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Contents

Section 1: Terms of Reference and methodology……4

Section 2: Background to the Treasure Valuation Committee……6

Section 3: Do the key functions of the TVC continue to be appropriate in terms of delivering the Government's objectives?……..8

Section 4: Are these functions most effectively and cost-efficiently provided at arm's length from Government and, more specifically, through an advisory non-departmental public body?……10

Section 5: Is the current location of the body (with support provided by the Treasure Team at the British Museum) the most appropriate?……13

Section 6: Summary of Recommendations……15

- Terms of Reference and methodology

The terms of reference of this Triennial Review of the Treasure Valuation Committee (TVC) are to:

1. provide robust evidence on the continuing need for the TVC in term of its functions and form and
2. review its governance arrangements to ensure compliance with the corporate governance principles contained in the Cabinet Office Triennial Review Guidance.

Stage One of the review looks at three questions:

1. Do the key functions of the TVC continue to be appropriate in terms of delivering the Government's objectives?
    1. If so, are these functions most effectively and cost-efficiently provided at arm's length from Government and, more specifically, through an advisory non-departmental public body (NDPB[1])?
2. Is the current location of the body (with support provided by the Treasure Team at the British Museum) the most appropriate?

Stage Two of the review will look at whether the TVC operates in accordance with the recognised principles of corporate governance by being open, transparent and accountable.

The review is led by the Department for Culture, Media and Sport (DCMS) and is overseen by a Review Group with members drawn from key stakeholders in the treasure valuation process. The Lead Reviewer is Paul Blaker (Head of World Heritage and Treasure, DCMS). The Review Group is made up of:

- Sophie Marment, Public Bodies Reform Team, DCMS
- Steve Critchley, National Council for Metal Detecting
- Dr Jonathan Williams, Department of Prehistory and Europe, British Museum
- Helen Shipsey, Country Land and Business Association

The Review Group agreed the Terms of Reference for the Review and has been consulted at each point.

The review was first announced in Parliament on 15 December 2011. Further details of the review were published on the DCMS website on 10 January 2012 and stakeholders were invited to contribute views on the key questions for Stage One.

Key stakeholders fall into four broad categories: archaeologists, metal detectorists, landowners and museums. In total, nine organisations were contacted directly to alert them to the review and invite them to contribute views. The deadline for contributions was Monday 13 February 2012.

Four contributions were received, from:

- Mike Heyworth, Director, Council for British Archaeology
- John Maloney, a hobby metal detectorist
- Sarah Paul, Collections Adviser, Museums Libraries and Archives Wales
- John Wells, President, National Council for Metal Detecting

These four contributions and a draft report of Stage One of the review were shared with the Review Group on Friday 17 February. The Group commented and approved the draft.

The next step will be to undertake Stage Two of the review. Stages One and Two will be shared with Professor Lord Colin Renfrew (Chair of the TVC) and then submitted in March to the Culture Minister, Ed Vaizey. Copies will be placed in Parliament and published on the DCMS website.

- Background to the Treasure Valuation Committee

The TVC is an Advisory Arm's Length Body sponsored by DCMS. Its role is to advise the Secretary of State on the fair market value of treasure finds and to provide advice in circumstances where the award for a treasure find should be reduced or re-apportioned.

The Committee is made up of independent antiques or coin experts and it includes someone representing the interests of finders (Mr Trevor Austin). The current membership is as follows:

- Professor Lord Renfrew of Kaimsthorn (chair), Senior Fellow of the McDonald Institute for Archaeological Research
- Dr David Dykes. Former Head of the National Museum of Wales, member of the British Numismatic Society since 1954, expert on medieval coins
- Mr John Cherry, Former Keeper of Medieval and Later Antiquities at the British Museum; expert on Medieval artefacts
- Mr Trevor Austin, General Secretary of the National Council for Metal Detecting
- Mr Peter Clayton, Long-standing consultant for Seaby Antiquities, writer and lecturer; expert on ancient archaeological artefacts
- Dr Tim Pestell, Keeper of Archaeology at Norwich Castle Museum
- Professor Ian Carradice, University of St Andrews; expert on Roman coins
- Ms Hetty Gleave, partner at Hunters Solicitors in Lincoln's Inn; specialist in cultural property law.

Members of the Committee are appointed by the Minister for Culture, in line with the Treasure Code of Practice of the Commissioner for Public Appointments.

Under the Treasure Act 1996, finders have a legal obligation to report all finds of potential treasure to the local coroner, who determines whether the find is treasure or not. Across England and Wales there is a network of Finds Liaison Officers, who act as the main contact points for treasure finds. If the Finds Liaison Officer, museum curator or archaeologist believes that a find may be treasure, they will inform the British Museum or the National Museums and Galleries of Wales. The museums will then consider whether they or any other museum wishes to acquire it.

Any find that a museum wishes to acquire is valued by the TVC. The TVC commissions a provisional valuation from one or more experts drawn from the antiquities or coin trades. The list of experts from which the TVC commissions provisional valuations is published on the treasure website: www.finds.org.uk. The finder, the landowner and the acquiring museum have the opportunity to comment on the provisional valuation and/or to send in a separate valuation for the Committee to consider. The TVC will then inspect the object(s) and arrive at a valuation.

It is normal practice to divide rewards 50:50 between the finder and the landowner, unless another form of agreement has been reached between them. There are some cases, however, where the TVC looks at the circumstances of the find and considers whether the reward should be abated (for example, where a finder has committed an offence under the Treasure Act or where there are reasonable grounds for believing that the finder was trespassing or where significant damage has been done deliberately or recklessly to the object or the place where it was found). These cases are relatively unusual.

Administrative support for the TVC was provided by officials at DCMS until 2007, when administration of most cases was transferred to the British Museum. The exception to this is treasure cases where the British Museum is seeking to acquire the object. It was decided that in order to avoid the appearance of a conflict of interest, these would continue to be administered by DCMS.

DCMS pays the British Museum the following amounts for administrative support to be carried out:

2011/12 - £107,000

2012/13 - £105,000

2013/14 - £103,000

2014/15 - £103,000

The TVC meets six to eight times a year. Meetings normally last around four or five hours and at each meeting there may be around 40 agenda items. There is no remuneration for the chairmanship or membership of the TVC.

- Do the key functions of the TVC continue to be appropriate in terms of delivering the Government's objectives?

The Government's objective is to ensure that the most important treasure finds can be acquired by museums for public benefit in order to help ensure that the public has access to them, that researchers are able to study them and that the objects themselves are properly conserved. The Treasure Act 1996 and the Treasure Code of Practice put in place a regime aimed at achieving this objective by maximising the number of treasure finds which are reported. For this regime to be effective, it is important that all stakeholders have trust and confidence in it. It must be seen to be fair, thorough, independent and transparent.

The TVC plays a crucial role in the treasure regime. The key functions of the TVC are set out in paragraph 65 of the Treasure Code of Practice:

"To recommend to the Secretary of State valuations for the items brought before it which correspond as closely as possible, taking account of all relevant factors, to what may be paid for the object(s) in a sale on the open market between a willing seller and a willing buyer; and to provide advice to the Secretary of State in cases where there may be grounds for either no reward to be paid to the finder, or for a reduced reward to be paid, or where there is a dispute as to the apportionment of the reward between the

finder and the occupier/owner of the land or between the occupier and a person having a superior interest."

From stakeholder views that were contributed to the review, it is clear that there is support for these functions. The Council for British Archaeology said that the TVC's key functions should continue. The National Council for Metal Detecting said:

"The majority of detectorists believe that finds of national importance made by them should always, where possible, be retained by the state where there are scientific and academic reasons for doing so".

If the TVC's functions were not delivered, the Secretary of State would be unable properly to meet his statutory duties under the Treasure Act and the incentive for finders to report treasure would be significantly undermined. There is a clear public interest in enabling research and understanding of archaeology, promoting the conservation of objects and supporting public access to treasure finds. There is demand from the public to see treasure finds in museums, demand from researchers to study objects and demand from finders for a fair and effective treasure regime.

The number of treasure cases reported has gradually increased since the first full year of the Treasure Act. In 1998 201 cases were reported. By 2003 that had risen to 427. In 2009 778 treasure cases were reported and museums have acquired or are seeking to acquire 261 of these.

Recommendation 1: The review recommends that the key functions of the TVC continue to be appropriate in terms of delivering the Government's objectives.

- Are these functions most effectively and cost-efficiently provided at arm's length from Government and, more specifically, through an advisory non-departmental body?

All the stakeholder views that were contributed to the review agreed that the TVC's functions are best provided at arm's length from Government. The National Council for Metal Detectorists said:

"The effectiveness and independence of the TVC has been the hallmark of its functions... Any government interference or constraints on the working and independence of the TVC could have an extremely negative effect on the functioning of the committee and might result in a lack of confidence in its autonomy, Any changes to this would alter the perception held by many finder/detectorists that they may not be well served if there were political or bureaucratic involvement".

John Maloney wrote:

"As a hobby detectorist I feel the TVC key functions are consistently achieved with a very cost-effective procedure."

Museums, Archives and Libraries Wales wrote:

"The TVC model enables suitable valuations to be defined. The experts on the committee are able to review objectively all the available information submitted to them in order to establish a fair valuation... It is appropriate that the functions are carried out by independent experts outside of the Government. The consideration of an appropriate value for an object, that in many cases are unlikely to have a precedent or comparable market value, requires rare and specialist knowledge."

The review has considered the Government's three tests for whether a function should be carried out by an Arm's Length Body:

- is it a technical function?
- is it a function which needs to be, and be seen to be, delivered with absolute impartiality (such as certain regulatory or funding functions)?

- is it a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity?

It is clear that the TVC's functions require specialist expertise. Although there are no direct party political interests involved, it is important that the functions are provided with absolute impartiality in balancing the interests of different stakeholders, including finders, landowners and museums. The TVC's function of advising the Secretary of State in circumstances where rewards should be reduced or reapportioned needs to be delivered independently in order to help ensure that the facts are considered with integrity. Museums Archives and Libraries Wales commented on this function in particular:

"This aspect is complex and requires independent assessment to enable it to be considered fair. The range of experts on the TVC, with reference to the Treasure Act Treasure Code of Practice, have the ability to carry out this function effectively and credibly".

The review has considered whether there are alternative delivery options for the TVC's functions. All alternative delivery models as set out in Annex A of the Cabinet Office *Guidance on Reviews of Non Departmental Public Bodies* were considered. Some were ruled out as inappropriate for an advisory body. The review focused on the more viable alternative delivery models:

- **Move to local government?** The TVC's functions need to be provided nationally and they require a high degree of specialist expertise. It would not be appropriate or effective for local government to take them on.
- **Move to the voluntary sector?** In some senses the functions are already carried out by the voluntary sector. Neither the chair nor the members of the Committee are paid: they offer their time and expertise for free. The British Museum, which provides administrative support, is a charity. There is no prospect of any other voluntary organisation providing administrative services and it would not be appropriate to rely on a wholly voluntary organisation to provide such crucial support for statutory duties. In addition, it might be more difficult for a voluntary organisation to be seen to be impartial by all the stakeholders involved.
- **Move to the private sector?** It is already the case that provisional valuations are commissioned from experts working in the private sector. DCMS could go further and pay a private company to provide administrative support to the TVC. However, it would be more difficult to ask members of the Committee to volunteer their time for free if this support was delivered by a profit-making concern. It would also be more difficult for a private company to be seen to be impartial and thorough by all the stakeholders involved. The additional costs of using the private sector (including VAT costs) would make this option less cost-efficient and the synergies with the other work of the British Museum (set out in section 5 of this review) would be lost.
- **Turn the TVC into a body made up of stakeholder representatives?** Individuals are appointed to the TVC because of their expertise in particular aspects of treasure. It would not be appropriate to make the TVC into a stakeholder body because the TVC does not have a policy function. If there was to be any change in policy on treasure, it would be DCMS' responsibility to consult stakeholders.
- **Bring back into DCMS?** Administrative support was provided by DCMS officials until 2007 and DCMS continues to handle treasure cases where the British Museum is seeking to acquire the object(s). DCMS plays a strategic and policy-making role, however, and DCMS officials do not have the level of specialist expertise or the links to the rest of the sector, including Finds Liaison Officers, that the British Museum has.

- **Merge with another body?** Administrative support is already merged with another body in the sense that it is currently provided by the British Museum.
- **Delivery by a new body** – This is not recommended, not least because there would be considerable resource implications in setting up a new body and there would be a duplication in back office functions such as payroll, IT and so forth.

Recommendation 2: The TVC's functions are most effectively and cost-efficiently provided at arm's length from Government through an advisory non-departmental public body.

Two of the four responses from stakeholders raised the issue of transparency. The National Council of Metal Detecting suggested there was a perception among some detectorists that having coin dealers on the TVC acts against the true valuation of finds. In fact, there is no-one on the TVC at the moment who currently works as a coin dealer. The point remains, nevertheless, that more transparency might be beneficial, for example by putting more information about valuations into the public domain. The Council for British Archaeology also raised this issue and suggested that the minutes of the TVC should be published.

Recommendation 3: Stage Two of the Triennial Review should consider whether and how the transparency of the TVC might be enhanced.

Some stakeholders commented on other aspects of the treasure regime, including the issue of a Coroner for Treasure and the need to revise the Treasure Code of Practice. These issues, however, are outside the scope of this review.

- Is the current location of the body (with support provided by the Treasure Team at the British Museum) the most appropriate?

Stakeholders indicated strong support for the TVC to continue to be supported by the British Museum. The National Council of Metal Detectorists noted the synergy with the Portable Antiquities Scheme, which is also run by the British Museum. It said:

"The current location and working arrangement under which the TVC operates is ideally placed, being under the auspices of the British Museum. The links with Finds Liaison Officers who operate at the "coal face"… This arrangement has proved to be successful and has grown and been nurtured by responsible detectorists within my organisation who have striven to make the Portable Antiquities Scheme the success it is today and the envy of the world. Long may this be the case."

John Maloney wrote:

"the expertise from the British Museum needs to be kept on board".

Museums Archives and Libraries Wales wrote:

"The current location of the body and the support team appears to remain appropriate. The treasure team at the British Museum has the capacity to administer the year on year steady increase in the number of finds reported as treasure efficiently. They employ specifically appointed registrars to administer the finds. The British Museum has the facilities to securely hold the items awaiting valuation under the safe keeping of the Crown."

The Council for British Archaeology wrote:

"We believe that the present system operate effectively with support from experienced staff at the British Museum".

It is clear that the British Museum offers a number of important synergies and benefits, including:

- strong links with other museums, with Finds Liaison Officers with valuers and the broader sector
- a track record of experience and expertise in the process
- a reputation which has earned the trust of different stakeholders
- expertise in the objects themselves
- capacity to securely hold objects
- synergies with the Portable Antiquities Scheme

Locating the TVC at the British Museum exploits these benefits in an efficient way.

Recommendation 4: The British Museum is the most appropriate location of the body.

When administrative support functions were passed from DCMS to the British Museum, it was agreed that DCMS would continue to manage cases where the British Museum was looking to acquire the object. It was felt at the time that DCMS should retain these functions in order to avoid any perception of a conflict of interest (although it was considered that this was not an essential safeguard and that in practice no real conflict of interest issue was likely to arise).

Now that the British Museum has built up a track record of managing treasure cases over a number of years, the review recommends that this question should be considered again. The Council for British Archaeology wrote:

"We suggest that there would be benefits in also transferring to the British Museum responsibility for the provision of administrative function for treasure cases where the British Museum itself is looking to acquire the object(s). This could reduce potential for duplication of effort and should ensure that all Treasure cases can be handled in a consistent, timely and well informed manner."

This is a good summary of the potential benefits of such a change. The current arrangements are reflected in the current Treasure Code of Practice, so any change would need to be considered in the context of the next review of the Treasure Code of Practice. All stakeholders should be formally consulted on any proposal to change the existing arrangement. There are already plans to review of the Treasure Code of Practice, which will be a significant piece of work, including formal consultation and scrutiny in Parliament. It is expected to begin, resources permitting, towards the end of 2012.

Recommendation 5: The question of transferring responsibility for remaining treasure cases from DCMS to the British Museum should be considered in the context of the next review of the Treasure Code of Practice.

- Summary of Recommendations

There is clearly support for the functions of the TVC to continue to be carried out by the TVC, located in the British Museum. The significant rise in the number of reports of treasure since the first full year of the Treasure Act suggests that the treasure regime and the important functions that the TVC deliver within that regime, are supporting Government objectives effectively. The fact that there were only four contributions from stakeholders suggests that the questions asked by Stage One of this review are widely seen as uncontroversial. Where stakeholders expressed concerns, they were about other issues such as the post of a Coroner for Treasure and the need to review the Treasure Code of Practice, both of which are outside the scope of this review.

Stage One of this Triennial Review makes the following recommendations:

Recommendation 1: The key functions of the TVC continue to be appropriate in terms of delivering the Government's objectives.

Recommendation 2: The TVC's functions are most effectively and cost-efficiently provided at arm's length from Government through an advisory non-departmental public body.

Recommendation 3: Stage Two of the Triennial Review should consider whether and how the transparency of the TVC might be enhanced.

Recommendation 4: The British Museum is the most appropriate location of the body.

Recommendation 5: The question of transferring responsibility for remaining treasure cases from DCMS to the British Museum should be considered in the context of the review of the Treasure Code of Practice.

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[1] This includes an assessment of the functions against the Government's arm's length three tests: 1. Does it perform a technical function? Do its activities require political impartiality? Does it need to act independently to establish facts? It also includes a consideration of other delivery options for these functions.