Summary

- Scotland’s understanding of its cultural and environmental history is vitally dependent on having a reliable legal and administrative system to secure the survival of archaeological and environmental finds of historical or scientific significance.

- In addition to artefacts, it is also important that due consideration is paid to other important finds, such as environmental materials and human skeletal remains. Currently the way in which these are treated depends on whether or not they are directly associated with archaeological materials. If they are so associated they are allocated, as parts of archaeological assemblages, to public museums through Treasure Trove procedures.

- England appears to have a far higher level of reported casual artefactual finds, many made through metal-detecting, suggesting significant under-reporting in Scotland. Data available from the Portable Antiquities Scheme website, overseen by the British Museum, suggests that part of the reason for differential rates of reporting of discoveries may relate to different practices in England and Scotland.

- To assess the number of archaeological finds currently being found in Scotland (other than on organised archaeological fieldwork), it is recommended that, as originally suggested by the Normand Report, a regional pilot project is established, with publicity and appropriate resources, to facilitate the local reporting of discoveries of artefacts and to establish whether the level of under-reporting is significant.

- In regard to organised archaeological fieldwork, there needs to be better guidance on the retention, partial retention or disposal of large assemblages that will normally comprise a mixture of artefacts, environmental materials and samples, and human remains. Historic Scotland and the local authority curatorial archaeologists have a significant role to play in guiding this.

- In particular it is recommended that national guidance is produced by the relevant scientific communities on the retention of environmental samples, including the conditions in which they should be maintained and an indication of how long they will remain scientifically viable. This should be for all significant environmental samples (but particularly for ‘unrepeatable’ data) irrespective of direct association or not with archaeological materials. All such environmental samples and their associated scientific data should also be recorded on an open Scotland-wide database, to enable samples to be reassessed as technical, analytical and other progress is made.

- Where an archaeological intervention has taken place as part of a development proposal, there should be a requirement that the archaeological contractor submitting the assemblage should contribute to the costs of its storage.

- In the light of burgeoning progress in biological, osteological and forensic techniques, new guidelines are required for dealing with the retention or reburial / disposal of human skeletal remains. This system should be distinct from Treasure Trove, since many medically significant discoveries may not be associated with archaeological remains.
Introduction

1 On the initiative of several of its Fellows, the Royal Society of Edinburgh (RSE), Scotland’s National Academy, decided to undertake a review of the procedures for dealing with archaeological finds in Scotland, as well as considering related issues such as the long-term storage of environmental materials and human skeletal remains whether found in association with artefactual materials on excavations, or independent of them.

2 The RSE recognises that these issues are important. The recovered materials are the raw products which underscore our understanding of the cultural and environmental heritage of Scotland. If artefacts or materials of scientific or historical significance are not retained they will generally be impossible to replace.

3 The RSE is in a strong position to consider better ways of ensuring the safeguarding of our portable national archaeological record, and to examine the reality and extent of under-reporting of discoveries, and the consequences for public collections and academic and public knowledge of any such failure to report discoveries. The Society is also able to bring together relevant parties to consider how to retain the best of Scotland’s current legal framework in this domain whilst increasing its effectiveness.

4 Beyond the artefacts themselves, the recovery and retention of human skeletal and environmental samples raise related issues of relevance to specialists across a range of disciplines now and into the future. Whilst there has been some work done in this field, it tends to be partial and limited in scope, as responsibilities and interests are split academically between different communities, as they are between different government departments and agencies.

5 With regard to artefactual finds, the working group agreed, as is standard practice, that these should be considered in two distinct categories: (1) single or more numerous finds made by all means other than recognised archaeological research; and (2) archaeological assemblages which are the products of professional or amateur archaeological research.

Overview

6 The surviving record for the early past of Scotland consists of a range of recovered artefactual and environmental remains – both organic and inorganic. Whilst in some instances it is readily possible to acquire new, duplicate samples for future research (e.g. by renewed coring in surviving peat bogs), this is far from universally true for all environmental samples. It is by-and-large impossible for archaeological samples (both artefactual and other) found during the ‘unrepeatable experiment’ that constitutes most archaeological fieldwork.

7 Scotland’s Treasure Trove system has worked well in getting notified/disclosed archaeological artefacts into public museums, including, in the case of officially excavated material, associated environmental samples and skeletal material constituting the archaeological assemblage from each site. But there are signs that this system is under mounting stress.

8 Increasingly, it is proving difficult to get museums to bid for all recovered cultural/artefactual materials. There are also concerns as to whether the museums, in straitened circumstances, can always raise their share of the ex gratia payments necessary under Treasure Trove arrangements.

9 In the case of material from official archaeological fieldwork, problems may arise because museums perceive the quality of the recovered artefacts to be low (e.g. not ‘display-worthy’) or because they have concerns about storing in perpetuity bulky environmental collections or samples (which can constitute substantial proportions of assemblages) and/or human skeletal material, which can raise ethical issues for particular museum collections.

10 There is no coherent system to allow environmental samples to move from finder/researcher to long-term storage (with some exceptions e.g. cores from the bottom of the North Sea). The current system is to transfer environmental materials from archaeological contexts into museums (as suitable repositories) on the back of a legal process essentially designed for the allocation of artefacts. There is no mechanism to ensure that significant environmental samples and materials not recovered in association with artefacts will be conserved long-term for future research and other purposes.
Some environmental samples are being kept, effectively in perpetuity, in public museums simply because they were initially associated with artefactual material, whereas other – potentially more important in the scientific sense – environmental samples are essentially excluded from this process, since at the outset they had no archaeological associations.

The long-term conservation of environmental samples, which e.g. as records of climate change, past human impacts on the environment etc, can be worth revisiting for new research purposes, is a matter of importance. Because subject to ongoing decay and change, some such samples may only be valid for limited periods into the future or only if conserved in particular circumstances (e.g. cold rooms).

Ancient human skeletal remains also constitute a special case. Unless associated with artefacts, they do not fall within the purview of Treasure Trove, and there is no standard mechanism for dealing with them. Given the rapid advances in a range of sub-fields of medicine and bioarchaeology, it would be unfortunate if suitable remains were not to be accessioned in a recoverable way, and a sensitive policy to achieve this end needs to be developed. Reburial of such human remains would deprive future scientists of the ability to examine them using new techniques and methods as these evolve.

### Artefacts: Single Finds

The current system works well for materials that are found by individuals and handed in to a museum or notified to the Treasure Trove team, and it is underpinned by a satisfactory legal framework. There is no significant problem in allocating major items to a public museum, and the museum then acquires ownership in place of the Crown (the default owner of abandoned property). Recently, however, there have been cases where museums have been inhibited from bidding because of difficulties in meeting the cost of the ex gratia payment (either in its entirety or with 50% grant aid from the National Fund for Acquisitions) made to the finder. These difficulties may be expected to increase in the future due to reductions in income available to museums as a result of pressure on local government finances and the capping of the central procurement fund.

The Treasure Trove report for 2011/12 shares this concern, reporting, “The pressure on resources is apparent in this sector as in all others and there is a worry that some important finds risk being disclaimed, not for want of heritage significance but for lack of financial resources to fund ex-gratia payments, space to accommodate material or, in the case of local museums without specialist staff, to make claims at all. The result could be the loss to Scotland’s heritage of some historically, contextually and aesthetically important material.”

The Treasure Trove website (based on a Code of Practice published in 2008 on the Scottish Government website) sets out the process as to how a find should be reported as well as the system for ex gratia payments to be calculated and settled. As all abandoned property is to be returned to the finders, the system is wholly reactive, depending on the finder declaring, in England there are Finds Liaison Officers to record artefacts and, where they do not qualify as ‘treasure’, to return them to the finder. The development of this system (known as the Portable Antiquities Scheme) has meant that the numbers of finds made south of the Border are high compared to those reported within Scotland. Many non-treasure items from England are sold on legally in the open market.

England makes for an interesting comparison. Under English law the Crown is only entitled to ‘treasure’ and the many artefacts which fall outside this term can thus be retained by the landowner or finder. But whereas in Scotland the system is wholly reactive, depending on the finder declaring, in England there are Finds Liaison Officers to record artefacts and, where they do not qualify as ‘treasure’, to return them to the finder. The development of this system (known as the Portable Antiquities Scheme) has meant that the numbers of finds made south of the Border are high compared to those reported within Scotland. Many non-treasure items from England are sold on legally in the open market.

The working group sought the views of the metal detectorist community and engaged with the National Council for Metal Detecting (NCMD) Scottish Region. The NCMD has around 150 members in Scotland and 6000 in the UK. There are also estimated to be several hundred other detectorists in Scotland, some affiliated to other groups.

The NCMD provides its members with guidance on the Treasure Trove Unit and reporting requirements, giving each member a set of leaflets setting out the law and a national code of conduct.
20 The representative of the NCMD who provided advice to the working group was not convinced that there is a significant problem of under-reporting in Scotland compared to similar areas in England. Such data as are publicly available, however, suggests otherwise. The Treasure Trove Unit collects data on the number of recorded finds in Scotland by date and area. Corresponding data from the Portable Antiquities Scheme discloses that England has a far higher level of reported finds, suggesting potentially significant under-reporting in Scotland. The Treasure Trove report for 2011/12 recorded 2045 individual finds in Scotland, whilst the Portable Antiquities Scheme in England reported 84,474 objects found from 55,988 individual records in calendar year 2011.

21 The deficiency in Scotland does not lie in the law, which, in terms of getting ‘found’ artefacts of all kinds into public museums, is actually more effective than its English counterpart. Rather the problem probably results from under-resourcing of the institutional infrastructure combined with lack of public knowledge of the law. Even for those who know the law, there may perhaps be a lack of trust in the method by which ex gratia awards to finders are determined. Whatever the reasons, however, the problem is potentially a serious one.

22 Building on a proposal originally made by the Normand Report, we suggest that a regional pilot project with appropriate publicity and resources might help to establish the level of under-reporting, without incurring too much expense. Archaeological liaison officers should be established in such pilot areas to interact with the public, metal detectorists and other chance finders of cultural remains.

Environmental Materials

26 The following account draws on the views of researchers in the ScARF Science in Archaeology Panel, as well as on the RSE group’s own membership.

27 Environmental materials sampled during excavation are generally archived with archaeological materials but without regard to their significance. A substantial, probably larger, corpus of materials either related to archaeological field projects or from purely environmental fieldwork is not formally archived but remains in laboratory storage with the scientist who analysed and reported on it. Data-sets and interpretations are also not systematically archived in the way the archaeological record is.
Archiving is immensely valuable when an archaeological site is destroyed, when materials are rare, or when new analytical procedures or refinements encourage re-analysis: the last scenario is common. No ‘best practice’ guidance for archiving currently exists in most disciplines: this absence needs to be remedied. Correct storage is critical. Many environmental materials have a limited shelf-life before deterioration, and archived environmental materials can have special storage requirements. These factors make central rather than dispersed storage the better option.

Archives are under severe strain, however. A way forward is to evaluate the significance of materials, archived formally and informally. This would best be done post-excavation, by a panel or several panels of independent assessors, broadly comparable to the Treasure Trove panel in relation to artefacts. Selection needs to be transparent, objective, quantified and justified, and decisions widely published. Cost is unavoidable, and Governmental funding would be required.

A comprehensive database of Scottish environmental materials would aid decisions. It is recommended that an on-line database is created centrally and made accessible to all. The CANMORE site housed in RCAHMS provides an appropriate model.

**Human Skeletal Remains**

It appears that human skeletons cannot be owned. Generally speaking, the allocation to museums of human bones with which there are associated archaeological artefacts has been relatively unproblematic. There are, however, signs of increasing concern within sectors of the museums community about the storage (and more particularly the display) of human remains, as there is elsewhere about the storage of human remains (outwith Medical Faculties) for purposes of teaching and academic research, notably in the burgeoning fields within bioarchaeology. Valuable guidelines for the care of human remains in museums were produced by Museums Galleries Scotland in 2011.

Not all ancient skeletal material is associated with artefacts, and so the risk currently is that human material is retained not so much for its intrinsic scientific value and potential, but because it happens to have been associated with artefacts treated under Treasure Trove / *bona vacantia* procedures. Certainly there is no standard procedure by which ‘unaccompanied’ (i.e. with no associated artefacts) skeletal remains of potential academic importance can be safeguarded for future study and analysis. Some of this material is added to teaching collections, some is accessioned to museums, some is reburied; and it is possible that some is simply discarded.

Unaccompanied skeletal remains are not and should not be part of the Treasure Trove system. In the past, anatomy museums would take responsibility, but with few such museums now left, National Museums Scotland have become the lead organisation for storing (while not displaying) historical skeletal finds.

It is desirable for there to be stronger guidance on the roles and responsibilities associated with the excavation and retention of historic and prehistoric human skeletal remains from Scotland. There is existing guidance from Historic Scotland but it would be helpful for all involved in the excavation, curation, research, and storage of ancient human remains for there to be a concise set of protocols, procedures and guidelines of best practice which would inform any situation where ancient human skeletal remains are encountered; and promote their satisfactory storage.

**It is recommended that new guidelines are prepared for dealing with human skeletal remains of potential bioarchaeological significance and that this system should be distinct from the Treasure Trove regime.**
Additional Information and References

Advice papers are produced on behalf of RSE Council by an appropriately diverse working group in whose expertise and judgement the Council has confidence. This Advice Paper has been signed off by the General Secretary.

For further information please contact Bristow Muldoon, Head of Policy Advice, RSE.
[Email: evidenceadvice@royalsoced.org.uk]

Responses are published on the RSE website [www.royalsoced.org.uk].

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