of the Coroners and Justice Act 2009 (The 2009 Act) Chapter 4 of the 2009 Act relates to treasure.** We propose to commence some provisions of the 2009 (although not the implementation of a central treasure process under a dedicated Coroner for Treasure) which will improve the treasure process. These would introduce an exemption from the coroner's duty to investigate, a duty on a person acquiring an article that might be treasure to report it and an extension of the time available to prosecute offences under the Act.
- **Section 5: The sustainability and long term future of the treasure process.** There has been an increase in the amount of annual treasure cases from below 100 in 1997 to over a thousand yearly since 2014. This success has put a strain on the resources available for the treasure process. We are asking for comments on some initial proposals for managing this problem, further suggestions, and also allowing space for general comments.

About You

Are you responding as a member of the public or on behalf of an organisation or interest group?

- Member of the public
- On behalf of an organisation
- On behalf of an interest group

What is the name and address of the organisation or interest group?

Name of Organisation	Historic England
Your Name	Sarah Poppy & Mark Harrison
Address Line 1	Cannon Bridge House, 25 Dowgate Hill,
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Country	England
Email Address	sarah.poppy@historicengland.org.uk

If you are responding on behalf of an organisation or interest group how many members do you have and how did you obtain the views of your members:

Historic England is an executive non-departmental public body sponsored by the Department for Digital, Culture, Media and Sport, and employs around 900 staff.

Views were obtained through discussions with colleagues across Historic England and through collating feedback on a draft consultation response. Historic England has also attended events run by The Archaeology Forum and Rescue.

We may wish to contact you in order to discuss your response in more detail.

If you are happy to be contacted, please provide your details below. If not, please move on to the next question.

Name	Sarah Poppy
Email Address	sarah.poppy@historicengland.org.uk

Section 1 - Revisions to the Codes

Questions 1 and 2 relate to Section G of the Codes and Paragraphs 43 to 46 of the Consultation Document.

When a find appears to meet the definition of treasure in the Act, the local coroner holds an inquest to decide if it is treasure. The find is also offered to a museum.

If the museum delays in expressing an interest in acquiring the find, this can lead to further delay in the treasure process and the coroner holding an unnecessary inquest

We propose to introduce a 28 day time limit for museums to express an interest with no answer being an expression of no interest

We propose to ask the coroner to consider delaying an inquest until the museum expresses an interest if the 28 day time limit has expired

Question 1

Do you agree that introducing a time limit for an expression of interest would help to speed up the treasure process?

Historic England welcome measures for making the treasure process more streamlined and be expedited more efficiently, but have no specific comments on this proposal.

Question 2

What do you think would be the impact of asking the coroner to delay an inquest until an expression of interest is made or the 28 day time limit has expired?

No comments.

Questions 3 and 4 relate Section H of the Codes, Paragraphs 63(3) and (4) E/W Code and 53(3) and (4) NI Code and Paragraph 47 and 48 of the Consultation Document

Sometimes museums have had to withdraw their interest at a late stage, because they didn't appreciate fully the possible value of a find. This means there is a waste in resources and a delay in returning the find to the finder.

We propose to ask museums to research the value of a find before expressing an interest

Question 3

Do you consider that the requirement for museums to research possible value before expressing an interest would reduce the waste of resources caused to the acquiring museum and to the British Museum, National Museum Northern Ireland and National Museum Wales who administer the treasure process?

Question 3

No comments.

Question 4

Do you consider that this suggestion is sufficient to reduce the waste of resources or do you think that there are other actions that would increase the efficiency of the process?

No comments.

Question 5 relates to Section H of the Codes, Paragraph 63(4) E/W Code, 53(4) NI Code and Paragraphs 49 – 55 of the Consultation Document

Under Section 6(3) of the Act, the Secretary of State can disclaim a find, which is then returned to the finder. The administrative procedure is outlined at Paragraphs 48 – 50 E/W and 39 – 41 NI.

At the moment finds that are part of a hoard cannot be disclaimed individually until after the inquest. Where a museum only wishes to acquire part of a hoard, this can cause unnecessary work and expense and a delay in returning the find to the finder.

Paragraph 63(4) E/W and 53(4) NI deal with the administrative procedure for disclaiming part of a hoard following an inquest.

To make the guidance clearer, we intend to add a paragraph to this section stating that where part of a hoard is disclaimed, the administrative procedure at Paragraphs 48 -50 E/W and 39-41NI will be followed

We also propose that the Treasure Secretariat tells the coroner that an inquest is necessary on only part of hoard, so that any finds not wanted by the museum could be returned to the finder at an early stage

Question 5

What effect would clarifying that the Paragraph 48 - 50 and 39 - 41 process will apply where a museum withdraws interest at any stage in the treasure process have?

We are concerned that this clarification will make it easier for a museum to acquire only part of a hoard, resulting in the splitting of archaeological archives and the consequent loss of future research potential. In our view, it would therefore be preferable for the treasure process to encourage museums to acquire full hoard assemblages.

Questions 6 and 7 relate to Paragraphs 67E/W and 56NI and Paragraphs 56 – 58 of the Consultation Document

Interested parties can submit their own evidence and valuations to the Treasure Valuation Committee

(TVC) when they are considering the value of any reward.

So that all evidence is considered together at an early stage, we propose to add to the Codes at this point a time limit of 28 days for interested parties to submit their evidence and valuations. This will run from the circulation of the provisional valuation.

Additionally, where the TVC confirm their original valuation at a second view, they will only consider a further view at their own discretion.

Question 6

What do you think the effect would be of having a time limit on the submission of evidence and comments?

No comments.

Question 7

What do you think would be the effect of having a general rule that the TVC will only consider a case twice (this can be increased at their discretion)?

No comments.

Question 8 relates to Paragraphs 67 E/W and 56 NI and Paragraphs 59 – 62 of the Consultation document

Figures provided by the Treasure Secretariat show that in 2015, nearly a third of treasure finds were valued at less than £115, the average cost of a provisional valuation.

We propose that the Treasure Secretariat screens finds in future, and that lower value finds are valued at first view, by the TVC. Interested parties would be able to submit their own evidence and valuations. This would save money and time in the treasure process

Question 8

What do you think the effect of screening lower value finds would be?

We have no specific comment on this proposal, but would observe that this general approach does not make allowance for consideration of the research value and significance of treasure items, merely their monetary value.

Questions 9 and 10 relate to Paragraph 70 E/W Code, Paragraph 59 NI Code and Paragraphs 63 - 66 of the Consultation document

Once the TVC's recommendation is accepted by the Secretary of State the finder and landowner and/or occupier are asked for their bank details. There is currently no time limit for the details to be provided. The Treasury Secretariat and DCMS are holding money from the backlog of cases where the interested parties have not provided details, which is not a good use of public money. In order to manage resources more efficiently we propose to introduce a six month time limit for interested parties to provide details. This six months would begin from the notification of the amount and the allocation of the reward

Question 9

Do you think that there are any disadvantages to only allowing six months for bank details to be submitted?

No comments.

Question 10

In those circumstances, would it be appropriate for any reward that cannot be paid to the desired recipient because they have not provided bank details to be returned to the acquiring museum?

No comments.

Questions 11 and 12 relate to Paragraph 70 E/W Code, Paragraph 59 NI Code and Paragraphs 67 - 73 of the Consultation document

The treasure process can be delayed where the landowner and/or occupier is not identified. The finder is responsible for reporting a find and providing information about the landowner and/or occupier. Circumstances may arise where the finder is unable to provide the information. For example, because they haven't recognised a find as possible treasure for a long period of time and are unable to recall where they made the find. If we take forward the proposal to extend to acquirers a duty to report a possible treasure object or coin to the coroner (See Paragraphs 121 - 133 of the Consultation document) the acquirer may well not know where the object or coin was found. We propose that where the landowner and/or occupier's details remain unknown the Treasure Secretariat or SCMS would retain the landowner and/or occupier's share of the reward for 12 months before it would be returned to the museum.

Question 11

Do you see any disadvantages in the suggestion that in circumstances where a landowner and or occupier cannot be identified, the reward money payable to the landowner and or occupier would be retained for 12 months and then returned to the museum?

No comments

Question 12

In those circumstances, would it be appropriate for any reward that cannot be paid to the desired recipient because they cannot be identified to be returned to the acquiring museum?

No comments

Questions 13 and 14 relate to Section J Rewards, Paragraph 81 E/W Code, Paragraph 70 NI Code and Paragraphs 74 - 77 of the Consultation document

The Codes state that archaeologists and those engaged on an archaeological excavation or investigation are not eligible for a reward. The TVC decide when an interested party meets that definition. Misunderstandings can arise where a finder subsequently takes part in an archaeological investigation on the site of their find. We propose to add the following definitions of an archaeologist and of those engaged in archaeological excavation in the Codes to provide clear guidance to interested parties and the TVC. Archaeologist: A professional, student, volunteer or amateur engaged on a planned study of the landscape where the primary goal is to understand past activity through an assessment of all traces of human activity

Archaeological excavation or investigation: A planned study of the landscape that aims to record all traces of human activity thereon. It can be conducted by professional units, educational institutions or societies

Question 13

Do you consider that the proposed definitions of archaeologist and archaeological excavation or investigation are accurate?

We consider that the proposed definition of 'archaeological excavation or investigation' is ambiguous and imprecise, and would prefer the two to be revised and defined separately. An excavation is not necessarily the study of a landscape, nor might an investigation be recording 'all traces' of human activity when focusing on a specific question or technique. We agree that investigations can be carried out by professional, educational or amateur bodies. We consider the definition of archaeologist too broad. This should make reference to the skills and techniques employed in archaeological practice, and – crucially - whether the individual is in paid employment or acting on behalf of a formal organisation. We have a particular concern that the exclusion from eligibility for a reward may deter responsible detectorists, of whom there are many, from contributing to systematic, organised projects e.g. battlefield survey, and that the proposal may in effect act as a disincentive to responsible practice. We suggest that the eligibility could be better determined according to the type of activity (e.g. all participants in excavation should be ineligible, whereas only those undertaking formal archaeological survey should be excluded).

Question 14

Do you see any disadvantages in having these definitions in the Code?

We agree with the intention to define the eligibility criteria in the code for clarity, but consider that the specific definitions as set out in the consultation would be problematic to implement.

The definitions imply that the prior intent of the participant is a known and provable entity, which - while clear-cut in the instance of a project with appropriate documentation (such as a written scheme of investigation or a project design) - is less so in the context of projects lacking any formal documentation.

For clarity, we recommend that all excavations and archaeological field investigations should document their position regarding eligibility to reward, and require the prior completion of treasure waivers by detecting participants.

Question 15 relates to Section L Speed of Handling Cases Paragraph 87 E/W Code, 76 NI Code and Paragraphs 78 - 81 of the Consultation document

The Codes contain deadlines which aim to provide focus for the institutions and individual who participate in the treasure process. Research by the Treasure Secretariat indicates that delays occur at the beginning and the end of the process. In order to address this we propose to replace the current deadlines with those below, focusing on the beginning and end of the process. The curator or FLO's provide reports for the coroner, which puts forwards the reasons why a find falls under the Acts definition of treasure. We will propose that these should be written within three months of the find being reported. Coroners should consider holding inquests within three months of receiving a request to do so from the Treasure Registry, in accordance with Paragraph 12 of the Chief Coroner's guidance:

Treasure - A Practical Guide for Coroners Museums should endeavour to pay for acquisitions within three months

Question 15

Do you think that these times would improve the rate at which treasure cases are resolved?

No comments.

Question 16 relates to Paragraph 87 E/W Code, After Paragraph 79 NI Code and Paragraphs 82 – 84 of the Consultation document

When a reward is finalised the acquiring museum is invoiced for that amount, with payment expected within three months. Understandable delays in payment can occur, but we appreciate that this can be frustrating for the interested parties. We propose therefore that where a payment has been delayed longer than three months the acquiring museum would be required to provide an explanation and an indication of the expected time for payment.

Question 16

Can you see any disadvantages to a requirement for acquiring museums to explain delays in payments?

No comments.

Section 2 - Revisions to the definition of treasure in the Act

Questions 17 and 18 relate to Section 1.1 (a) of the Treasure Act 1996 and Paragraphs 85 - 88 of the Consultation document

Under Section 1.1 (a) of the Act, treasure is defined as objects 300 years old or older. This means that shortly a large volume of mass produced articles could be bought into the scope of the Act. In order to focus resources on significant archaeological, cultural and historical finds we propose to change the definition from a sliding date into a static date of pre- 1714. We understand that there is a risk that significant objects could not be preserved for public collections, and we have addressed this at length in the Consultation document.

Question 17

Do you think that changing to a static date is a good idea?

Yes, we welcome the introduction of a static date – we believe that this would help to introduce clarity and consistency.

Question 18

Do you think 1714 is an appropriate date?

We do not have strong views on the appropriateness of this date, but it seems a pragmatic solution.

Questions 19 and 20 relate to changes under Section 2(1) of the Act and Paragraphs 89 - 94 of the Consultation document Research by the British Museum indicates that most finds worth over £10,000 would usually fall within the current definitions of treasure. However, there are rare and important articles such as the Crosby Garrett helmet which do not, and have consequently been sold into private collections. We propose to designate an additional class of treasure for the purposes of section 1(1) (b) of the Act: objects that meet the age criterion (i.e. are at least 200 years old when found) and have a value of over £10,000. Our aim is that this definition should be flexible enough to capture important objects while excluding finds that are more common and less likely to be acquired by museums. Details of how we see the process working, and the management of the risks of defining a find as treasure based on its financial value are considered in the consultation document in Paragraphs 87 - 92.

Question 19

What view do you have of the proposed value based definition and what impact would it have?

Historic England does not agree with the proposed value based definition for several reasons. First and foremost, we do not consider that financial value should be the primary means for identifying important objects to be retained, and this approach would fail to identify finds of national significance that lack high monetary value. On a practical level a £10k definition would be problematic to implement, as valuations are subject to market fluctuations and condition, which currently takes place after declaration as treasure. Furthermore this approach would place an unwarranted burden on those at the front line of the treasure process to make assessments of value. We note that the Treasure Act 1996 paragraph 2 (1) already includes provision for the Secretary of State to designate as treasure “any class of object which he considers to be of outstanding historical, archaeological or cultural importance”. As a point of comparison, we note that there is a £0 threshold on licences for the export of archaeological objects. We also believe that a rolling age criterion is inconsistent with the approach in Q17. We would be happy to discuss these points further in the interests of finding a workable solution – see our response to Q20

Question 20

Do you think that there is any more appropriate way to ensure that important finds which do not currently fall within the definition of treasure are retained?

Question 20

We consider that a significance-based approach would be more appropriate. This would require the definition of national significance with regard to artefacts, against which the Finds Liaison Officer/National Finds Advisor could prepare statements for finds identified as potential treasure, to be submitted to the Coroner in the usual manner.

Questions 21 and 22 relate to a change under section 2(1) of the Act and to Paragraphs 95 to 97 of the Consultation document

Currently single gold coins do not fall under the definition of treasure. We propose to add a definition to include all single coin finds of any origin dated between AD43 and 1344, when Edward III re-introduced gold coinage in England. Recorded finds of coins of this time are rare, and indicate the lack of gold coins circulating at that time. The aim of this change is to focus resources on significant coins and avoid bringing into the scope of the act more common finds.

Question 21

What view do you have of the proposed designation for single gold coins and what impact would it have?

We support the inclusion of single gold coins under the definition of treasure, and consider this would bring public benefits in terms of information and research gain, as well as opportunities for museums to acquire these objects for the national collection.

Question 22

Would AD43 to 1344 be the most appropriate dates for defining single gold coins as treasure?

We do not fully understand the rationale for the exclusion of Iron Age and post 1344 single coins from the proposed definition – it would be helpful to have more commentary on this. We consider that, in the absence of a compelling research-based explanation to support the specific date range, all single gold coins should be included in the definition. This would provide the opportunity for significant or rare single gold coins of any date to be obtained for the national collection, whilst allowing common types to be disclaimed.

An alternative could be to apply a significance-based approach to single gold coins (similar to that set out in our response to Q19, which would require statements of significance to be prepared for single gold coins identified as potential treasure, to be submitted to the Coroner in the usual manner).

Question 23 relates to a Change under Section 2(1) of the Act and Paragraphs 98 to 100 of the Consultation document

In 2009 the Royston Roman hoard was only preserved for a public collection because one object had a small amount of silver in it. In order to ensure that significant objects are preserved for public collection, we propose to extend the definition of treasure. The definition will include closed deposits (where objects and/or coins are believed to have been intentionally buried together) of base metal objects, where at least two of the objects are of Roman date.

Question 23

What do you think the impact would be of widening the definition of treasure to include objects any part of which is base metal, which form part of a group of articles of Roman date intentionally buried together?

We support the inclusion of objects of base metal objects, buried with groups of objects of Roman date, in the definition of treasure. We consider this would bring public benefits in terms of information and research gain from Roman base metal hoards, as well as opportunities for museums to acquire these groups for the national collection. However the clarification (Q5) to enable museums to acquire parts of hoards more quickly potentially undermines the benefits of widening the definition.

We question whether the widening of the treasure definition to include base metal hoards should also be extended to include base metal hoards of Anglo-Saxon, medieval and post-medieval date.

The introduction of new categories of treasure should be supported by comprehensive communications and awareness raising to the metal detecting community regarding the new additions to the definition.

Section 3 Exemption of objects subject to Church of England statutory regimes

Question 24 and 25 relate to changes under Section 2.2 of the Act and Paragraphs 101 – 118 of the Consultation document

The Act removed the common law requirement for a treasure find to have been apparently buried with an intention to retrieve by the original owner. This brought into the scope of the Act objects which had been buried in association with human interments in ground consecrated according to the rites of the Church of England. These objects are also subject to the Church of England's own systems of control, which are part of primary legislation.

The Government undertook to address this situation during the passage of the Act. We propose that finds that fall under the Church of England's own systems of control are exempted from the definition of treasure. Further details of the systems of control and the proposed exemptions can be found in the Consultation document.

Question 24

What do you think the effect would be of limiting objects that fall under the Care of Cathedrals Measure 2011 and the Faculty Jurisdiction to one legal system?

We consider that the limiting of objects that would otherwise be defined as treasure to the system defined under the Care of Cathedrals Measure (2011) and Faculty Jurisdiction would simplify and clarify this area of legislation, and would be consistent with the removal of dual controls in relation to the planning system.

Question 25

Do you consider that the Care of Cathedrals Measure 2011 and the Faculty Jurisdiction are sufficient to protect finds which fall under those systems?

We are satisfied that the Care of Cathedrals Measure 2011 makes adequate provision for the reporting of finds found in consecrated ground, as well as mechanisms for finds to be acquired by registered museums. The Faculty Jurisdiction Rules 2015 requires consultation with the Church Buildings Council in advance of the disposal of any artefacts of archaeological interest, and is supported by strong Church of England guidance relating to the disposal of treasures, with presumption against disposal. However, an unforeseen effect of the proposed exception is the absence of provision for the recording of archaeological finds from consecrated ground that would otherwise be regarded as treasure. The proposed Church of England/British Museum guidance on the handling of such finds provides an opportunity to enable suitable recording in line with PAS procedures to take place, which should be fully resourced, to ensure that information about significant objects is made available for future researchers and public benefit. We also consider the proposed MOU relating to the disposal of finds should include the provision for these to be offered to registered museums as well as the British Museum.

Question 26 relates to the commencement of Section 29 of the Coroners and Justice Act 2009 (the 2009 Act) and Paragraphs 122-123 of the Consultation document

Section 29 of the Act provides that the coroner can decide not to begin or continue with an investigation where the Secretary of State disclaims a find that has been reported as possible treasure. We propose to commence this provision which would remove the need for the coroner to hold an inquest where no museum has declared an interest in an object or coin and would allow it to be returned to the finder.

Question 26

What effect do you think giving coroners the power not to conduct an inquest into treasure would have?

We have no detailed comments on the proposal, but consider this to be a pragmatic solution.

Section 4 Commencement of measures in the Coroners and Justice Act 2009

Questions 27 and 28 relate to the commencement of Section 30 of the 2009 Act and Paragraphs 124-134 of the Consultation document

Since the introduction of the Act, the environment in which it operates has changed, the introduction of online markets has made it easier for the rare unscrupulous finder to sell an undeclared find. In order to address this problem we propose to commence Section 30 of the 2009 Act. This would insert Section 8A into the text of the Treasure Act and would create a duty on anyone who acquired a possible treasure object or coin to report it to the coroner. Section 8A would create a criminal offence of failing to notify the coroner where a possible treasure finds has been acquired and there has been no investigation. In addition, commencing Section 30 will introduce a presumption when offences under Section 8 of the Treasure Act are prosecuted that, in the absence of other evidence, finds in England and Wales were made after the commencement of the Treasure Act.

Question 27

What effect do you think the extension of the duty to report a possible treasure find to a person who acquires a find would have?

We welcome the extension of the duty to report a treasure find to a person acquiring the find. This provision should discourage the domestic purchase of potential treasure finds without accompanying documentation demonstrating that the objects have been through the treasure process, and thereby reduce the market for such items. Internationally, however, and particularly given the rise in the online sale of artefacts, we'd observe that such an approach might not act as a disincentive because of the difficulties in identifying or taking action against overseas buyers.

Question 28

Do you have any other comments on these proposals to commence these elements of the 2009 Act?

We would welcome clarification on the type of criminal offence that would arise from failing to notify when possible treasure finds have been acquired. Guidance is also needed with regard to what might be deemed to constitute due diligence.

All previous criminal cases regarding treasure have proceeded utilising other forms of legislation, in particular: theft, fraud and dealing in tainted cultural objects. This consultation may provide an opportunity to enhance the offence of failing to report from 'summary-only' to 'triable-either way'. If this proposal were adopted, relevant offences would become 'recordable' as defined within the Home Office Crime Recording Standards. This in turn would also provide the Crown Prosecution Service with greater opportunities to provide guidance and charging advice.

Question 29 relates to the commencement of Sections 8B and 8C of the Treasure Act and Paragraph 135 of the Consultation document.

Section 8C will increase the length of time allowed for proceedings under Section 8.

Question 29

What effect do you think extending the lengthening of time for bringing proceedings for prosecution would have?

We welcome the proposal to extend the time limit up to six months after the date on which a prosecutor is aware that sufficient evidence that a crime has been committed. We consider that this will be more effective in allowing necessary criminal investigations to be undertaken in advance of prosecution.

Historic England (formerly English Heritage) supported this proposal in the draft Coroner Reform: The Government's Draft Bill, 2006.

Section 5 The long term future of the treasure process and its sustainability

Questions 30 and 31 relate to the long term sustainability of the treasure process and Paragraphs 136

– 143 There has been increase in annual treasure cases from below 100 per year in the mid-1990s to over a thousand per year since 2014. The overwhelming majority of these finds have been made by metal detectorists who have been instrumental in preserving unique finds such as the Ringlemere Cup

for public collections and the creation of the PAS database. Given this increase in cases the question of the long term financial sustainability of the treasure process arises and how it can continue to support the aims of the Act to preserve objects of cultural, historic and archaeological importance for the public. In order to address this we have put forward some suggestions on the future form of the process. These are:

- the introduction of a process similar to that in Scotland, whereby all archaeological objects become the property of the Crown;
- strengthening educational outreach to the full spectrum of the metal detecting community in order to encourage the proactive reporting of finds and adherence to the Code of Practice for Responsible Metal Detecting and the treasure process; and
- the introduction of a regulation as in Northern Ireland where archaeological digging of any sort (both by professional archaeologists and others) is only allowed by permit

The aim of these suggestions is to open initial debate and to encourage other suggestions for the long term sustainability of the treasure process

Question 30

What are your views on these preliminary suggestions on the future form of the treasure process?

We welcome proposals to strengthen outreach to encourage recording and adherence to the Code. This would need adequate resourcing to meet the additional remit, as well as a mechanism or incentive by which it could be embedded (e.g. club membership). Whilst we recognise the possible benefits of state ownership of all archaeological objects, in our view it is also clear that such a system would have huge logistical and resourcing implications, both to the heritage sector and to other stakeholders, which extend far beyond the treasure process. We don't currently consider that this system would be scalable or transfereable to England, nor able to be adequately resourced to meet the demand. This is especially the case, given that research indicates that the majority of English museums will run out of storage space for archaeological material within the next 5 years (SMA 2016 & 2017). We note that the permit system in NI extends to all digging activity. Anecdotally, we understand that one effect of this approach has been to push detecting underground. Such a proposal would need lengthy discussion by the sector and stakeholders, and at present, given available resources, we strongly believe that it would be unworkable in England.

Question 31

Do you consider that there is a different approach to changing the process which would support its long term sustainability?

Historic England welcomes the opportunity to participate in more detailed discussions in the future. The ideas outlined above represent a fundamental reorganisation of the archaeological process and artefact ownership. In the first instance – in the interests of an evidence-based approach – it would be helpful to review the rationale for making such radical and far-reaching changes. We suggest that one way of achieving this might be to undertake a systematic study of the approaches adopted in Europe, to assess their suitability and practicability for England, and to inform future discussions within the heritage sector and stakeholders. Other mechanisms to promote good practice could also be utilised. For example, the NCMD is a long-standing member of ARCH - the Alliance to Reduce Crime against Heritage. Historic England is currently working with the NCMD to explore the opportunity for local clubs to join the Heritage Watch scheme, which would include the delivery of a knowledge and awareness programme for detectorists and police officers. We are also supporting a feasibility study into a proposed Institute for Detectorists, which aims to support good practice and archaeological awareness amongst the detecting community.

Question 32 relates to additional comments on the proposed changes and to Paragraphs 144 of the Consultation document

Question 32

Do you have any additional comments on the proposed changes to the Code and to the legislation governing the treasure process?

We would like to flag the issue of nationally significant sites that have been identified through metal detecting and the treasure process, and which require archaeological excavation to contextualise the finds, the funding of which occasionally falls to Historic England. The costs of this can be high, for example Cumwhitton (Viking burials; c £200k) and Staffordshire Hoard (Anglo Saxon gold hoard; c £1m). It seems odd that the public purse should firstly pay out for acquisition of these items to the finder/landowner, and then also pay for recovering the (normally) hugely important archaeological evidence.

We consider there is a significant opportunity to create a self-sustaining system to support this activity, which is undertaken to maximise public benefit and information retrieval, through the deduction of a proportion of all treasure reward fees to be held as a fund for future excavation. Such a fund could be administered by Historic England, advised by a panel including members of the Valuation Committee, PAS and a peer review college of suitable academics.