

CHURCH ARCHAEOLOGY HUMAN REMAINS WORKING GROUP REPORT

Executive Summary

The treatment of human remains is one of the most emotive and complex areas of archaeological activity. Feedback from archaeologists, parishes and clergy has indicated a clear need for guidance in this area. In 2001 a working group was convened jointly by English Heritage and the Church of England in order to address the issues. The working group's remit concerned burials from Christian contexts (AD 7th-19th cent) in England. This provides a coherent context to which a consistent theological framework could be applied in order to help inform ethical treatment and for which reasonably specific guidance might be given.

The working group comprised 18 members, organised into three panels, who were asked to address legal issues, theology and ethics, and scientific / technical matters respectively. Coordination between the three panels was handled by the convenors and by means of meetings of the entire group. The working group report is a synthesis of the results of the group's deliberations. It aims to provide reasonably comprehensive guidelines covering treatment of human remains and associated artifacts and grave markers at all phases of an archaeological fieldwork project, including decisions concerning whether remains should be retained long-term for scientific study or reburied following completion of the analysis phase of the fieldwork project. The target audience is primarily archaeologists, museum staff, parochial church councils and clergy.

The **principal assumptions** underpinning the working group's deliberations were:

- That human remains should always be treated with dignity and respect
- Burials should not be disturbed without good reason. However it was noted that the demands of the modern world are such that it may be necessary to disturb burials in advance of development
- Human remains are an important source of scientific information
- There is a need to give particular weight to the feelings and views of living family members when known
- There is a need for decisions to be made in the public interest, and in an accountable way.

The working group's **main recommendations** are:

1. Continuing burial:

- a. Digging any fresh graves in parts of an established burial ground thought to be an area of archaeological significance should be avoided, unless all graves in the area are first excavated archaeologically.
- b. Archaeological monitoring of grave digging in churchyards and cemeteries is otherwise not something that can reasonably be required on a routine basis.

2. Development of burial grounds:

- a. If burial grounds, or areas within burial grounds, which may contain interments more than 100 years old have to be disturbed, whether for minor building work or larger scale development, to a depth that is likely to disturb burials, the relevant areas should be archaeologically evaluated. Any subsequent exhumations should be monitored, and if necessary carried out, by archaeologists.
- b. The developer, whether a religious or a secular organisation, should be responsible for the cost, including study of excavated remains and their reburial or deposition in a suitable holding institution.

3. Research excavation:

- a. Research excavation of unthreatened burial grounds or areas of burial grounds is only acceptable if interments are more than 100 years old, and the proposed work is acceptable to the living close families of those who are buried, if known.
- b. Research excavations must always take place within established research frameworks. Specific research aims must also be identified and adequately justified.
- c. The project budget should include sufficient provision to cover not only excavation costs but also the study of all recovered remains and their reburial or deposition in a suitable holding institution.

4. Excavation, study and publication:

- a. Archaeological excavation, study and publication of burials should conform to the standards and procedures set out in the body of this report.
- b. When a skeleton lies only partly within an area under excavation it should not normally be 'chased' beyond it. However, if the burial is deemed osteologically or archaeologically important, the skeleton should be followed under the baulk so that it may be lifted in its entirety, provided this will not result in disturbance of further burials. If it is not deemed of value to lift the burial then the exposed remains should be reinterred in the trench.
- c. Destructive analysis of human remains is acceptable provided that permission is given by the living close family of the individual involved if known, and that research aims are identified and adequately justified.
- d. Excavations conducted for the purposes of evaluation of a site should stop if articulated human remains are encountered; they should not be lifted.

5. Reburial and deposition:

- a. If living close family members are known and request it, excavated human remains should be reburied.
- b. Excavated human remains shown after due assessment to have limited future research potential should be studied and then reburied.
- c. Reburial should normally be by inhumation rather than by cremation
- d. When excavated human remains are more than 100 years old and have significant future research potential, deposition in a suitable holding institution should be arranged. Redundant churches or crypts (as already done in some cases) provide an acceptable compromise between the desirability of deposition in a consecrated place and the desirability of continued research access. A working party, to succeed the Human Remains Working Group, should be set up to pursue this, looking in particular at funding and at establishing proper working practices.

6. Advisory committee:

- a. A standing committee should be set up jointly by English Heritage and the Church of England to serve as a national advisory body on church archaeology and human remains from Christian burial grounds in England. This committee will take forward the issues raised in this document and will complement any human remains committees which may be set up as a response to the findings of the DCMS human remains working group.

7. Wider Implications

- a. The working group recognises that many of the issues raised here may have more general applicability to human burials excavated from English sites. It is hoped that this document may stimulate debate which may lead to formulation of policy for dealing with human remains from a wider range of contexts.
- b. The working group recognises that many of the issues raised here would benefit from further consideration in the broader context of dealing with human remains.

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Main Text

Introduction

1. Several thousand human skeletons are disturbed each year due to building and other development work, and all archaeological units have to deal with human remains on a regular basis. However, their treatment is still one of the most emotive and complex areas of archaeological activity. Currently, the law relating to human remains is complex and none of it was drafted with archaeological work in mind. Recent scientific advances have resulted in a marked increase in the research value of human remains, and with this has come an explosion of public interest in burial archaeology, as witnessed by television programmes and museum exhibitions. Most archaeologists are conscious of the need to afford the dead respectful treatment and to avoid offending religious or secular sensibilities when dealing with human remains. Nevertheless, high standards of practice have yet to be codified. Although the UK has been spared the polarised debate sparked by the issue of human remains which has occurred in other countries (notably in North America and Australasia), this has also meant that many ethical issues have tended to remain implicit and poorly articulated.
2. Guidelines aimed specifically at the treatment of archaeological human remains have been produced for Scotland (Historic Scotland, 1997) and Eire (O'Sullivan et al., 2000). However there is as yet little in the way of specific and comprehensive guidelines relating to the treatment of archaeological human remains excavated in England. Feedback from archaeologists and clergy has indicated the need for such guidelines.
3. Several initiatives bearing on the treatment of human remains have taken place recently.
4. The government is initiating a review of burial law, which it considers out of date and in need of reform. In January 2004 a consultation paper was produced (www.homeoffice.gov.uk/docs2/buriallawconsult.pdf).
5. The Human Tissue Bill, currently before parliament, proposes setting up a Human Tissue Authority to oversee and licence work on, and retention of, human tissue (www.publications.parliament.uk/pa/pabills.htm). This Bill is not intended to cover ancient burials from archaeological sites.
6. A working group, set up by the DCMS in 2001, specifically to investigate the ethical and legal status of human remains held in museums in England has recently reported (www.culture.gov.uk/cultural_property.htm). This group recommended changes in the law to facilitate the repatriation of overseas remains and the setting up of a licensing system for institutions holding human remains. Although that group's principal focus was on overseas remains, the proposal is that the licencing system would apply also to remains excavated from archaeological sites in the UK. The group's report forms the basis for a consultation document to be issued by the DCMS in 2004.
7. The developments outlined above mean that the production of guidelines on archaeological human remains from England is particularly timely. A series of meetings

between representatives of English Heritage and the Church of England were convened in order to determine what form guidelines might take and what their scope might be.

8. A decision was taken to concentrate primarily on burials interred in Christian burial grounds since the foundation of the Church in England in AD 597. Restricting the guidelines in this way provides a coherent body of material for which a consistent theological framework could be applied to help inform ethical treatment, and for which reasonably specific guidance might be given. Three of every four skeletons excavated on archaeological sites in England comes from a Christian burial ground dated to the 7th century or later, so although not comprehensive this guideline should have widespread application. It also encompasses non-Christian burials which may on occasion be found within Christian burial grounds (e.g. ancient burial mounds sometimes formed a focus for early Christian sites with a consequence that some churchyards contain a few prehistoric burials). It does not attempt to provide detailed ethical guidance for post 7th century burial grounds of non-Christian faiths (e.g. Judaism); such guidance should be sought from appropriate religious authorities. Although it does not specifically set out to offer guidance with regard to the treatment of burials earlier than the 7th century AD, it is hoped that the recommendations made here may have resonance for these earlier remains and stimulate debate concerning their treatment.
9. This guidance note will principally be concerned with remains over 100 years old (herein referred to as ancient human remains). For more recent remains legal, practical and ethical considerations are often rather different from those pertaining to the older material which is the principal concern of the archaeological community. Because archaeologists are required to deal with all aspects of burial archaeology, not just human remains, the treatment of grave markers and burial artifacts will also be considered. The document covers remains from crypts and vaults as well as those from earth-cut graves.
10. The overall aim of the document is to consider the issues arising from the uncovering of Christian human remains, including all aspects of archaeological fieldwork projects, and subsequent decisions concerning whether remains should be retained long-term for scientific study or reburied following completion of the archaeological project. The document attempts to describe the legal framework for the treatment of human remains and to make recommendations for best practice within this framework. Attempts will be made to balance ethical considerations derived from Christian theology against the recognised legitimacy of scientific study of human burials, whilst being aware of public opinion regarding disturbance of, and scientific work on, human remains. The intention is that the guidelines should be realistic and practical for everyday use for those involved at any stage of work entailing disturbance of human remains. The target audience therefore includes archaeologists and museum staff, as well as clergy, who may be involved as members of parochial church councils, or of consistory courts granting faculties involving archaeological conditions, or in other capacities.
11. In order to produce this guidance document, a working group was convened in 2001 by English Heritage, and the Church Of England in the form of the Council for the Care of Churches and the Cathedrals Fabrics Commission of England (these last two organisations united in 2003 to become the Cathedral and Church Buildings Division of the Church of England). The group was split into three panels, to consider legal matters, theology / ethics, and scientific / technical aspects. The document was assembled from the results of these panels' deliberations. Panel memberships are given in **Annex O1**.

The organisation of this document

12. The document is structured as a main text supported by annexes. The main text presents overviews of the legal, ethical and scientific considerations associated with human remains and their context (burial artifacts and monuments). It then proceeds to provide practical guidelines relating to treatment of such remains in fieldwork projects. The structure here follows that recommended for archaeological projects by English Heritage (English Heritage, 1991), and the aim is to summarise the legal, ethical and scientific considerations pertinent at each particular phase of work. The annexes underpin and provide detailed support for the guidance offered in the main text. Annexes are prefixed L, E or S according to whether they are primarily concerned with legal, ethical / theological, or scientific / technical matters. An executive summary provides an overview of the document and itemises the principal recommendations.

General considerations

Legal frameworks

13. It is unlawful to remove or disturb human remains without lawful authority. Various laws, both secular and ecclesiastical, provide a framework for the treatment of human remains according to the type of burial place, the ownership of the land, and the future use to which the site is to be put. The following paragraphs, together with **Annex L1**, attempt to summarise the existing legal framework, but it should be recalled that this is currently under governmental review (see above).
14. Secular law is generally aimed at regulating the way in which human remains and grave markers are cleared from burial grounds, rather than preventing or restricting this. For ancient burials, authorisation to disturb human remains is given (or withheld) via the Home Office. Planning considerations may also apply, as may Scheduled Monument Consent. On land currently under Church of England jurisdiction, and other municipal and private cemeteries subject to the legal effects of consecration, ecclesiastical law applies in addition to relevant secular statutes. Ecclesiastical law does not apply to disused monastic burial grounds, nor to most disused churchyards, although many ruined parish churches and their churchyards, and some redundant churches in alternative use, do remain under Church of England jurisdiction. In land subject to its jurisdiction, the process of ecclesiastical law both grants (or withholds) authority to disturb human remains and, if disturbance is authorised, regulates the treatment of remains.
15. An outline of the law on the exhumation of human remains is given in **Annex L1**. In order to help those involved in projects which disturb human remains to navigate safely through the various legal provisions which apply in different circumstances, a flow chart (Fig. 1) is provided. The use of Figure 1 is illustrated with reference to hypothetical examples in **Annex L2**.

Ethical treatment of human remains

16. Ethical treatment of human remains involves making decisions taking into account, via appropriate consultation, the views of individuals and groups with legitimate interests in

those remains. These interests include those of the dead themselves and their surviving family and descendants, the Church and other bodies responsible for the care of the dead, the general public, particularly those with direct links to the place of burial, and the scientific research community, including archaeologists, osteologists, and medical and forensic scientists.

17. Secular ethics encompass both knowledge-based ethics and ethics associated with the need for respectful treatment of human remains. Frequently, these two ethical considerations coincide, but in some instances they may be in conflict. In this report we attempt to make recommendations in these areas, but some issues remain unresolved. This means that in archaeological projects, archaeologists must exercise professional judgement in their practical responses to ethical considerations and be willing to be held accountable for their judgements. In some instances, however, archaeologists may feel the need for guidance, and this is one factor which has led us to recommend that a standing committee to advise on human remains in church archaeology be set up.
18. From the 18th century onward, coffin plates bearing the name of the deceased were sometimes used, so in burial grounds from this date remains of individuals of known identity may be encountered. (Occasionally, pre-18th century burials may be identified by memorial stones, but it is often difficult to be certain of individual identity in such circumstances as gravestones are often moved.) Upon burial, responsibility for the body was effectively handed over to the Church. Nevertheless, even for remains over 100 years old, where there is no legal obligation to trace next of kin, it would be ethical to accord views of living close family members strong weight. When excavation of 18th/19th century burial grounds is planned, reasonable steps, such as advertisements in local newspapers, should be taken at the start of project planning to alert local people who may be descendants of interred individuals so that their views may be heard.
19. However, the great majority of archaeological excavations deal with the remains of long-dead individuals of unknown personal identity. Under these circumstances, it is clearly impossible to trace living relatives or to determine the individual wishes of the dead (beyond the general ethos of the Christian theology under whose rites they were buried). It is therefore suggested that decisions regarding human remains should be guided by ethical criteria derived from Christian theology, from current secular attitudes to the dead, and from secular concepts of ethics.
20. Respect for the dead is a feature of most world religions; it is also a view upheld by many with no specific religious beliefs. The concept of respect for the dead should form the core of ethical treatment of human remains. Given that in the great majority of archaeological cases individual wishes of the deceased cannot be known, or inferred other than in the broadest sense using the general tenets of Christian theology, the key relationship is between the living and the dead. Respectful treatment of ancient Christian human remains can therefore be defined as that which is in keeping with Christian beliefs concerning the status of the body and which would not likely cause significant offence to members of the general public, regardless of whether they hold strong religious views. In the sections which follow, the position of human remains in Christian theology is summarised, a consideration of public attitudes is given, and scientific benefits of the study of human remains are summarised.

Human remains in Christian theology (Annexes E1 & E2)

21. A Christian theology surrounding the treatment and disposal of human remains must have its basis in the teachings and example of Jesus Christ. There is little in the Bible to suggest that Jesus had great concern for the human body and its remains after physical death.
22. The view of St Paul and later theologians appears to be that at the resurrection there is no literal reconstitution of the physical body. This also appears to be the understanding offered by the modern church
23. The phrase 'laid to rest', being common parlance for burial, implies that remains should not be disturbed. The finality of Christian burial should therefore be respected, even if, given the demands of the modern world, it may not be absolutely maintained in all cases.
24. The Church of England's attitude to burial is that human remains should be treated with respect and reverence: a society which cares for the dead demonstrates that it values life.
25. To summarise, it is central to Christian theology that, after death, the human body ceases to have any significance for the on-going resurrected spiritual life of the individual. However, following death, the physical remains should be treated with respect and reverence, even though ultimately it is the fate of the soul, rather than that of the physical remains, which matters.

The meaning of consecration (Annex E3)

26. Consecration is an act by which a thing is separated from the common and profane to a sacred use, or by which a person or thing is dedicated to the service and worship of God. When a body is buried in consecrated ground it comes under the protection of the Church.
27. Consecration of Christian burial grounds began in the 8th century and for burial grounds of this date onwards consecration should be assumed. Consecration has specific effects in ecclesiastical law, which can be revoked. However, the act of consecration is permanent; the theological status of consecration remains even when the legal effects are removed. In disused monastic burial grounds and some disused churchyards, the legal effects of consecration no longer apply (**Annex L1**), but they remain consecrated ground. In such cases, ecclesiastical law is not applicable and remains are treated according to the secular legal system. However, the fact that interred individuals were consigned to the care of the Church, and the fact that the ground remains consecrated, means that the Church retains an ethical locus.

Public attitudes

28. In England, thousands of burials are disturbed annually to make way for building and other development. Museums and other institutions hold many thousands of burials from English archaeological excavations in their long-term care for the purposes of scientific research. UK-based researchers are among the world leaders in this field. England has no strong public opposition to disturbance of ancient human remains or a movement toward wholesale reburial of museum collections, which have been such features in, for example, North America.

29. In general, the public shows a high degree of interest in scientific research on ancient human remains. This is evidenced by the popularity of TV programmes on archaeology featuring human remains, and of displays of human remains in museums and at ancient monuments. Archaeological excavations of burial sites are also popular with visitors.
30. The facts that remains from most archaeological sites are completely skeletonised, are generally many hundreds of years old, most often come from burial sites no longer in use, and are usually of unknown personal identity, may account in large part for the public's acceptance of disturbance and long-term storage. It is likely that public sensitivities are greater for more recent remains, but further research on attitudes would be useful.

Scientific benefits

31. Research into our past is of the utmost importance; it helps us to understand ourselves better, and, hopefully, to learn from past experience. Excavated human remains, and their context (including monuments, coffins and grave goods) are an important source of direct evidence about the past (**Annex S1**), providing a range information including evidence for:
 - burial practice, and thus of related beliefs and attitudes
 - demography, and disease;
 - diet, growth and activity patterns; and
 - genetic relationships
32. The study of buried human remains also provides valuable evidence of other kinds, including:
 - increasing our understanding of diseases and of their history, which may contribute to the treatment of disease; and
 - contributing to the development of forensic science, to assist in identification of remains and prevent miscarriages of justice.
33. These benefits are likely to increase as research methodology advances; and we are likely also to see benefits in other areas as well.
34. Unless human remains are carefully excavated archaeologically, there is inevitably loss of contextual information. Clearance of burial grounds without archaeological intervention is therefore undesirable in that it is a denial of information about our past to future generations.
35. Reburial of remains after excavation (rather than long-term retention for scientific research) denies a potentially valuable research resource to future workers. Therefore, indiscriminate reburial of museum collections is undesirable.

Specific considerations

36. The remainder of the guidance note follows in logical order of fieldwork interventions. Initially the question of the circumstances under which disturbance of human remains may be considered legitimate are considered. Following this, aspects covered comprise project planning (including mitigation strategies to minimise disturbance of remains), fieldwork techniques and practices, post-excavation work, and archiving issues, including the use of remains for display and teaching purposes and the question of long-term storage / reinterment of remains.

Disturbance of human remains (Annex E4)

37. Key factors leading to disturbance of remains at Christian burial sites include threat to all or part of a burial ground due to construction works, clearance of crypts and burial vaults to facilitate change of use or other building work, and research excavations. In addition, in burial grounds which remain in use, there is the factor of disturbance to earlier burials by the continued digging of new graves.

Disturbance to remains from construction work

38. Government policy, enshrined in PPG16, is that archaeological remains should not be “needlessly and thoughtlessly destroyed”. In making decisions within the planning system, when development of a site is proposed the acknowledged desirability of preserving archaeological remains is weighed against the likely benefits of the proposed new use of the site. There is no specific provision for human remains in PPG16. Within the secular planning system, there is no greater presumption against disturbance of human burials than against other classes of archaeological remains.
39. When construction, or other works such as crypt clearance, which would result in the disturbance of human remains are proposed on land under Church of England jurisdiction, ecclesiastical law applies and decisions are made by diocesan consistory courts or, in the case of cathedrals, by the Dean and Chapter. In making decisions concerning such works, the Church, like the secular planning system, is required to balance the need to preserve remains undisturbed against the perceived benefits of the new development. However, the law of the Church of England is protective and encompasses a presumption against disturbance, and a requirement that any disturbed remains be reburied in consecrated ground as close as possible to their original resting place within a specified time frame, even when a period of research is allowed.

Disturbance of human remains in churchyards by continued grave digging

40. Many churchyards have been in use for burial for centuries. In such cases, continuing burial often disturbs earlier, unmarked interments. Such inadvertent disturbance of human remains during grave digging does not require special permission under ecclesiastical law. The Church views such disturbance as a natural consequence of the use of churchyards for their intended purpose. Attempts at piecemeal archaeological recording of remains exposed in this way are likely to be unrewarding and are in any case rather impractical. This observation does not, however, cover the organised expansion of churchyards with the purpose of making new burial space available; this would be subject to Home Office and planning / faculty regulation.

Research excavations

41. The desirability of a research excavation at a burial site should be considered within the general framework of weighing the need to preserve ancient remains undisturbed against the benefits, in terms of accrual of knowledge, which would result from the archaeological work. As with threat-led interventions, it is the Home Office and / or the Church which is responsible for decisions concerning whether a research excavation should proceed.

The archaeological project (Fig. 2)

42. What follows are recommendations for standards for treatment of human remains and associated finds during fieldwork interventions. Major points are itemised below. Detailed guidelines are provided in Annexes on forward planning, evaluation and mitigation (**Annex S2**), archaeological fieldwork techniques (**Annex S3**) and post-excavation procedures (**Annex S4**). These, or similar standards, should be adopted as required minima to be included in project briefs and specifications.
43. All archaeological projects require attention to health and safety issues. Those specific to human remains are described in **Annex S5**.
44. Archaeological projects should be carried out by suitably qualified organisations and by experienced staff responding to adequate briefs drawn up by the Diocesan Archaeological Advisor or the County Archaeologist. The Church or secular developer should be made aware at the outset of the likely need to plan for post-excavation work on the human remains and other recovered materials and to bear the cost this entails. Should there be, in individual cases, disagreement over what constitutes an appropriate level of archaeological response, the DAA or CA should provide advice to help resolve this.

Site assessment, evaluation and mitigation (Annex S2)

45. Proper forward planning is essential in helping to ensure the successful outcome of a fieldwork project. Whether in response to a threat to a site or purely for research purposes, a fieldwork project should have properly defined research aims, and an academic justification for it must be clearly formulated. It will be necessary to negotiate with a museum or other institution for storage space and curatorial care for the resulting archive at the project planning stage. At this stage the long-term fate of the human remains will probably not be clear. However, arrangements for storage should still be negotiated. Even if subsequently it is determined that remains will ultimately be reburied, short or medium term storage may still be required.
46. The legal framework for the project will depend upon the nature of the site (**Annex L1**). Desk-based assessment (DBA) of the likely archaeological impact of the proposed development is recommended. Remote sensing or evaluation trenches may be used to 'ground-truth' results of desk-based assessment.
47. Should DBA suggest the presence of an early burial ground of a particular non-Christian faith group, then representatives of that group should be approached so that an optimal strategy for any archaeological intervention can be formulated.
48. Where it is possible, avoidance of disturbance is the preferred option. Otherwise, the strategy should be to keep disturbance to a minimum.

49. One way of mitigating the impact of a development is by careful siting of courtyards or other open or landscaped areas. In smaller scale works, pipes and other services should, if feasible, be laid away from areas used for burial even at cost of longer distance.
50. Shallow raft foundations or piling are techniques which have on occasion been used to mitigate the impact of development of archaeological deposits. The Home Office would not normally consider any application which involves piling a burial site. Shallow raft foundations may obviate the need to disturb burials and the Home Office would consider carefully applications involving leaving burials in-situ beneath raft foundations.
51. If any human remains are to be left in-situ on a site where development is to take place, care is needed in order that the procedure complies with relevant legislation (**Annex L1**). The Disused Burial Grounds (Amendment) Act 1981 stipulates that there should be prior removal of human remains before a building is erected on a disused burial ground. However, if the planned works will leave human remains undisturbed, then dispensation can be obtained from the Home Office authorising that the burials remain in situ.
52. Thought should also be given to avoidance or mitigation of disturbance to ancient human remains when planning a research excavation. In particular it should be considered whether the research questions to be addressed could be answered using extant skeletal collections or sources of data other than human remains. In a large cemetery site, only the quantity of remains considered necessary to address the research questions should be disturbed (**Annex E4**).

Archaeological fieldwork procedures (**Annex S3**)

53. It should be emphasised at the outset to all project staff that human remains are different from other classes of archaeological materials in that they are the remains of once-living individuals, and that there is a legal and ethical requirement that they should at all times be treated with respect.
54. *In situ* human remains are archaeologically important whatever their date. This applies as much to more recent interments (e.g. 19th century) as it does to more ancient material.
55. In excavations where it is anticipated that human remains will be uncovered, a human osteologist should be identified from the outset as a member of the project team. If excavations produce significant quantities of human remains (more than about 30 burials), the project osteologist will wish to be regularly present on-site in order to help ensure optimal field procedures.
56. Most excavations deal with skeletal remains in earth-cut graves, together with any accompanying buried finds. However, it should also be born in mind that fieldwork at Christian burial sites may also involve clearing and recording above-ground grave markers, excavating and recording crypts or vaults, and dealing with remains of individuals showing significant survival of soft tissues. In such instances, specific procedures will need to be followed (**Annex S3**).
57. In urban areas, sites should be screened from the view of passers by. Visits to the site by the general public are normally acceptable but visitors should be warned that human remains may be visible.

58. Communication with the media is a very effective way of laying archaeological information before a wider public. However care should be taken in dealing with media interest in order to minimise the risk of sensationalist reporting.

Post-excavation procedures (Annex S4)

59. Finds processing. Human remains must always be washed, dried, marked and packed, following established guidelines (Mays, 1991). Finds should be stored in conditions suitable for the materials from which they are made. Some finds may need basic stabilising conservation; this is rarely if ever appropriate for skeletal remains.

60. Assessment and analysis. The purpose of the assessment phase is to evaluate the potential of the fieldwork data and excavated material to contribute to knowledge, and in this light to identify what further analysis is necessary. It is useful for the project osteologist to give recommendations concerning the desirability or otherwise of retaining the human remains as a research resource.

61. In the analysis phase, the recommendations made at assessment are implemented and the work written up into publishable text. Conduct of the assessment and analytical phases should follow published guidelines (English Heritage, 1991; Mays et al., 2002).

62. Short reports are normally published in local or national periodicals. Larger investigations may require monographs. Web-based publication is also possible. Publication costs should be factored into the overall project funding.

Archiving and long-term storage of human remains

63. Some of the most thorny issues in the treatment of archaeological human remains are associated with decisions concerning long-term archiving of collections, in particular whether a collection should be retained as a resource for scientific research or should be reburied following the analysis phase of the fieldwork project. In the sections which follow, current practice in this area is briefly outlined, and some of the issues associated with scientific, theological and public opinion are discussed. This is followed by sections on technical and practical recommendations for best practice in instances where human remains are stored long-term, and when they are to be reburied. Recommendations concerning best practices for the future are suggested.

Current practice regarding retention or reburial

64. Although current practices with regard to the long-term fate of skeletal collections are somewhat irregular, a few generalisations can be made. Material excavated from disused burial grounds no longer within Church of England jurisdiction is generally retained long-term in museums or other research institutions. When permission is granted for excavation of material from land under Church of England jurisdiction by means of a Faculty or other authorisation, a usual condition is that it is to be reburied, generally following some period during which scientific study is permitted. Current practice appears to favour retention of grave finds even when skeletal material is reburied.

Archiving human remains: legal and technical aspects

65. Under English law there is no property in human tissue. However, property rights may accrue if there is application of skill to the remains. This might include dissection or

mounting, but whether normal post-excavation processing, such as marking the bones with site and context identifiers, constitutes work sufficient to endow skeletal remains with property rights is unclear.

66. Retention of human remains should be properly authorised by the lawful secular or ecclesiastical authorities (**Annex L1**).
67. Human remains should be curated by a suitable holding institution and kept in conditions which ensure their physical integrity. Access to remains should be granted to all bona fide researchers in good standing with the holding institution. Requests for loans of material or destructive analysis of bone samples should be considered by competent individuals or committees. Further details are given in **Annex S7**.
68. A recommendation of the DCMS human remains working group report (November 2003) was that in future all institutions holding human remains would need to be licenced. That working group's findings were based almost entirely on evidence concerning overseas material. Although there may be benefits in a licencing system, we believe that, prior to any introduction for English material, careful thought needs to be given as to what a licencing scheme for ancient English human remains would accomplish and what the consequences for English archaeological work would be.

Archiving burial artifacts: legal and technical aspects

69. The remit of the Home Office does not extend to burial artifacts. The Church Consistory Court often confines itself to directions regarding human remains but it is within its power to make directions concerning disposal of associated artifacts if it considers it appropriate or it is invited so to do. Issues of ownership may be complex (**Annex L1**).
70. Burial artifacts are not generally stored with the human remains because different archaeological materials require specific environmental conditions, and curators with specific skills, to ensure their physical integrity.

Archiving human remains: ethical considerations

71. Most well-excavated collections of articulated human remains have potential for scientific research after the initial study which forms part of the site report is completed (**Annex S6**). Long-term retention of collections allows the application of new techniques and thus enables new information to be obtained from old collections. Retention of a collection also allows re-evaluation of results and conclusions of earlier workers. Some collections are of greater scientific worth than others. Factors which affect the scientific value of a collection include: the size of the assemblage, the quality of preservation, the closeness of dating and the type of assemblage. These factors are more fully laid out in **Annex S6**. In general if bone survival is adequate, most osteologists would consider that even small collections, provided they are of articulated skeletons, are of potential value to future workers. By contrast disarticulated bone from reworked deposits is normally of little value and can be reburied.
72. Reburial of remains in earth, or in vaults where environmental conditions are uncontrolled, leads to rapid deterioration of remains and often places practical difficulties in the way of exhumation and re-examination of skeletons. Such a strategy thus leads to irrevocable loss of information about the past for future generations. For all but the least important bodies of material, this is undesirable.

73. In Christian theology, human remains have no import for the resurrected life of the individual, but nevertheless should be treated with reverence and respect. Although the phase 'laid to rest', common parlance for burial, implies remains should be undisturbed, it is acknowledged that it is not always possible to respect the finality of burial and remains may be legitimately disturbed provided there is good and proper reason. By extension of this principle, if, due to force of circumstances, remains have been disturbed, they should, following their exhumation, be returned to a consecrated place unless there is good and proper reason not to do so.
74. Although in England there is no activism toward wholesale reburial of collections of human remains, in some instances public opinion, particularly local public opinion, may favour reburial of excavated human remains. The circumstances under which this may be the case are difficult to generalise, although experience has shown that it is rarely the case with material excavated from disused burial grounds but more often so with material excavated from churches and churchyards still in active use. In the case of human remains from cemeteries of some minority faiths (e.g. Judaism), opinion of contemporary representatives may strongly favour reburial.
75. Given the nature of Christian burial practice, grave finds generally consist of coffin fittings or shroud pins rather than personal possessions of the deceased, although these may on occasion be found. There is no theological position on the long-term fate of coffin fittings and other grave furnishings. However, it might be argued that it may be desirable to treat clothing and personal possessions which were deliberately buried with the individual, and may well have had some sentimental attachment to them, differently from aspects of grave or coffin structure such as nails or fragments of wood. It is reasonable to retain these latter for future study, even in instances where the human remains are reinterred. When artifacts appear to constitute personal items of the deceased, it could be argued that they should be treated differently. If this is accepted, then their fate might (provided this is consistent with proper legal practice with regard to ownership issues) be informed by decisions made for the human remains: if the human remains are to be reburied then so too might be personal effects; if they are to be retained then so might be the artifacts.

Educational value of human remains

Display of human remains in museums

76. Displays of human remains in museums are popular with the public and are acceptable provided that they serve a clear educational purpose. For example, they may be used in displays on human evolution or ancient medicine, or in those concerned with excavations of important archaeological sites. They may also be of value to illustrate aspects of local history and archaeology. In addition, they may be used in exhibitions aimed at demonstrating the more general value of scientific work on museum collections of human remains.
77. When displayed at ancient monuments or historic sites, human remains should aid public understanding of the site. Displays of human remains should always be accompanied by sufficient explanatory material. Display conditions, like storage conditions, should ensure the physical integrity of the remains.

Use of excavated human remains for university teaching

78. Practical study of human remains is a vital part of any higher education course which has an osteological component. Using excavated human remains to train archaeologists and osteologists is acceptable provided that remains are treated respectfully. Prior to handling human remains, students should be reminded of the ethical and legal obligations with regard to this, and they should be provided with written guidelines on what respectful treatment means in practical terms.

Handling sessions for the general public

79. Handling sessions at museums or at special events are a good way in which the general public may learn about archaeological remains. However, the use of human remains poses special problems. It is difficult to ensure that they are treated with proper respect and it may also be difficult to prevent damage to, or theft of, remains. Direct contact with human remains by the general public may entail a greater risk of offending religious and other sensitivities than is the case in a more controlled environment, like a visit to an excavation, where contact with human remains is restricted to staff, or in a university teaching laboratory where it is restricted to staff and students. Those contemplating organising handling sessions involving human remains should weigh carefully the potential benefits against the risks involved.

Reburial: technical aspects (Annex S8)

80. Remains should be deposited in consecrated ground in areas where no disturbance of existing interments will occur. Prior to reinterment, the remains should have been recorded in accordance with current techniques. Advice should be sought from a suitably qualified osteologist to determine what this entails. Remains of individuals should normally be placed in separate containers rather than co-mingled.
81. Cremation of ancient remains should be avoided unless there is significant soft tissue survival, in which case it may be indicated by health and safety considerations.

Retention versus reinterment: resolution of controversial cases

82. Decisions concerning the long-term fate of skeletal collections should be taken on a case by case basis, with consultation as appropriate in order to take into account opinions from interested parties. In controversial cases, advice from third parties may be helpful. It is suggested that a national advisory body be set up jointly by English Heritage and the Church of England which could be called upon to provide advice on retention / reburial issues and more generally on church archaeology and human remains.
83. In some instances, it may be difficult to reconcile differing viewpoints. This most often occurs when a collection of human remains is of sufficient importance that scientific ethics indicate that the material should remain accessible for research, but that other parties with legitimate interests, such as the Church or local public opinion, desires that remains be returned to consecrated ground. A possible solution in such cases may be deposition of remains in disused crypts or redundant churches. Placing human remains in such stores, which might be termed church research institutes (CRIs), would simultaneously satisfy desires for remains to be returned to consecrated ground but at the same time would, if suitable environmental controls were in place, ensure their physical integrity and continued availability to legitimate researchers. Such stores would probably need to be managed by committees which would include representatives of the local community, the Church, and the research community. It is recommended that this possibility be further investigated.
84. Pending the establishment of CRIs, the following guidelines for reburial / retention of human remains should be followed. They are in essence a regularisation of what is in general existing practice.
85. Remains from burial grounds that are still in use, still attached to a place of worship or under the control of a religious or other burial authority, or where a specific religious or family interest of the site is recognised (ie, for Church of England sites, normally excavated under faculty), should be returned for reburial after scientific studies have been completed. Exceptions *may* be made if there are overwhelming archaeological reasons for either permanent retention in an approved museum store or for a longer period of retention before reburial, to give opportunities for examination by researchers after production of a site report. Other remains disinterred because of ground disturbance should normally be deposited in an approved museum or archaeological store unless there are overwhelming circumstances for reburial which need to be respected. Where there are differences that cannot otherwise be resolved concerning final deposition of human remains, the Home Office or the Church should make a decision, based on written representations from interested parties.

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Annex L1

Exhumation of human remains – a short guide to the law

86. It is unlawful to remove or disturb any human remains without lawful authority. Various laws provide a framework for the treatment of human remains; the legal authority for dealing with the human remains must therefore be discovered in each case. The procedures to be followed may be complex. In order to keep this note short, only a brief summary is given of the relevant procedures; reference must be made therefore to the relevant legislation.

Major projects – specific authorisation

87. Certain major projects may be authorised by Act of Parliament, a recent example being the Channel Tunnel Rail Link Act 1996. Procedures for dealing with human remains are contained in the relevant statute.

Compulsory Purchase

88. Where a site is the subject of compulsory purchase, development involving human remains is covered by regulations under the planning acts, which provide that where the land consists wholly or partly of a burial ground, the land cannot be used until remains have been removed and reinterred in accordance with the prescribed procedure. The Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations 1950 require the serving of notices to personal representatives of the deceased and the denominational authority, and for publication of notices in a local newspaper. Personal representatives may then on giving notice remove the remains and monuments at the expense of the landowner; failing that the landowner may carry out the removal and reinterment of the remains. The Regulations also contain detailed provisions as to the moving of memorials, the manner of removal, certification and record keeping.

Building Work – Disused Burial Grounds

89. Under the Disused Burial Grounds Act 1884, no building¹ work may take place on a disused burial ground, except for the purpose of enlarging a church. This provision was relaxed subject to certain safeguards in relation to disused burial grounds (excepting consecrated land), in the Disused Burial Grounds (Amendment) Act 1981. Disused in this context means a burial ground that has at any time been set apart for the purpose of interment and is no longer used for interments, whether or not the ground has been closed for burials. The 1981 Act provides that notices must be displayed on the land and in local newspapers giving notice of a proposal to erect a building. Where human remains have

¹ The term “building” is defined by s.4 of the Open Spaces Act 1887 to include any temporary or movable building. In addition, the following have been held to be “buildings” and therefore prohibited:

- a bandstand
- a urinal
- an underground chamber for an electricity transformer
- a columbarium; and
- a large monument.

been buried within the previous 50 years, any objections from relatives or personal representatives of the deceased are fatal to the development and it may not lawfully proceed. For older burials, or where there are no objections, the prior removal and reinterment or cremation of burials must be undertaken where a building is to be erected on the burial ground, unless it appears to the Secretary of State² that the erection of a building on such land will not involve the disturbance of any remains. In such instances, a dispensation order can be issued by the Home Office in confirmation. The Act provides for relatives or personal representatives of the deceased (or in relevant cases the Commonwealth War Graves Commission) to themselves remove and reinter or cremate the remains.

90. The Home Office does not generally apply the 1981 Act to material more than about 500 years old. Although the Act refers to reinterment or cremation of remains, cases for long-term retention of skeletal material in museums or similar institutions for the purpose of scientific research will be considered on a case by case basis.
91. Where the 1981 Act is applicable, its provisions must be followed both in relation to building work itself, and in relation to any prior archaeological excavation. Applications for exhumation licences under the Burial Act 1857 are inappropriate in such cases.
92. The 1981 Act does not extend to any consecrated land. In relation to Church of England churchyards (churches and parish church cathedrals), provisions are contained in the Pastoral Measure 1983 for a pastoral scheme to cover a churchyard (notwithstanding the 1884 Act), which would allow the erection of a detached building. A scheme may not be made if the land contains burials up to 50 years previously. The Measure contains similar provisions for human remains to be removed by personal representatives, or otherwise by the landowner, in accordance with Home Office Directions.
93. Where land is consecrated but is not under Church control or ownership, such as a cemetery, provision is contained in the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 for the Bishop of the Diocese to remove by order the legal effects of consecration where no purpose would be served by the land remaining subject to church jurisdiction. The order may, with the consent of the Home Secretary, provide for the preservation of remains. Otherwise, they must be disposed of in line with procedures under the Pastoral Measure 1983.

The Burial Act 1857

94. Where there is no specific provision in later legislation that is relevant to a particular proposal, exhumation is covered by the Burial Act 1857. The Act 1857 makes the removal of buried human remains an offence unless a Home Office licence has first been obtained or unless, in relation to consecrated ground where the remains are to be reinterred in a different place of burial, a faculty has been issued.
95. Home Office practice in considering applications in relation to burials within the last 100 years is to grant licences provided:

² Currently the Secretary of State for the Home Department.

- a. consent has been obtained from the burial ground manager, the grave owner, and the next of kin (normally interpreted as for probate purposes);
 - b. there are no known legitimate objections; and
 - c. the application is for personal family reasons.
96. However, there are no statutory constraints on the exercise of the Secretary of State's discretion and licences may be issued in circumstances where not all the consents are available. The consent of the next of kin is usually dispensed with where the remains were buried 100 years or more previously, and applications involving remains removed for archaeological purposes, or in the course of archaeological excavations, are normally granted without consents other than from the landowner.
97. Where an 1857 Act licence is issued in respect of archaeological remains, the licence is normally subject to 'precautions', as are any 1857 Act licences. These 'precautions' may require observation of particular health and safety measures (e.g. use of disinfectants, oversight by environmental health officers), preservation of public decency (e.g. screening of site), or action in the public interest (e.g. scientific examination of remains). Similar provisions are made within any 'directions' made in accordance with site development legislation.
98. The presence of buried remains cannot always be predicted, especially if the burials took place in antiquity and the location is no longer recognised as a burial ground. Where burials are discovered by accident in such circumstances, Home Office practice is, provided remains are evidently, or can be certified to be, over 100 years old, and no other relevant legislation evidently applies, to issue an 1857 Act licence on application. The procedure is for contact to be made with the Home Office by telephone and relevant details to be faxed through. A licence can normally be issued (and faxed back) within the hour³.

The faculty jurisdiction

99. In relation to the Burial Act 1857, it is important to emphasise that the exemption mentioned above only covers removal and reinterment in a *different* consecrated place of burial. There may be circumstances where a Home Office Licence is required as well as a faculty.
100. The faculty jurisdiction extends to parish churches including churchyards and crypts, as well as to other consecrated areas, for instance in private and municipal cemeteries. The jurisdiction continues until, in the case of churches, it is removed for instance by a scheme under the Pastoral Measure 1983. In the case of land not held by an ecclesiastical corporation, jurisdiction may be removed by an order by a bishop under Section 22 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991. Such an Order may be subject to conditions relating to the disposal of human remains, subject to the consent of the Secretary of State.

³ During standard office hours, Monday to Friday.

101. Whilst secular legislation provides a framework to regulate the disturbance and removal of human remains, the law of the Church of England is protective. It encompasses a principle that remains should lay undisturbed, unless authority is granted for a good and proper reason in response to special circumstances.

102. When a body is buried in consecrated ground, the following words (from Common Worship, or the alternative from the Book of Common Prayer) are used:

We have entrusted our *brother/sister N* to God's mercy,
and we now commit *his/her* body to the ground:
earth to earth, ashes to ashes, dust to dust:
in sure and certain hope of the resurrection to eternal life
through our Lord Jesus Christ.

103. The following commentary has been written on the phrase 'commit his/her body to the ground':

The phrase 'commit his body to the ground' implies that we deliver it into safe custody and into such hands as will safely restore it again. We do not cast it away as a lost and perished carcass, but carefully lay it in the ground, as having a seed of eternity and in sure and certain hope of the resurrection to eternal life.

104. The safe custody of the Church does not mean that human remains will never be disturbed. The finality of Christian burial must be respected even though it may not absolutely be maintained in all cases. Human remains are therefore under the protection of the consistory court of the diocese, which means that no disturbance of human remains (whether corpse or cremated remains) will take place without good and proper reason.

105. Guidelines have been developed through judicial decisions as to what circumstances may lead to the granting of a faculty. Although burial is not necessarily final, the principal one is that human remains are not to be disturbed on a whim; the courts will require the submission of a cogent and persuasive case.

106. In the case of development work, there is no presumption that remains should be exhumed before the work is carried out. In the case of a scheme for an extension to a church, for instance, a faculty may be granted for a building on a raft foundation over existing graves.

107. Although much of the case law has concerned the removal of human remains at the wishes of relatives of the deceased, the same principles will apply where remains are to be disturbed as a result of building work, or for archaeological and scientific study etc. The presumption is that human remains will remain undisturbed, and it is for the petitioner to prove the case that this presumption will be overturned. The Chancellor, the judge of the consistory court, will need to receive evidence and possibly legal argument on the reasons why the jurisdiction should be exercised, and the matter may be determined at a sitting of the consistory court.

108. The courts have held that the passage of time, especially where this runs into years, makes it less likely that a faculty will be granted. This guideline was developed in

cases relating to the exhumation proposals from relatives; it is clear therefore that historic remains are not considered as being under lesser protection than more recent remains. The agreement of the incumbent and Parochial Church Council, and any relatives, will be a relevant factor, as will the effect of the granting or refusal of a faculty on the mission of the Church. Public health factors and improper motives militate against the granting of a faculty. The court will have regard to the intentions and wishes of the deceased, as far as they can be discovered or inferred. The Chancellor will also have regard for the setting of a precedent for future similar cases. If there is no intention to reinter in consecrated ground, this will argue against the granting of a faculty.

109. The faculty application should specify how human remains are to be dealt with, whether reinterred in the same or a different place of burial, cremated or retained above ground for scientific study etc. The courts will normally require reinterment to preserve the intentions of the deceased, and any departure from that will be subject to the Court's approval. Similarly, if remains are unexpectedly discovered which are thought to be worthy of scientific study, a variation of the provisions of the faculty must be obtained.

Closed churchyards and cathedral land – detached buildings

110. The Church of England has powers similar to those in the Disused Burial Grounds (Amendment) Act 1981 to overcome the prohibition in the DBGA 1884 in relation to building in churchyards and in land belonging to a parish church cathedral. Therefore, where a detached building is being considered, the land (either as a whole or the part affected) must be subject to a scheme under the Pastoral Measure 1983. If the proposed work will not disturb human remains, the Home Secretary may agree to dispense by order from the requirement of removal. Otherwise, the procedures in Schedule 6 of the Measure relating to notices, removal of remains by relatives or otherwise by the landowner, treatment of memorials, record keeping etc. must be followed.

Redundant churchyards

111. Where a churchyard is redundant under the Pastoral Measure 1983 the procedures for dealing with human remains in connection with development are as set out above.

Cathedrals

112. The primary legislation currently covering any works to a cathedral or its precinct is the Care of Cathedrals Measure 1990 (hereafter, the CCM), i.e. cathedrals are not covered by the Faculty system.
113. The CCM states that approval is required for any proposal involving “works which would materially affect
- (i) the architectural, archaeological, artistic or historic character of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
 - (ii) the immediate setting of the cathedral church, or
 - (iii) any archaeological remains within the precinct of the cathedral church.”

114. The precinct of each cathedral has an officially designated boundary (also known as the 'green line'), defined under the CCM and agreed by the Cathedral Chapter and the Cathedrals Fabric Commission. In some cases this will differ from the mediaeval or post-Reformation precinct. Archaeological remains lying outside the current precinct but within an earlier precinct will not therefore be covered by the CCM but will instead be covered by secular legislation.
115. There are no specific references to human remains or their treatment within the CCM, and the definition of 'archaeological remains' is generally held to cover burials (and their contents), but not the individual remains once they have been exhumed. The bodies which determine applications under the CCM (the Cathedrals Fabric Commission and each cathedral's own Fabric Advisory Committee) can however attach conditions to an approval relating to the treatment of any remains uncovered.
116. Since cathedrals are not subject to the faculty jurisdiction, a licence under the Burial Act 1857 will be necessary where human remains are to be removed.

Scheduled monuments

117. Some burial grounds may be scheduled as ancient monuments. Work involving exhumation may require consent under the Ancient Monuments and Archaeological Areas Act 1979.

Objects and artefacts

118. The law relating to objects found in association with burials is complex. There may be differing claims to ownership of objects found, for instance between the owner of the land, the heir-at-law of the person buried, and (in the case of the clergy), the successor in office, and the Crown, if treasure.
119. Any artefact found as a result of exhumation operations should be handed initially to the owner of the land.
120. Some objects fall under the definition of 'treasure' under the Treasure Act 1996:
 - Coins, at least 300 years old, and more than 10 in a find
 - Coins, at least 300 years old, more than 2 in a find and at least 10% precious metal
 - Objects, at least 300 years old and at least 10% precious metal
 - Any object at least 200 years old in a designated class being of outstanding historic, archaeological, or cultural importance
 - Any object that would previously have been treasure trove
 - Any objects found (at the same time or earlier) in association with the above.
121. A person finding any such object must report the find to the Coroner within 14 days. Details of the procedures are contained in a Code of Practice to the Act (revised October 2002)
122. The Government has agreed in principle to exempt the Church of England from some of the provisions of the Act because of the existence of the Church's own controls over treasure, but no such exemption is yet in force.

EXHUMATION OF HUMAN REMAINS

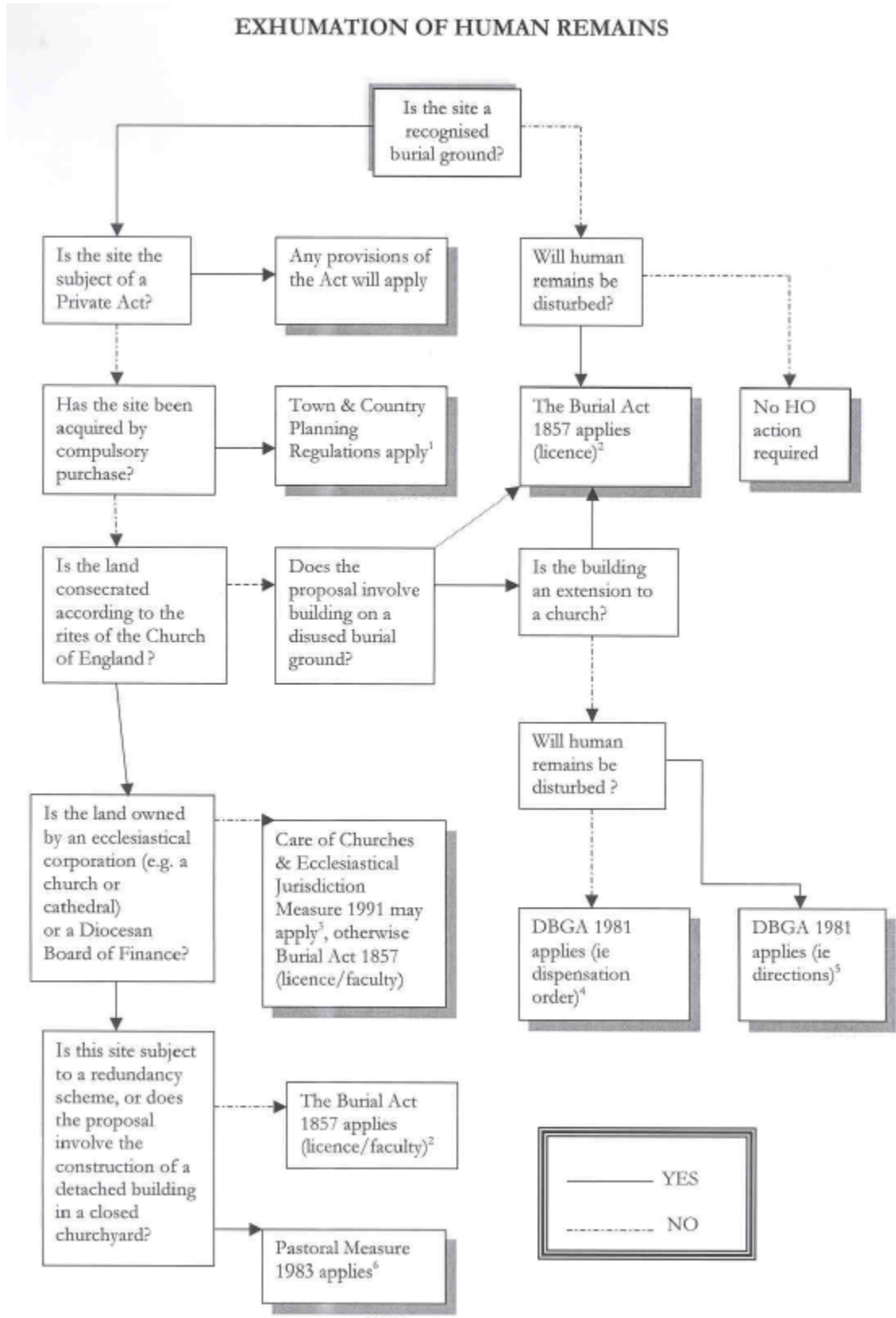


Figure 1: Flow-chart summarising legal provisions pertinent to archaeological excavation of human remains.

Footnotes

This chart is intended as a guide to the various legal procedures used to authorise exhumation in differing circumstances. Additional permissions may well be needed according to the status of the site and the work involved, e.g. where work affects a scheduled ancient monument, or approval under the Care of Cathedrals Measure.

1. The Town and Country Planning regulations: (a) require all remains to be removed; and (b) make no provision for the cremation of removed remains.
2. A Home Office licence will be required where human remains are removed, except in cases where a body is moved from one consecrated place of burial to another under authority of a faculty. A Home Office licence will therefore be required in addition to a faculty in relation to consecrated land if the remains are to be cremated, stored above ground, or if they are not to be removed to another consecrated place of burial.

Home Office licences will require the consent of the next of kin and of the grave owner unless the identity of neither is known and the grave is over 100 years old so that there is no likelihood of objection from direct descendants.

Advertisement of the intention to disturb buried remains (similar to the statutory provisions under the Disused Burial Act 1981) may be a pre-condition of the issue of a Home Office licence involving multiple burials and the graves are less than 100 years old.

The Home Office will require removal of buried remains only to the extent necessary to avoid their disturbance by building-related works.

3. This Measure allows an order to be made removing the legal effects of consecration on land not owned by the Church of England. The order may provide for the preservation or removal of the remains.
4. The Disused Burial Grounds Act 1981 will apply, and unresolved objections from relatives of those buried at the site within the previous 50 years will be fatal to the development. Removal of all the remains will otherwise be required. However, to the extent that no buried remains will be disturbed by any building-related works the Home Office may issue a dispensation order to relieve the obligation to remove such remains. Remains expected to be disturbed by non-building-related works will be subject to the provisions of the Burial Act 1857.
5. The Disused Burial Grounds Act 1981 will apply, and unresolved objections from relatives of those buried at the site within the previous 50 years will be fatal to the development. Removal of all the remains will otherwise be required and compliance with the prior advertisement provisions and any Home Office directions as to the disposal of the remains will be expected.
6. This Measure does not require the removal of buried remains unless they are liable to disturbance. A dispensation order may be made to the extent that buried remains will not be disturbed. Where remains need to be removed, arrangements for their disposal are subject to Home Office directions. Fresh or amended orders will be required on change of use or ownership.

Annex L2

Case Studies to Illustrate the Use of Figure 1

Study 1: Barchester Bluefriars

123. The former site of the friary of the Bluefriars in a suburb of the city of Barchester is to be developed for housing. At the moment the site is occupied by a stables and associated buildings, therefore lightly built over. Archaeological evaluation has established that underground structural remains of the medieval friary survive under the modern surface at a depth of less than 0.50m, and that below this level there are likely to be many burials of the period.
124. The developers have proposed three possibilities
- i) to pile the site for foundations, which they claim would only destroy 3% of the affected area and leave the archaeological remains largely in situ
 - ii) to construct the buildings on a raft foundation over the site, leaving all archaeological remains and burials in situ
 - iii) to clear the site of burials by total excavation, which may be prohibitively expensive from their point of view
125. *The works will be covered by the Disused Burial Grounds (Amendment) Act 1981. Therefore, prior removal of the remains will be necessary unless a dispensation order is issued by the Home Office. If the site is scheduled as an ancient monument, consent will be required under the 1979 Act.*
126. *The Home Office has advised that it would not consider any application which involved piling the site. It would, however, carefully consider applications involving raft foundations. Authority is most likely to be granted where clearance of the area of land to be built on (not necessarily the entire site) is proposed.*

Study 2: Grantchester Cathedral

127. An area of land that belonged within the precinct of the cathedral until the Reformation (it was at that time a parish church), at which time it was sold to private landowners and built upon, is now being developed. Evaluation has revealed that along with post-medieval building foundations and related settlement remains, many burials from the time the plot was a parish churchyard survive across the site. The cathedral authorities have expressed an interest in the human remains and wish to rebury them within the modern precinct if they are disturbed.
128. *Similar to study 1, the works will be covered by the Disused Burial Grounds (Amendment) Act 1981. Therefore, prior removal of the remains will be necessary unless a dispensation order is issued by the Home Office. If the site is scheduled as an ancient monument, consent will be required under the 1979 Act.*
129. *If the site falls within the precinct of the cathedral church for the purposes of the Care of Cathedrals Measure 1990, approval under the Measure will be required for the*

disturbance of archaeological remains. The remains may be buried within the precinct unless the burial ground has been closed by Order in Council.

Study 3: Berry Barton Saxon cemetery

130. Archaeological evaluation in advance of a housing development on a rural farmland site known to have produced Saxon artefacts has revealed the existence of a large cemetery of the late Saxon period, plainly Christian with the remains of a possible church building in the centre. The site will have to be cleared for the development. The vicar of the parish in which the cemetery lies wishes to reinter any disturbed human remains within the churchyard of the parish church 2 miles away.
131. *Similar to the two previous studies, the works will be covered by the Disused Burial Grounds (Amendment) Act 1981. Therefore, prior removal of the remains will be necessary unless a dispensation order is issued by the Home Office. If the site is scheduled as an ancient monument, consent will be required under the 1979 Act.*
132. *The remains may be buried within the churchyard unless it has been closed by Order in Council.*

Study 4: Dingledale Saxon cemetery

133. A similar case to Study 3 above, but the burials are early Saxon and there is some doubt as to whether some east-west orientated burials in one part of the churchyard are Christian; the others have grave goods and varying orientations.
134. *Similar to the previous studies, the works will be covered by the Disused Burial Grounds (Amendment) Act 1981. Therefore, prior removal of the remains will be necessary unless a dispensation order is issued by the Home Office. If the site is scheduled as an ancient monument, consent will be required under the 1979 Act.*
135. *Any objects found may be Treasure, and finds should be reported to the Coroner within 14 days of the find.*

Study 5: Redburn municipal cemetery

136. A disused late 19th century cemetery containing Methodist and Anglican burials in separate parts is to be developed for the construction of a supermarket car park. The supermarket wishes to build over the burials and leave them in situ.
137. *The site is part of a recognised burial ground, and is not the subject of a private act. It was acquired by a private company. Half of the site is consecrated, half is not. The part of the cemetery that was consecrated could have the legal effects of consecration removed, subject to the procedures and provisos in Section 22 of the CCEJM 1991. The remainder of the land would be dealt with similar to the other cases under the Disused Burial Grounds (Amendment) Act 1981.*

Study 6: Dipton A76

138. During the widening of a road into a dual carriageway, several 19th century burials have been found which were part of an Anglican churchyard, the rest of which still survives on the edge of the road. There is uncertainty about the ownership and future curation of some very fine and well-preserved coffin plates and fittings found with the burials. It is likely that the burials disturbed during the original road construction were destroyed without record.
139. *The site is part of a recognised burial ground, and is not the subject of a private act. It was acquired by compulsory purchase in order to widen the road at the expense of part of the parish churchyard. The Town and Country Planning Regulations therefore apply.*

Study 7: Abbotsford Cathedral

140. It is proposed to excavate the pre-Reformation monastic graveyard of the Cathedral as a preliminary to building offices and re-aligning the A road which runs across it. Although the Chapter own part of the land which is being excavated, it is not within the precinct as defined under the Care of Cathedrals Measure 1990 (i.e. the ‘green line’). It would, however, have been part of the mediaeval precinct.
141. *If the land which is being excavated outside the precinct is owned by local or central government, then the provisions of the Town and Country Planning (church, places of religious worship and burial grounds) Regulations 1950 would apply to any remains disturbed during the work process. Even though this was within the mediaeval precinct, it would not currently be covered by any current ecclesiastical legislation.*

Study 8: Burychester Cathedral

142. It is proposed to build a Cathedral Centre adjacent to the Cathedral. This will be within the precinct ‘green line’ but outside the area covered by the Ecclesiastical Exemption. The cathedral archives and records of some 1980s maintenance works suggest that at least part of this area will have burials within it. The known burials from this particular area are mediaeval or early post-Reformation, but the archaeologists think that there is no gap between this area of burials and the modern marked burial ground, which contains a large number of eighteenth and nineteenth century burials, and occasional ones from the twentieth century.
143. *Approval would be required under the Care of Cathedrals Measure 1990 for the archaeological works, and as the burial ground is effectively still in use and has not been ‘closed’, the disturbance of burials would require a licence from the Home Office under s.25 of the Burial Act 1857.*

Study 9: Canonminster Cathedral

144. It is proposed to install underfloor heating under the Nave of this Cathedral. There are known to be a number of mediaeval to eighteenth century burials in this area. As well as interments in coffins, there are likely to be a number of burial vaults. As these works are within the Cathedral Church itself, they lie both within the precinct ‘green line’ and the area covered by the Ecclesiastical Exemption.

145. *Approval would be required under the Care of Cathedrals Measure 1990 for the works as a whole, and the disturbance of burials would require a licence from the Home Office under s.25 of the Burial Act 1857.*

Study 10: Deanschurch Cathedral

146. It is proposed to redevelop the crypt of the Cathedral for a practice area and facilities for the choir. This will involve removing a number of burials.

147. *Depending on what specific redevelopment works are proposed, approvals would be required under the Care of Cathedrals Measure 1990 from either the Cathedrals Fabric Commission or the Cathedral's own Fabric Advisory Committee. Depending on the nature of the burials, their removal may be covered under the Measure as works affecting the character of the cathedral Church or the destruction or disturbance of archaeological remains.*

148. *The removal of burials in this instance might require a licence from the Home Office under s.25 of the Burial Act 1957, but advice should be sought depending on the specifics of the particular case.*

Annex E1

Human Remains in Christian Theology

149. The solemn interment of the dead is a practice found in many of the world's religions, and is of great antiquity. It signifies various human emotions; amongst them a profound belief that existence is changed and not ended at physical death; that the material human body may have a role to play in an afterlife; that the human corpse is to be honoured and accorded dignity as the remnants of a friend or relative or of one held in high esteem. A Christian theology surrounding the treatment and disposal of human remains must have its basis in the teachings and example of Jesus Christ. Jesus inherited, and lived in, the Jewish ethos and belief of the first century. Deeply rooted in the Old Testament teachings on death, the Hebrew mind was incapable of separating soul and body; the distinction being foreign to their understanding⁴. As long as the body existed, however corrupt, the soul also existed in the subterranean world of Sheol⁵. Although considered ritually unclean, great care was taken over the treatment of a corpse as the soul continued to feel and experience that done to the body. It appears that the cremation of a body was an outrage, inflicted only on criminals⁶, instead a burial chamber or tomb would be fabricated with ledges on which the bodies were deposited and then, when decomposition had taken place, the bones would be moved to an ante-chamber to allow for further, new, interments. Around the time of Christ, the ledges were replaced with niches, and the bodies laid to rest in coffers of limestone. The site of a tomb might be marked by a stone pillar, and they were frequently located on family property. To be debarred from a family tomb was the ultimate, final, insult and condemnation. Funeral rites were often accompanied by food offerings, repeated ceremonial lamentations and the wearing of appropriate bereavement clothing.
150. By contrast, Jesus seems to have had a far less regard for the mechanics of death and burial and a seeming disregard for the fate of the body, emphasising instead the urgency of his teaching about seizing the spiritual opportunities in this life: *Another of the disciples said to him, 'Lord, let me first go and bury my father.'* But Jesus said to him, *'follow me, and leave the dead to bury their own dead.'*⁷ Likewise, the ritual disposal of corpses and their uncleanness was a matter of indifference to him: in his teaching God is the God of the living not the dead⁸, the hypocritical become as whitened sepulchres⁹, he routinely challenges the actual physical death of certain individuals¹⁰ and he is notoriously late for the funeral rites of a good friend¹¹. These attitudes seem to have been adopted by the earliest of Christians, and little is found in the epistles of St Paul and the later writings of the Bible to suggest that funeral rites and burial ceremony were of great significance. Instead, the language of death and burial took on a highly theological content denoting spiritual states of being: *What shall we say then? Are we to continue in sin that grace may abound? By no means! How can we who died to sin still live in it? Do you now know that all of us who have been baptised into Christ Jesus*

⁴ Ancient Israel. Its Life and Institutions. Ronald De Vaux. DLT. 1974. London. Page 56. *A live man is a living soul, and a dead man is a dead soul.*

⁵ cf Ezekiel Chapter 32 vs: 17-32

⁶ cf Genesis Chapter 38 vs: 24

⁷ cf Matthew Chapter 8 vs: 21-22

⁸ cf Matthew Chapter 22 vs: 32

⁹ cf Matthew 23 vs: 27

¹⁰ cf Matthew Chapter 9 vs: 24

¹¹ cf John Chapter 11 vs: 5

*were baptised into his death? We were buried therefore with him by baptism into death, so that as Christ was raised from the dead by the glory of the Father, we too might walk in newness of life.*¹² There is little to suggest then that Jesus had a great concern for the fate of the human body and its remains after physical death. Likewise, the early Christians, whilst conducting elaborate funeral rites involving processions, anointing and clothing of the corpse, prayer and the alignment of the physical remains to the east¹³, directed these ceremonies, not to the fate of the corpse, but to the resurrected life of the deceased person. In many later funeral rites the corpse would be addressed liturgically before burial; sometimes as a physical sign of the corruption of the body before the glorification of the Resurrection, as in certain eastern Orthodox rites¹⁴; at other times as a sign of rest before resurrection;¹⁵ and, at yet other times, as a symbol that the looked for resurrection of the body had begun. It seems that there is little in Christian history to suggest that human remains have a theological significance after the funeral rites and interment have taken place. Indeed, throughout history Christian remains have been treated with practical realism: the charnel houses of England, Ireland and elsewhere demonstrate a robust attitude to the facts of death and the corruption and disposability of the human body.

151. It may be true to assert that the fullness of Christian theology relates to the resurrected life that humanity experiences through the death and resurrection of Jesus Christ, a resurrection which the Gospel accounts describe and under the implications of which humanity now exists. The Gospels however expound the mystery of resurrection through story and the relating of encounters with the living Christ, it is St Paul, his contemporaries and the theologians of later centuries, who extrapolate and ponder upon the meaning of Christ's resurrection in history. Although, at times in history, certain Christians have held the view that the human body is re-constituted at the consummation of history in the second coming of Christ (leading to the suspicion of cremation amongst certain Christian denominations) this cannot be deemed to be the view of St Paul and other later theologians. St Paul writes of the resurrected life *someone will ask, 'how are the dead raised? With what kind of body do they come?' Fool! What you sow does not come to life unless it dies. And as for what you sow, you do not sow the body that is to be, but a bare seed, perhaps of wheat or some other grain. But God gives it a body as he has chosen, and to each kind of seed its own body.*¹⁶ This also appears to be an understanding of resurrection held by the modern church: *If we speak of the resurrection of the body it is not to be supposed that the material of the resurrected body is the same as that of the old. Indeed, it is essential that it should not be, for otherwise the new creation would simply be a re-run of the old creation.*¹⁷ The Canon Law of the Church of England now specifically upholds cremation as being in accordance with Christian belief and practice.¹⁸

152. However, in understanding the true place of the human body in Christian thought and belief, it is not to say that certain standards of behaviour, treatment and dignity, should

¹² cf Epistle of St Paul to the Romans Chapter 6 vs: 1-4

¹³ cf A Dictionary of Liturgy and Worship. *Ed J.G.Davies*. SCM Press. 1972. London. Pages 96-97-chapter on Burial.

¹⁴ Ibid. Page 97

¹⁵ Ibid. Page 99

¹⁶ First epistle of St Paul to the Corinthians Chapter 15 vs: 35-37

¹⁷ The Mystery of Salvation. *The Doctrine Commission of the Church of England*. CHP. 1995. London. Page 191.

¹⁸ Canon B38. *The Canons of the Church of England*. CHP. 2000. London

not be accorded to human remains. Christian thought honours the beliefs of those who hold, as in the Jewish faith, that the mortal body continues to be of great significance at, and after, death. Elkan Levy, of the Board of British Jews, condenses this belief: *We regard human beings as having upon them the incomparable stamp of the Almighty.*¹⁹ Common courtesy, and a respect for the belief and practices of others, must be a prime objective for the Church in the context of a pluralist society. Indeed, it has been argued that it is a unique privilege and duty of the Church of England, through its representation by the Bishops in Parliament, to stand on behalf of and defend the rights and dignities of those of other faith communities: *Meanwhile, we live in a world of many faiths, and it is our very Christian calling that leads us to feel humility and respect before the transparent goodness of many within other religious traditions (and indeed many of no overt religious faith)...such is an essential basis for dialogue with them.*²⁰ The classic Christian position on the meaning and significance of human remains then must not take away from a need to be mindful of the sensibilities and beliefs of others, and it is arguable that these sensitivities must be of paramount concern and a prime directive in our care and treatment of non-Christian remains. It is important to note that, in ignoring or holding a diminished view of these issues, offence can be caused which runs far deeper than the human emotions of the bereaved but affects the very essence of a community and its commonly held understandings of life and death. In other words, hurt can be caused which transcends individual's emotions and strikes at the heart of a communities understanding and belief about itself, its history, its vocation and its significance.

153. In at least one contemporary practical example, another feature of the Church's attitude to human remains is highlighted: The Reverend Canon Nigel Cooper, Rector of Rivenhall, was solicited by the British Medical Association for his attitude to the discovery of the first British case of syphilis in his churchyard and the stated desire to investigate further human remains for traces of the disease. He concludes: *Once we are dead, the concern over our bodies is a matter of ritual. The Reformed tradition, which I judge still generally informs the Church of England's attitude to burial, is to treat the corpse with respect but not to identify it with the person who has died...So long as the skeletons were treated with respect, it is right that the living should gain knowledge from them.* In slightly different terms, the Reverend Nicholas Wheeler responded to revised methods for exhuming corpses from a burial site adjacent to St Pancras Old Church in this way: *A society that cares for the dead demonstrates that it values life.* Our treatment of the dead, therefore, says something of our ethical and moral standpoints. Theologically there may be every justification for arguing that a corpse has no more eternal significance than an empty shell, but it continues to be the vestiges of a once loved and loving human being. Primarily for the bereaved, the material body is invested with meaning as the visible manifestation of one with whom we lived, laughed and conversed. Whilst there may be a real recognition that the body no longer constitutes the person, it continues to represent them in a special way: it is a physical reminder of the reality of the life that has been lived in society and community, but which has now passed away: nowhere is this phenomenon more keenly demonstrated than in the devotion, historical and contemporary, to the remains of the saints. The medieval shrines, upon which most of our great European cathedrals are founded, underline the deep significance of certain human remains to society. In the words of

¹⁹ Presentation to the Ethics and Theology sub-committee. 4.2.2003.

²⁰ Mystery of Salvation Page 181

Jeremy Harte: *Like someone in a coma, a dead body has left the world of social interaction and perception, but not the world of social relationships.*²¹ For this reason, the Christian Church has historically accorded great dignity to the disposal of human bodies, and also the preparation for that disposal. By extension, the attitude of society to the remains of those long-dead will be keenly watched and noted by those recently bereaved, and the issues surrounding the treatment of human remains may be as sensitive and complicated as the ethical considerations surrounding human embryonic research.

154. In conclusion, it is central to Christian theology that a human body at the point of death ceases to have any import for the ongoing resurrected life of the individual. However, this approach must be tempered by a sensitivity to the differing beliefs about human remains of those of other faiths and of none and, in addition, an according of dignity and care to human remains as well as learning from them, all attitudes which can signify the deeper fundamental attitudes of the living and of the society in which they are nurtured towards life and death.
155. *Since in baptism the body was marked with the seal of the Trinity and became the temple of the Holy Spirit, Christians respect and honour the bodies of the dead and the places where they rest.*²²

²¹ Guidelines on Policy for Human Remains in Surrey Museums. *Jeremy Harte*. 2001

²² Order of Christian Funerals. *Liturgy Office of the Bishop's Conference of England and Wales*. Geoffrey Chapman. 1991. London. Page 6.

Annex E2

The theological position of the Church of England regarding the curation of the human remains interred under, and still within, its jurisdiction.

156. Forasmuch as it hath pleased Almighty God of his great mercy to take unto himself the soul of our dear brother here departed, we therefore commit his body to the ground; earth to earth; ashes to ashes; dust to dust; in sure and certain hope of the resurrection of eternal life, through our Lord Jesus Christ.
(Book of Common Prayer)
- N, go forth upon your journey from this world,
in the name of God the Father almighty who created you;
in the name of Jesus Christ who suffered death for you;
in the name of the Holy Spirit who strengthens you;
in communion with the blessed saints,
and aided by angels and archangels,
and all the armies of the heavenly host.
May your portion this day be in peace,
and your dwelling the heavenly Jerusalem. Amen.
(Common Worship: Ministry at the Time of Death - Commendation)
157. Much of the liturgy and prayers contained in Common Worship that relate to death and funerals emphasise that the soul is entrusted to God or that the departed is in God's merciful hands, enfolded in mercy, rest and peace until the time of resurrection.
158. In parallel with this, the Committal also speaks of committing the body to the ground:
- We have entrusted our brother/sister N to God's mercy,
and we now commit his/her body to the ground:
earth to earth, ashes to ashes, dust to dust:
in sure and certain hope of the resurrection to eternal life
through our Lord Jesus Christ,
who will transform our frail bodies
that they may be conformed to his glorious body,
who died, was buried, and rose again for us.
To him be glory for ever.
(Common Worship: Funeral - Committal)
159. The burial of the body (or cremated remains) can be seen as a physical symbol of entrusting the soul of the departed to God's safe keeping – the phrase “laid to rest” being common parlance for burial – as well as reflecting the death and burial of Jesus. It implies that, following burial, remains should stay in that place of rest, being treated with respect and reverence, although ultimately it is not the physical remains that matter. The reluctance of Chancellors to grant faculties for exhumation is in step with this theology.
160. Over the centuries, Christians have been buried in close proximity to their worshipping community, as shown by the village parish church and its surrounding churchyard. This

is part of the theology of the interrelation of the living and the departed in Christian worship – particularly in the Eucharist.

161. The re-use of Christian burial grounds was common practice throughout the whole of Europe and continues in many countries today, although in a variety of ways. The practice of the Greek Orthodox Church is for the body to be buried for a relatively short period of time (five years) and then exhumed and the bones often placed in an ossuary. Other European countries, re-use is planned by granting a lease on a grave for a set number of years.
162. The re-use of burial grounds in England took place until the widespread use of personal memorials in the 18th century. This gave families a feeling of ‘ownership’ of the burial place. This was coupled with Victorian sensibilities about the disturbance of human remains and the fear of the anatomists.
163. However, closed or full churchyards are already used for the interment of cremated remains, often using old grave spaces. This practice is readily accepted by members of the Church and the public.

Sources:

1. Book of Common Prayer.
2. Common Worship: Pastoral Services.
3. Rt Revd Christopher Hill, Bishop of Stafford (2002). ‘Theology of Burial’ – a paper prepared for the Court of Arches re Blagdon Cemetery.
4. Douglas J Davies (2002). *Death, Ritual and Belief*. 2nd edition. Continuum.
5. House of Commons Select Committee for Environment, Transport & Regional Affairs – Eight Report: Cemeteries (2001).

Annex E3

Definition of the theological effects of consecration on the status of a burial, and the effects of the dissolution of the monasteries

164. The tendency to surround the church with graves was initially restricted by Roman law, which forbade burial within the walls of cities. Early cemeteries are therefore often located along the major routes out of large towns and along smaller roads at rural sites. There are many examples of rural cemeteries where no church building appears to exist²³, suggesting a continuation of pagan practices of burial grounds near farmsteads and settlements. Other cemeteries seem to have been centred around churches from very early indeed. At Icklingham in Suffolk, a 4th century Christian cemetery has been excavated. Burials were oriented east-west with the head at the west end, and there was a central building with a baptistery which was probably a church. At Cherry Hinton in Cambridgeshire, a large 7th-8th century Christian cemetery had a small wooden building at its centre, again probably a chapel or church.
165. The law forbidding burials in towns gradually began to be disregarded. Pope Gregory the Great (590-604) recommended burial in churchyards rather than in cemeteries, so that worshippers walking past them going into church would remember the dead in their prayers. His contemporary Gregory of Tours first mentions the actual consecration of a churchyard. In 752 Cuthbert (Archbishop of Canterbury) obtained papal permission for the setting up of churchyards within cities to bury the dead.
166. The Pontifical of Egbert, Archbishop of York 732-766 is one of the first documents elaborating the necessary rituals for the consecration of a cemetery; the earliest surviving version of this is a 10th-century manuscript, but there is little doubt that the rites described therein were by this time well established in Anglo-Saxon England. In this, a special service is provided with the title *Consecratio Cymiterii*. Thus after the two measures of the two Archbishops in the mid-8th century, the consecration of churchyards in the English countryside and towns was probably practiced. The introduction of a burial fee (Soul scot) in the 10th century for the provision of the service by the minister and burial within consecrated ground led to formalisation of this practice in England²⁴.

The significance of the consecration of burial grounds

167. Consecration is an act by which a thing is separated from a common and profane to a sacred use, or by which a person or thing is dedicated to the service and worship of God by prayers, rites, and ceremonies. It implies the voluntary separation from certain things, dedication to God, and a vow of special sanctity. The Church distinguishes consecration from blessing, both in regard to persons and to things. Where a body is buried in consecrated ground, whether in a parish churchyard or local authority cemetery, the remains come under the protection of the Church.

²³ The making of churchyards and parish territories in the early-medieval landscape of France and England in the 7th-12th centuries; a reconsideration E Zadora-Rio: in *Medieval Archaeology* Vol XLVII 2003

²⁴ Creating the sacred: Anglo-Saxon rites for consecrating churchyards, by Moira Gittos in: *Burial in early medieval England and Wales*, Lucy S and Reynolds A (Ed) SMA Monograph 17 2002

168. Within the Church of England, the act of consecration has specific legal effects, which can be revoked. However, the new state to which consecration elevates persons or things is permanent. Land set aside for God as described above cannot be taken away by any legal mechanism, and the status of consecration will remain even when the legal effects are removed. Some Church of England Diocesan guidelines specify that consecrated earth should not be removed from the curtilage of the churchyard. The reason for this is to prevent human remains mixed in the soil being disrespectfully deposited in landfill or garden sites, for example. If soil has to be removed, for example as part of a large development of the site, then it should be carefully sifted to remove human remains.
169. *Since in baptism the body was marked with the seal of the Trinity and became the temple of the Holy Spirit, Christians respect and honour the bodies of the dead and the places where they rest.*²⁵

Monastic and other disused burial grounds

170. The burial grounds around monasteries often functioned as magnets for burials by the lay population. In post-Reformation England following the dissolution of the monasteries, the protection of the Church was removed in the case of monastic burial grounds, where these no longer form part of a cathedral precinct or parish churchyard (such as respectively Gloucester cathedral, or Malmesbury abbey). These burial grounds, often forgotten and built over, are still consecrated ground. The Church of England has no legal locus at monastic cemeteries and others no longer under its jurisdiction, but it has however lobbied in the past for respectful treatment of Christian burials in cases beyond its jurisdiction, often successfully as at the recent clearance of St Pancras Old Church cemetery in advance of the construction of the Channel Tunnel Rail Link, or in the case of Cherry Hinton mentioned above. There have also been several cases of monastic orders present in this country asking for consultation on the handling and reburial of excavated burials from “their” monastic sites, for example the Cistercians at the former Cistercian Abbey burial ground at the Royal Mint site, London.
171. In most cases the burials will simply be treated as the secular authorities see fit. Legally they will be dealt with under secular planning law, often the Disused Burial Grounds Act, and the Church will generally not be consulted. The relevant monastic orders, or the church of the parish within which the burial ground is to be found, might be considered to have a residual ethical duty of care in such burial grounds, should they wish to exercise this.
172. Disused burial grounds and ruined churches present special problems. Legally, many rural ruined parish churches and their churchyards are still consecrated, and remain within the Faculty Jurisdiction, as do some cemeteries and churchyards around redundant churches in alternative use. In the latter cases the protection of the Church for the burials is assured through this legal protection.

²⁵ Order of Christian Funerals. *Liturgy Office of the Bishop’s Conference of England and Wales*. Geoffrey Chapman. 1991. London. Page 6.

173. The case is less clear with ruined churches and their burial grounds, which may still be legally the charge of the parish in which they lie, but which may now occupy land owned by a secular landowner (commonly a farmer). Since the curtilage is now often obscured and burials rarely marked, burials may be ploughed up or otherwise disturbed. Although the protection of the Church into which the deceased were committed has often practically lapsed, the Church still has an ethical and legal duty of care for these burial grounds.
174. Conclusion: Separate Christian cemeteries have existed in England since at least the 4th century. Some of these were related to church buildings, others not. Urban burial in cemeteries and churchyards in English towns dates from perhaps as early as the 7th century, but the 8th century at the latest, from which date also they may have been consecrated, and this paper contends that this should be assumed; consecration of churchyards and cemeteries was certainly common practice from the 10th century. Where these cemeteries and churchyards are no longer within the curtilage of a parish church or cathedral church or otherwise not under the Church's jurisdiction, the Church's legal protection of the Christian dead has lapsed in favour of the secular, but an ethical interest or duty of care remains, as the dead were committed into the care of the Church upon burial.

Annex E4

The presumption of non-disturbance of archaeological remains and the question of research excavations

Preamble

175. Demands for development are such that it is impractical to safeguard all archaeological remains from disturbance. Nevertheless, it is Government policy, enshrined in PPG16, that archaeological remains should not be “needlessly or thoughtlessly” destroyed. When development of a site is proposed it is necessary to weigh the need to preserve archaeological sites against the benefits of the proposed new use of the site. PPG16 states that consideration should be given to avoidance of disturbance of archaeological deposits by making adjustments to the location of the development. Where such is not thought practicable, strategies such as rafting which minimise the damage to archaeological deposits should be considered. If strategies for avoidance of disturbance to archaeological deposits do not prove feasible, the area should be subject to archaeological excavation and artifacts and ecofacts recovered.
176. It is noted that:
- Within the secular planning system, there is, in principle and in practice, no greater presumption against disturbance of ancient human remains than against other classes of archaeological remains.
 - As evidenced by TV programmes such as ‘Meet the Ancestors’ and ‘Time Team’, excavations in disused burial grounds (whether Christian or otherwise) are usually acceptable to the general public and indeed the public seems interested in such work.
 - When disturbance of human remains on land under Church of England jurisdiction is required, to make way for building development or other works, the Church, like the secular planning system, is required to balance the need to disturb remains against the perceived benefits of a new development. The law of the Church of England is protective and encompasses a presumption against disturbance, and any disturbed remains should be reinterred in consecrated ground as close as possible to their original resting place within a specified time, even when a period of research is allowed. Pastoral issues are also more prominent as public sensitivities tend to be greater when remains from churches or churchyards in active use are exhumed than in excavations of disused burial grounds.
177. In many cases, both secular and ecclesiastical authorities consider that the benefits of finance and convenience of a development may outweigh the need to preserve ancient human remains undisturbed. The desirability of a research excavation at a burial site should be considered within the general framework of weighing need to preserve ancient skeletal remains undisturbed against the benefits, in terms of accrual of knowledge, which would result from the work. Only if the latter are considered to outweigh the former should it go ahead.
178. Many hundreds of ancient human skeletons are recovered each year on excavations instigated in response to development or to some other threat. One might ask why there

should be any need for further excavation of human remains in research excavations on sites which are not threatened with damage or destruction. The answer to this is that reliance on threat-led archaeology has resulted in a rather skewed selection of ancient populations becoming available for study and this has left important lacunae in our knowledge and important research questions which cannot adequately be addressed. For example, since most development takes place in urban areas, extant skeletal collections from the historic periods are dominated by urban samples – there are few adequate rural collections (Mays, nd). This means that it is difficult to address important questions concerning relationships between urban populations and those in settlements in their hinterlands. Our urban samples are also biased. For example, many urban Mediaeval assemblages come from friaries, few from parish churchyards (Mays, 1998): disused friary burial grounds lie in the hearts of many urban areas and so are frequently impinged upon by town centre development; by contrast many parish churchyards are still in ecclesiastical use and so have never been excavated.

179. Clearly a burial ground research excavation should be aimed at tackling important archaeological, medico-historical or other questions. However thought should be given to avoidance or mitigation of disturbance to ancient human remains. The following points should be considered:
- Can the research questions be addressed using extant skeletal collections or sources of data other than human remains?
 - In a large cemetery site, only the quantity of remains considered necessary to address the research questions should be disturbed.
 - The long-term fate of the human remains should be considered before plans for excavation are agreed. Reburial of remains under the soil or in structures (e.g. vaults) where environmental conditions are uncontrolled results in severe deterioration of material and permanent loss of scientific information (During, 1997; Mays, 2002), and hence is undesirable.
 - The public appear generally acceptant of research excavations at disused burial grounds. However sensitivities may be greater for material excavated under Church faculty from churches and churchyards.

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Annex E5

Excavation of skeletons lying partly under baulks

180. When a burial lies partly beyond the excavation trench, normal archaeological practice is for only that part within the excavated area to be lifted, the remainder being left in-situ. Some may feel a little uncomfortable with the notion of splitting a skeleton asunder in this manner, leaving part in the soil where it lay and another to be placed in a museum or to be reburied in some other place. Both theological and practical considerations are relevant here:
181. At a theological level, it has long been thought that the scattering of a body's parts posed no threat to its corporeal resurrection (Knowles, 1972 & see **Annex E1**). The notion that a skeleton should remain together clearly did not weigh heavily with early grave diggers, they had no compunction about cutting through previous burials and scattering and co-mingling the remains.
182. Chasing burials under excavation baulks is problematic on practical grounds. On many excavations it is impractical to extend trenches, and in any event to do so would probably expose parts of further burials given the dense inter-cutting of interments characteristic of most Christian cemeteries. Burrowing under the baulk to chase a particular burial without exposing others is also problematic, not least on health and safety grounds.
183. The degree of intercutting of burials in most churchyards means that many are, to a greater or lesser extent, truncated, missing elements being scattered to different parts of the site as the soil was dug and re-dug over the centuries. It is thus inevitable that when an articulated but incomplete burial is removed some of the elements which belonged to it may remain on some unexcavated part of the site; even if by chance they were recovered among the disarticulated material it would be impossible to reunite them with their rightful owner. Thus, even if attempts were made to track burials under the baulk, it is still inevitable that most or all skeletons lifted will in fact be incomplete to some extent.
184. In general, it is recommended that human burials should not be chased beyond the limits of the current trench or work area. However, if the burial is deemed osteologically or archaeologically important the skeleton should be followed under the baulk so that it may be lifted in its entirety, provided this will not result in disturbance of further burials. If it is not deemed of value to lift the burial, the exposed remains should be reinterred in the trench.

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Annex E6

The ethics of destructive sampling

185. Traditionally, osteoarchaeology has been a science based on measurement and visual inspection of bony remains. However, in recent years, techniques which are, to a greater or lesser extent, destructive of skeletal material have become important. These include microscopic analysis of bone sections, and chemical analyses for stable isotopes, trace elements and ancient DNA, as well as the more established technique of radiocarbon dating. Today, these techniques form an integral part of osteoarchaeology. In general, the public is acceptant of archaeological work on human remains, and in fact it is often results from work based on destructive sampling (e.g. DNA analysis) which most interest the layman. In this light it is suggested that destructive sampling is ethically acceptable in certain circumstances. The following points provide guidance:
186. Can the research question(s) be addressed using non-destructive techniques? Destructive sampling should only be contemplated if this is not so.
187. Any programme of destructive analysis on human remains should take place within a planned research programme and should have a realistic prospect of producing useful knowledge.
188. For burials of named individuals, permission should be sought from surviving family members if known.
189. If the feasibility of a technique is questionable but nevertheless deemed worthy of further investigation, consideration should be given to conducting a pilot study on a small number of samples before permission for a full programme entailing destruction of larger amounts is given.
190. Only the quantity of material considered necessary to address the research questions should be taken as a sample. Any material removed but not destroyed during analysis should be returned to the collection.
191. The location in the skeleton from which the sample(s) is taken should be carefully considered. For example, avoid sampling from areas of known osteological landmarks (e.g. the midpoints on long-bone shafts) as this will reduce the information obtainable from the collection by future workers. Unless the study is specifically of diseased bone, sampling from pathological bone should be avoided.
192. All sampling should be fully documented so future researchers will know what has been taken.
193. The skeletal element sampled should be fully recorded and measured prior to sampling. Under some circumstances (e.g. if the skeleton is intended for museum display) consideration should be given to producing a cast of parts which will be damaged or destroyed.

Annex S1

A summary of some of the potential benefits from the study of collections of human skeletons from Christian burial grounds

What can we learn from human remains?

194. Human remains are the most direct evidence available on how people lived in the past. Human osteology, the scientific study of human skeletal remains, is a key component of modern archaeology. Human osteology also makes a key contribution to medical history and to forensic science. The following section summarises briefly the value of human osteology in these fields using examples drawn from the study of skeletal remains from Christian burial sites in England.

Human osteology in archaeology

195. Demography. Determination of age at death and sex of ancient skeletons can aid the reconstruction of the demography of earlier populations.
Example: Examination of an 18th century collection from a church crypt in London of documented age at death led to a re-evaluation of current techniques for age at death estimation in skeletal remains (Aiello et al., 1993). Re-assessment of the demography of skeletal samples in the light of these results has indicated that, contrary to popular belief, adult life expectancy in many earlier populations was good, with many individuals living into old age (Mays, 1998: 70-73).
196. Growth: Plotting bone size against age at death enables growth profiles of earlier populations to be reconstructed.
Example: It is known from written sources that there has been a trend toward increased height for age in children over the last 150 years. Archaeological evidence (Mays, 1999a) reveals that this trend may have a much earlier origin.
197. Patterns of disease: A range of diseases can be identified in human skeletal remains, and their prevalences in early populations estimated.
Example: Comparison of the frequency of sinusitis (indicative of upper respiratory tract infection) between Mediaeval skeletal collections from urban and rural churchyards reveals a higher prevalence in the former, suggesting that airborne industrial pollution in towns was beginning to have a detrimental effect on human health by the Mediaeval period (Lewis et al., 1995).
198. Genetic relationships: Currently, genetic relationships among earlier populations are generally reconstructed using skeletal morphology, particularly cranial form. It is likely, however, that analyses of DNA from skeletal remains will play an increasing role in future.
Example: Morphological analysis of crania from Yorkshire confirms that Scandinavian migrants likely made a substantial contribution to the population of Mediaeval York, but this does not appear to be the case in rural areas (Mays, forthcoming).
199. Activity patterns: Habitual patterns of activity in individuals and populations can be reconstructed using aspects of variation in the post-cranial skeleton.

Example: In a study of bones from the Tudor warship, *Mary Rose*, Stirland (2002) was able to identify skeletal changes which reflected tasks carried out routinely by the ship's crew.

200. Diet: Chemical analysis of skeletal material can reveal various aspects of diets.
Example: Stable isotope analysis of skeletal remains from monastic sites confirms that brethren consumed different diets from those of layfolk (Mays, 1997).
201. Burial practices: The study of Christian burial practices is an invaluable source of information on past beliefs and social organisation.
Example: Recent work on grave form, body position, osteological attributes and associated artifacts has shown a wide variation in Christian funerary practice (Gilchrist & Sloan, in prep.)
202. Human evolution. Anatomically modern human remains provide a baseline from which to evaluate skeletal morphology in early hominids and are used in comparisons with living non-human primates. Large and diverse skeletal collections are needed and these typically include material from the Christian era.
Example: A study of cranial and dental development in archaeological skeletal material provided a baseline from which to evaluate growth in Neanderthals (Stringer et al., 1990).

Human osteology in medical history

203. The possibility of identifying disease in human remains means that study of ancient skeletal remains may play a major role in elucidating the history of various diseases. In some instances, this involves demonstrating that the history of certain diseases extends much further back in time than the earliest written descriptions. For example, rheumatoid arthritis had long been held to be a disease of modern origin (Short, 1974). However, recent osteoarchaeological studies, such as on a skeleton from Mediaeval Abingdon Abbey (Hacking et al. 1994), have forced revision of this view.
204. Palaeopathology also has the potential to contribute to historical debates over the origin and spread of diseases. For example, it has long been held that the treponemal diseases, including syphilis, were not originally present in Europe but were introduced from the New World by Columbus. Recent archaeological finds, including examples from Mediaeval England, indicate that the disease was in fact present in Europe well before the Columbus voyages (Mays et al., 2003).

Human osteology and our understanding of modern diseases

205. Investigation of disease prevalences in skeletal populations which are genetically similar to our own but which had very different lifestyles may help elucidate the importance or otherwise of lifestyle factors in influencing disease. For example, it is frequently asserted that a variety of aspects of modern Western lifestyles, such as cigarette-smoking and sedentary habits, increase the risk of osteoporosis (Christansen, 1993). However, studies on British archaeological material indicate that the prevalence of the disease seems to have remained unchanged since Mediaeval times, throwing doubt on the role of lifestyle factors (Mays, 1999b). Potentially, the enhanced understanding of diseases such as osteoporosis which may arise from

palaeopathological study may lead to alterations in treatments and advice on avoidance of risk factors given to patients today.

206. Recent work on DNA from disease-causing micro-organisms extracted from diseased human skeletons from archaeological sites has aided our understanding of evolutionary change in these pathogens. For example, a recent article presenting a new evolutionary scenario for the bacterial organisms responsible for tuberculosis (Brosch et al., 2002), cited various work on ancient DNA in support of the new hypothesis. Because skeletal remains from archaeological sites frequently preserve DNA from bacteria or viruses they act as a storehouse of potential information on organisms which are important causes of disease in modern populations. As more work is carried out we may begin to understand how genetic changes which have led to changes in virulence in micro-organisms occurred and also something of the circumstances responsible (e.g. Taubenberger & Reid, 2003). Such work is clearly of modern relevance as some infectious diseases earlier thought to have been conquered, such as tuberculosis, begin to re-emerge.

Human osteology in forensic science

207. Much of the methodology used in forensic examination of human skeletal remains has been developed on archaeological samples, particularly those such as Christ Church Spitalfields, which are of documented age and sex. Some of the techniques used routinely in forensic osteology have been tested (Scheuer, 2002) or revised (Buckberry & Chamberlain, 2002) using archaeological skeletal material. Understanding of the survival and decomposition of buried bone is enhanced by archaeological studies. Results of these can then assist in the interpretation of modern cases. For example, studies of patterns of skeletal survival in archaeological cemetery assemblages have been used as a baseline for comparison with modern forensic cases so that missing skeletal elements from forensic burials were not misinterpreted (Cox & Bell, 1999).

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Annex S2

Minimum standards for site assessment, evaluation and mitigation

Introduction

208. All archaeological fieldwork should be carried out by suitably qualified organisations to briefs drawn up for the work by Diocesan Archaeological Advisors or County Archaeologists. The Church or secular developer should be aware of the need to allow for funds to cover the post-excavation examination of human remains and other recovered material as well as the costs of the excavation itself. The DAA or CA may help adjudicate when there are disagreements over what constitutes an appropriate level of archaeological work.

Site assessment and evaluation

209. A key factor in the successful undertaking of fieldwork on human remains lies in forward planning. If any work requiring a faculty, planning permission or scheduled ancient monument consent is envisaged, a desk-based assessment (DBA) of the likely archaeological impact is recommended. It eases risk management and allows realistic financial planning. The legal framework will depend upon the nature of the site in question. **Annexes L1 and L2** may help identify relevant legislation.
210. DBAs compare likely extant archaeological deposits with the scale and scope of the proposed work, and summarise the potential impact. Methodology includes basic documentary trawls, searches of Sites and Monuments Records, and map regressions.
211. If the DBA indicates the likelihood that the proposed development will impact upon the burial ground of a non-Christian faith group (e.g. a Jewish burial ground), then the developer and the archaeologists should liaise with representatives of that faith group in order to determine the optimal procedures should human remains be encountered.
212. On most Christian burial sites, interments are densely packed and inter-cut. Thus even fairly small developments may precipitate archaeological excavations which involve the recovery of the remains of large numbers of burials. For example, in a burial ground, attached to a church or cathedral, which was in use for burials for several centuries, experience has shown that a 100m² excavated area may yield articulated remains of up to 700 burials. Even on the peripheries of churchyards in use for much shorter periods of time, a similar size excavated area may well yield 100 interments.
213. A number of methods are available for evaluating the extent and density of burial within the footprint of an area affected by development. On certain sites, remote sensing may be a very useful risk-evaluation exercise. Ground-penetrating radar may be able to detect large hollow spaces such as vaults below the surface prior to any groundworks. Evaluation trenches may be dug in order to confirm estimates of the extent and density of burials, and also to determine the degree of skeletal preservation. In such interventions, lifting of human remains should be kept to the minimum compatible with adequate evaluation.

214. Assuming a DBA and any subsequent evaluation procedures indicate a likelihood of disturbance of human remains, it is important to factor their recording and/or removal into the programme of works.
215. It is sensible to plan a separate stage of archaeological work to mitigate the impact of the proposed scheme. Construction can then proceed unhindered. This will have impacts on cost and timetable. Quotes from several archaeological contractors should be obtained, balancing price with speed and quality, and checking that all stages of the process are covered. It will be necessary to negotiate for storage space and curatorial care for the resulting archive, with a museum or other institution. At this stage the long-term fate of the human remains will probably not be clear. However storage space for them should still be negotiated. Even if subsequently it is determined that they will ultimately be reburied, short or medium term storage may still be required. The institution will often issue a 'site code' which must be referenced on every subsequent document concerning or related to the investigation.

Mitigation strategies

216. Where possible, avoidance of disturbance is the preferred option. Otherwise, the strategy should be to keep disturbance to a minimum.
217. One way of mitigating the impact of a development is by careful siting of courtyards or other open or landscaped areas. In smaller scale works, pipes and other services should, where feasible, be laid away from areas used for burial even at cost of longer distance.
218. Using shallow raft foundations for buildings may avoid the need to disturb burials, or at least keep the degree of disturbance to a minimum. Provided appropriate methods of construction are used, raft foundations should not damage deep-lying burials. The use of piled foundations on a burial ground will not normally be considered by the Home Office.
219. If any human remains are to be left in-situ on a site where development is to take place, care is needed in order that the procedure complies with relevant legislation (**Annex L1**).
220. It should be noted that leaving human remains in-situ at a development site may be inappropriate in some cases. For example, in residential developments occupiers may be concerned at the thought of human remains lying beneath their dwellings (and developers may find it difficult to sell the residential units for that reason). Leaving interments in-situ would also be potentially problematic if remains lie close to the surface and the new use of the site is likely to lead regularly to minor works which might disturb remains (as might be the case in residential units).

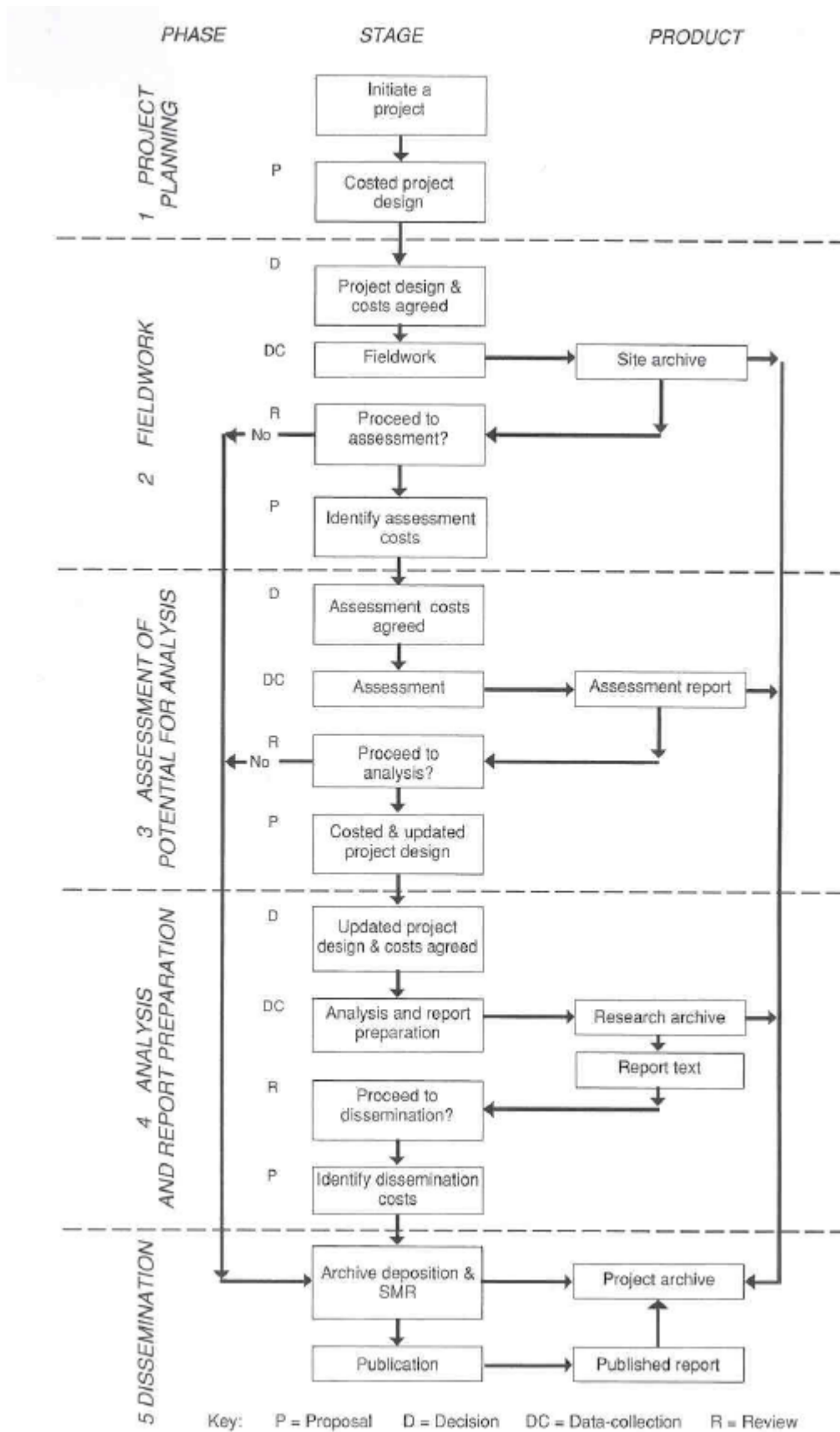


Figure 2: The phases of an archaeological project (from English Heritage, 1991).

Annex S3

Minimum standards for archaeological excavation

221. It should be emphasised to all project staff involved in handling of human remains, both during excavation and during post-excavation phases of a project, that human remains are parts of once living individuals, and should at all times be treated in a respectful manner.
222. In terms of field recording, human remains form part of a sequence of archaeological 'contexts' which will often include such deposits as natural subsoil, graveyard soils, paths, roads, dumps, walls, pits and so on. They must be excavated stratigraphically to be of any archaeological value. Only in this way can associated material (dating evidence, grave finds, coffin fittings, monuments) be securely linked with the skeletal material.
223. Human remains *in situ* should be considered as of archaeological value whatever their date or disposition. Notwithstanding the views of many people that more recent burials (e.g. 18th/19th century interments) represent something other than this, in time, these too will be ancient. Necessary disturbance therefore brings a responsibility to record to a minimum standard.
224. The archaeological intervention should be accurately geo-referenced by land survey to Ordnance Survey control. Experience shows that measurement to standing structures or planning according to building plans is, or becomes, inaccurate. Accurate location is important since very often, only parts of inhumations are to be removed, leaving remains *in situ*.
225. Each burial should be given unique 'context' numbers, dug by hand, with a basic plan and photograph of each inhumation, and a written description of their disposition, survival, the grave fill and other pertinent aspects. Most archaeologists use specific detailed forms for recording. A summary checklist of requirements and recommendations is:
 - Human burials should not be 'chased' beyond the limits of the current work area/excavation trench (**Annex E5**).
 - Heights with respect to Ordnance Datum for key points in each grave and on each skeleton must be measured, using a dumpy level or similar. Frequently, electronic distance measurers are used by archaeologists to record digitally plan and height data very rapidly.
 - The kinds of information to be recorded by archaeologists is discussed in detail in elsewhere (McKinley & Roberts, 1995; English Heritage, 2004).
 - A human osteologist should be on hand if significant numbers of burials are expected or occur (30+ is a good rule of thumb). The principal on-site role of the osteologist is to ensure maximum retrieval of contextual information relating to the human remains and to ensure that those remains are presented in a fit state for the assessment phase.
 - Finds in graves must be photographed *in situ* and planned or 3D-located: some may be associated with the burial, while others could be residual in the grave fill; it is very important to determine which.

- Skeletons in mass graves (plague pits etc) are often very intermingled. Articulated portions of skeletons that cannot immediately be assigned to their counterparts should be planned accurately and given a unique context number: refitting will then be possible at the post-excavation stage.
- Disarticulated, redeposited bone must be bagged separately from any *in situ*, articulated bone. Redeposited material in the grave fill should be retained until the results of the fieldwork can be assessed.
- The *in situ*, articulated bones should then be carefully lifted. Different skeletal areas and bones from left and right sides must be bagged separately and placed in the same box. Normal separation is: skull, torso, left arm, right arm, left leg, right leg.
- Following the lifting of the bones, the soil remaining on the grave floor should be recovered in three subsamples: from the head area, the torso, and the leg/foot area. These should then be wet-sieved and sorted to remove loose teeth and small bone fragments.
- Grave structures, coffin stains, and associated features within the grave must be measured in on plan, and photographed *in situ*. Some require 'context' recording in their own right.

226. The above are general guidelines applicable to the excavation of earth-cut burials. However there are some additional special circumstances which archaeologists may face when dealing with burials which may require special procedures. These include recording of gravestones, dealing with crypts and vaults prior to their clearance, and treatment of burials showing significant survival of soft tissue. Brief notes on these topics are given below, but the reader is referred to the cited publications for more comprehensive advice.

Dealing with gravestones (Jones, 1984).

227. If grave markers are to be cleared, an accurate plan should be made showing the position of each stone, linked with a record of its inscription etc. Pro-forma gravestone recording sheets have been produced for this purpose (e.g. Jones, 1984). A photographic record of each stone should be made. If a stone is *in-situ*, care should be taken that its location is recorded in sufficient detail that the information on it can be linked unambiguously with the skeletal remains of the burial for which it was a marker.

Dealing with crypts and vaults (Cox, 2001).

228. Recording of the structure of the crypt or external vault is as essential as that of its contents: the information is of critical use in identification and dating, and the spatial dimensions provide useful information for managing the church in the future. Prior to entering and recording a vault, the archaeologist should consult with the Church and the Home Office concerning what permissions may be necessary. Recording should concentrate on:

- Entrance shaft, capping stone, steps, filling matrix
- Interior measurements, including reference to any and all fixtures, fittings and decoration
- Plan of all coffins in the vault
- Measurement of individual coffins

- Description of coffin furniture and decoration
- Photographic record
- Backfilling and resealing

Dealing with human soft tissue (Cox, 2001)

229. Human soft-tissue may survive in anaerobic conditions, such as may be encountered in sealed lead coffins. When it is anticipated that bodies showing soft-tissue may be found, this should be made clear in advance to all staff. The reality of putrefaction and health and safety considerations, mean that when soft tissue survival is significant, somewhat different strategies are demanded than are used for treatment of skeletal material. Strategies for dealing with soft tissue should be formulated, in conjunction with relevant specialists, at an early stage in the project. Particular attention should be paid to health and safety considerations (**Annex S5**). Specific strategies will be project-dependent, but a few general remarks can be made:

- Bodies required for scientific research should be recorded in the field and then immediately removed to an appropriate laboratory.
- Bodies not requiring further scientific analysis should be recorded in the field and then reinterred immediately. Reinterment will normally be handled by a funeral director who will attend on-site and arrange for burial in an agreed cemetery.
- Bodies exhibiting only very small amounts of soft-tissue should be recorded and lifted as for skeletonised material and transferred to a laboratory for any further work as soon as is practicable.
- In unanticipated instances of substantial soft-tissue survival, practicalities require that rapid decisions be made and implemented in the field concerning whether the bodies should be lifted and removed to a laboratory for study or immediately reinterred.

Public access

230. Visibility. Where excavations are likely to be visible to passers-by (as is generally the case with urban excavations), the site should be screened (and roofed where tall buildings overlook the site), and Home Office licensing usually requires this. This serves several purposes: to protect the public from viewing what may be considered distasteful or upsetting; to mitigate against possible looting or vandalism; to protect site staff from adverse public reaction.

231. Site visits. The immense public interest in burial archaeology and strong commitment amongst archaeologists to outreach means that arrangements for site visits requires consideration.

232. Sites may be open to casual visits from the general public who may view the site from platforms or walkways, or to conducted tour. In the case of the former, notices indicating that human remains may be seen should be clearly visible to visitors before they enter the site. Once within the site, information boards should briefly summarise the reasons for disturbing human remains at the particular site in question and the archaeological benefits of their post-excavation study.

233. For visits by conducted tour, those for professionals and local interest groups can be undertaken without great preparation, as these individuals will be prepared. For those for the general public, tour leaders should inform the tour group at the outset that human remains will be visible. Tour leaders should take care to explain why the remains are being excavated and in discussing them should concentrate on the archaeological evidence they may yield. Temptations to sensationalise the remains should be avoided. Appropriately experienced and suitable staff should lead tours, ideally along designated routes. Sites should only be opened in cases where there is considered to be no more sensitivity than usual and where security is ensured.

Dealing with the Media

234. Because of the strong public interest in the archaeological study of human remains, archaeological excavations of burial grounds often attract significant media attention. Communicating with the media is a very effective mechanism of laying new information before the wider public. However care is needed. This is particularly the case for live interviews to TV or radio journalists, but also applies to recorded interviews for radio or TV and to dealings with print journalists, as it is often not possible to insist on editorial control once an interview has been given. Attempts to sensationalise the excavations should always be resisted, and what archaeologists can expect to learn about the past from the remains should be emphasised. Site personnel should always be warned by the project director when site-visits by the media are planned.
235. Images of human remains, either under excavation or at the post-excavation phases of a project, in print or TV media are acceptable, but care should be taken to avoid sensationalist aspects. Staff should exercise judgement about what makes an acceptable image. This includes the background to the image (e.g. gravestones in the background tends make the archaeologists look like grave robbers). Issues such as these should be discussed with journalists/TV producers prior to photography or filming. Although one cannot in every case prevent sensationalist or ghoulish reporting of burial ground excavations, by thoughtful pre-planning and sensible behavior one can minimise the risks. It is best only to be involved with reputable groups.

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Annex S4

Minimum standards for post excavation procedures

Post-excavation processing

Human remains.

236. As part of post-excavation processing, recovered human bones must be washed, dried, marked, and packed. For large investigations these procedures often take place on site, and would need dedicated resources. Guidelines on best practice are available from English Heritage (Mays, 1991). Each bag containing part of an inhumation must be labelled with the site code and the unique number of the skeleton. This unique number will accompany the skeleton right through to archive or reburial, and is sufficient, with the site code, to identify the individual anywhere in the British Isles. Packing of bones is usually within polythene bags inside archive-standard boxes, which will also carry the unique sitecode/context number ID. Use of stabilising conservation treatment (e.g. consolidants) should be avoided.

Associated grave finds

237. Some finds from graves (whether deliberately placed, or residual in the grave-fill) can be extremely fragile. Access to basic stabilising conservation is therefore important. Finds should be stored in conditions appropriate to their material, and with regard to security. Standards for the treatment of different finds classes include UKIC conservation standards, *First Aid For Finds*. The skeleton(s) with which exceptional grave finds were found should be readily identifiable (noted on label, or included in a database for example).

Post-excavation assessment

238. The scientific value of excavated human remains depends on a number of variables, including their identity, date, condition, completeness, group value, rarity, association with other features or finds. It is vital that these criteria are judged dispassionately and in the whole. All human skeletal remains that are excavated must therefore be retained pending an archaeological post-excavation assessment.

239. The assessment stage of an archaeological investigation is usually a team effort, with contributions from a number of specialists being synthesised by the project director. It forms part of the archaeological archive, and usually takes the form of a written report summarising current state of knowledge of the group (date, stratigraphic and artefactual associations, condition), along with the legal and administrative framework in which they were exhumed, and recommendations for their future (ranging from immediate reburial to permanent retention for research purposes). Recommendations for further research should be explicitly framed within existing national, regional and or local research frameworks (English Heritage, 1998)). Post-excavation assessment of human remains should follow published guidelines (Mays et al., 2002).

Post-excavation analysis

240. The aim of the analysis phase of an archaeological project is to carry out the work recommended at the assessment phase. It should result in the production of a

publication report and a research archive. The analysis of the osteological material should take place according to published guidelines (Mays et al., 2002).

241. The costs of post-excavation analysis can be considerable. The amount and nature of work done will depend upon the research aims of the archaeological project and the nature of the recovered material. Criteria used for assessing the importance of a skeletal collection are set out in **Annex S6**. Because the strategy for post-excavation work varies greatly from case to case generalisations are difficult. However a few points can be made. Usually, disarticulated redeposited bone is not worthy of work at the analysis phase, but articulated skeletal material almost always is. The level of work carried out at the analysis phase on articulated skeletal material should normally include recording of demographic aspects (age & sex), normal variation (both measurements and non-metric anatomical variants) and recording of signs disease and injury to the bones and teeth (for further details see Brickley & McKinley, 2004). Costs of post-excavation work of course vary greatly. However as an approximate rule of thumb under most circumstances one would expect to pay a maximum of one day's worth of specialist time per skeleton to cover all the work at the analytical phase. So for example, if 20 articulated, complete and well-preserved skeletons were recovered in an excavation, the rule of thumb would suggest that 20 x (daily specialist rate for an osteologist) is the approximate maximum expense likely to be incurred for recording, analysis and the writing of an osteological report. Additional costs, over and above this, would need to be clearly justified, and agreed with the diocesan archaeological advisor or the county archaeologist.

Dissemination of results

242. The assessment stage will have identified any requirement for (and scale of) publication, and identified the likely costs such publication will incur (in the form of report writing, editing, printing and refereeing where necessary). All investigations should be notified to the sites and monuments record and the national monuments record (this can be included in the brief). Normal locations for short reports would be county or period journals. Some investigations may justify monographs. Web-based publication is possible. Reports should be made available within an agreed timetable to the funding organisation.

References

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Annex S5

Health and Safety aspects specific to human remains

243. The risks involved in any field or laboratory work should be assessed as a matter of routine. Relatively high risks may be associated with the exhumation of human remains that are relatively recent; where human remains are, or may be, less than a hundred years old, risks should always be assessed carefully.
244. The excavation, examination and sampling of human skeletal remains from England that are over a century old present relatively few particular risks. The most obvious concerns are:
- Microbiological pathogens. In English conditions, preserved pathogens are extremely unlikely to survive in viable form for as long as a century. There are minor concerns about anthrax and smallpox; but the risk has almost certainly been over-estimated; attempts to culture smallpox from preserved scabs from crypts have failed; and while anthrax spores could possibly survive, they have low infectivity. Tetanus and leptospirosis, which are risks associated with all excavation of soil, are of greater real concern in almost all situations – and risks we accept when gardening. Fungal spores may be present in high concentrations in crypts.
 - Psychological stress: A high rate of staff turnover has been reported among field staff working on the Spitalfields crypt project, perhaps related to the stress of working for long periods with well-preserved and fairly recent human remains in confined conditions.
 - Lead: Lead coffins and coffin linings create a risk of lead poisoning.
245. The following defaults can be suggested for human remains over 100 years old in English conditions:
- In view of possible psychological stress caused by working closely with human remains, staff should be recruited carefully, the issues involved being discussed fully with them; and staff should be free at any time to withdraw from work with human remains.
 - When excavating or working with human remains, normal hygiene should be observed (e.g. washing hands before eating).
 - When situations are dusty, it is sensible to wear a suitable filter mask covering nose and mouth. This applies particularly in crypts, when bodies are buried in lead-lined coffins, and to laboratory sampling of bone by sawing or drilling.
 - Where soft tissue is preserved, gloves should be worn.

Annex S6

Retention of skeletal collections and factors affecting the scientific value of collections

Why retain collections for scientific study rather than reburial?

246. It is a common misconception that the osteological report published as part of the archaeological site report represents the culmination of scientific work on a skeletal assemblage. Indeed it is sometimes suggested that reburial of remains is appropriate at this point. However, far from signalling the end of scientific analysis, the publication of the osteological report results in increased scientific work on a collection. In fact most scientific work on important collections is usually carried out after the appearance of the site report. This is because the publication of the bone report publicises the existence of the collection and stimulates interest in it among researchers, who then bring their own research agendas and techniques to bear on the material. Currently the UK is a world-leader in osteoarchaeological research, and this work is almost entirely based on examination of curated skeletal collections.
247. Despite scientists' best efforts to be unbiased, it is inevitable that interpretations of the past are coloured by cultural biases. However, if the evidence upon which researchers' conclusions are based is retained for future study, interpretations can be refined and corrected by future workers. Only the retention of the physical evidence, in the form of skeletal material, permits osteoarchaeology to retain this ability to be self-correcting which is such a fundamental requirement of a scientific discipline.
248. Innovations in scientific techniques allow new information to be obtained from old collections. This too ensures that museum collections are returned to time and time again by researchers. The development of new techniques, such as DNA and stable isotope analyses could not have been foreseen when most of the collections currently stored in museums were excavated. It is the unpredictable nature of scientific innovation which is one of the most powerful arguments for a consistent policy of long-term retention of collections.

Factors affecting the research value of a skeletal collection

249. To some extent the research potential of a collection of human remains depends upon the questions being asked of it. Collections that may be of great value for addressing some research aims may be of little value for others. However it is fair to say that some collections are of intrinsically greater scientific worth than others. The intrinsic scientific value of a collection will clearly play a major role in determining the extent of post-excavation study and will be an important factor in decisions concerning its long-term retention or reburial. The overall scientific value of a collection depends upon a complex interplay of factors, and to assess fully the potential importance of an assemblage the advice of suitably qualified osteologists should be sought. However, it is possible to outline some of the more important factors to be considered:
250. Size of the assemblage. Other things being equal, a large assemblage is generally of greater potential since patterning in data is more readily detected with larger numbers of individuals. However it should also be remembered that even if an assemblage is of too

few skeletons to permit proper statistical analysis, a number of small assemblages may be combined to produce a workable body of data. The extent to which a small assemblage adds to the existing data for a region clearly depends upon the material we already have. For example, a collection of five Mediaeval skeletons from a city where we already have curated collections totalling several thousand individuals is probably not going to add very significantly to the overall corpus. However if it comes from a region where only a handful of skeletons exist in permanent collections, it would clearly be of greater significance. Similarly, it should also be born in mind that several small interventions carried out over a period of time at a site may, if the skeletal material is retained, lead to the accumulation of a significant body of data concerning the population using that burial ground.

251. Type of assemblage. The great majority of skeletal remains come from rescue excavations in urban contexts. Thus, for both Mediaeval and post-Mediaeval periods, we have few substantial assemblages from rural sites, and this limits the extent to which the relationship between populations in towns and in their hinterlands can be analysed. Material from rural settlements or small towns is therefore of particular value.
252. Skeletal assemblages from different sites come from different social subgroups and hence inform us about different sectors of earlier populations. Thus skeletal material may relate to different social classes (e.g. middle class and lower class 18th/19th century Londoners at the burial sites of Christ Church Spitalfields and Redcross Way, Southwark respectively), different religious or ethnic groups (e.g. the 19th century Quaker burial ground at Kingston and Mediaeval Jewbury, York) or layfolk versus monastic brethren (e.g. Mediaeval parish churchyards versus monastic burial grounds at some friary sites). Burials recovered from special sites such as hospitals, prisons or execution sites enable a focus on other aspects of earlier populations. Additional material for regions and periods where many curated assemblages are known may still be of great value if it sheds light on poorly represented social sub-groups.
253. Most burial grounds represent an accumulation of burials over an extended period of time, but some burial contexts are associated with particular historical events (e.g. battles, shipwrecks, outbreaks of plague). They enable the closer study of such events and the human populations involved in them.
254. Specific demographic aspects of a collection may render it particularly valuable. For a variety of reasons, few Mediaeval or post-Mediaeval urban assemblages contain very many child or infant burials. Urban collections containing significant numbers of juveniles are therefore needed to shed light on childhood in earlier urban societies.
255. Skeletal preservation. Clearly more scientific data can be extracted from skeletons which are complete and well-preserved than from poorly surviving material (although it is worth noting the gross bone preservation may not be a good indication of the viability of biomolecular analyses). However, in some regions, soil conditions mean that in general bone survival is poor. In such instances, poorly preserved material will need to be studied if we are to learn anything of regional palaeopopulations from their physical remains.
256. The value of disarticulated material. Cemetery excavations generally produce significant quantities of disturbed, disarticulated skeletal material. This material is

usually difficult to date. Furthermore, most scientific work involves relating different types of data to one another at the individual level. For example, to study skeletal growth we need to have data both on bone size and age at death and for the adequate diagnosis of bony pathologies we generally need to study both lesion morphology and the distribution of lesions in the skeleton. With disarticulated material we cannot combine data in this way. For these reasons, disturbed, disarticulated bone is of limited scientific value.

257. Dating. Clearly, the tighter the dating of an assemblage, the greater its value. However, the extent to which precise dating is possible tends to vary between different periods. For example, most late Mediaeval collections can only be dated to within a few centuries, whereas it is often possible to tie down post-Mediaeval burials to within much more precise limits. When larger collections can be split by phase this enhances their research value. When dating is very vague (e.g. "Mediaeval / post-Mediaeval"), and there are no compelling reasons for radiometric dating of remains, this seriously compromises the value of an assemblage.
258. The availability of curated collections of different dates varies from region to region. A period which may be well represented in one area may be totally lacking in material in another. Clearly, assemblages which fill these 'gaps' are particularly useful. It is also worth noting that, at a national level, there are few curated assemblages which can securely be dated to the 16th or 17th centuries.
259. Special assemblages. Some assemblages are of particular value because they are unusual in some way. Perhaps the most important type of 'special assemblage' is that where biographical information, such as name, age, date of death etc., is available from grave-markers or coffin-plates, and can be associated with individual skeletons. Such assemblages are essentially restricted to the post-Mediaeval period. As well as contributing significantly to our knowledge of post-Mediaeval populations, such collections also allow us to test existing osteological methodologies and devise new ones. In this way such assemblages increase the quantity and reliability of data potentially available from skeletal remains in general.
260. Although decisions need to be made on a case-by-case basis, in general if dating and skeletal survival are adequate, most osteologists would consider that even small assemblages, provided they are of articulated skeletons, are of value for scientific study, and should generally be retained long-term in museums or other institutions for further research. Most osteologists do not consider disarticulated material from re-worked deposits of significant scientific value, and this material need not normally be retained but can be reburied.

Annex S7

Archiving, longer term access and storage issues

Preamble

261. A holding institution, as used here, is a place used for the long term storage of and research on collections of human remains that are actively being researched or retained for future research. The holding institution is responsible for managing storage of, access to and research on collections of human remains and maintaining an archive of information relating to those remains. Currently, holding institutions may be a recognised museum, research institution, university department or archaeological unit.
262. All holding institutions should be appropriately staffed. The minimum staffing level should be one permanent curator or collections manager, with appropriate curatorial and osteological experience. This curator should have day-to-day responsibility for collection security, access and health and safety, and should have access to additional expertise (e.g. in relation to policy, accessions, research, destructive sampling or conservation) either from specialist staff within the same institution or through an external advisory board. Holding institutions should have a written policy for the treatment of human remains.

Storage

263. Collections should be maintained in conditions intended to preserve their physical integrity.
264. Human remains should be kept in dedicated storage areas.
265. Where possible, human remains should be stored as distinct individuals (this may not be possible for co-mingled collections).
266. Materials used in storage should be of conservation grade, particularly for a collection likely to be retained indefinitely.
267. Storage areas should be secure to prevent unauthorised access. Risks relating to unauthorised access include theft, vandalism or voyeurism. Security procedures should be designed to protect the collections during normal and higher risk activities (such as building and maintenance work).
268. A rolling programme of collections inspection should be implemented.

Access

269. The holding institution should be required to produce access procedures, addressing access by specialist researchers, media and other interested parties.
270. Collections should be stored in such a way as to facilitate different types of access. This would include dedicated laboratory space for scientific research.

271. An appropriately qualified advisory board or an appointed individual should evaluate all research requests.
272. Research access should be restricted to suitably qualified individuals, in good standing with the holding institution, and conducting research in a relevant discipline (e.g. bioarchaeology, human evolution and variation, clinical and forensic sciences).
273. Students undertaking a recognised bachelors, masters or doctoral degree should provide a letter of recommendation from their academic supervisor or head of department before authorisation for a particular project is granted.
274. Written guidelines concerning handling of the collections and use of research facilities should be made available and explained to researchers to ensure careful and appropriate treatment of human remains
275. Researchers should be required to contribute to an ongoing condition survey. In doing so they would list items studied and highlight any curatorial or conservation issues observed (e.g. intrusive elements, recent breakage, fungal infection). Since this type of survey records individual usage of the collections it has the indirect benefit of encouraging careful handling.
276. Human remains should not be cleaned, cast, photographed or otherwise imaged without permission from the curator, who may refuse such requests.
277. Temporary removal of bones off-site to undertake study using specialist techniques should be permitted if the research question is sufficiently important. A loan agreement should be drawn up and records kept. Borrowers must be able to provide secure and safe storage and transportation. There may be a requirement for some items (e.g. remains of named individuals) to be accompanied by staff.
278. The holding institution should be able to provide basic facilities for external researchers (e.g. dedicated work space, access to toilet facilities, adequate lighting). A risk assessment should be conducted covering the usage of storage and research facilities (covering heavy lifting, use of ladders etc).
279. Destructive sampling. This may be permissible in some circumstances (**Annex E6**).

Archiving

280. Copyright issues and archival responsibility must be resolved at the start of the project.
281. The holding institution should retain copies of all relevant paper/digital records (e.g. authorisations and funding agreements, correspondence, excavation records, specialist reports and data underpinning those reports).
282. The holding institution should undertake to maintain this archive in accordance with accepted best practice. Copies of key data should be kept off-site.

283. Morphological variables should be cross referenced to a key that clearly defines measurements and stages used for scoring, and relates these measurements and stages back to accepted standards.
284. Following publication of initial research findings, the core project archive (e.g. computerised archaeological, morphological and historical databases) should be made available to other researchers. This will prevent the need for repetition of standard observations and measurements (unless there is a need to re-examine initial findings).
285. Subsequent researchers should submit copies of all publications, and should be encouraged to deposit personal research archives with the project archive after a suitable time.
286. All research, conservation actions, sampling, loans, filming and photography, media coverage and other types of access should be documented.
287. The status of all collections should be subject to periodic review, allowing the case for reinterment or retention for further scientific study to be reconsidered. The review should be conducted by an external advisory board and in conjunction with staff of the holding institution. Records of past research access and scientific outcome, and an assessment of future potential should be made available to the advisory board.

Annex S8

Reinterment: technical aspects

288. If reinterment is the preferred option for a collection, then the remains should be deposited in a consecrated area. If not all the burial ground from whence the remains were excavated is threatened by development then remains can be reburied in an unthreatened section of that burial ground. Remains should not be reburied in locations which would disturb existing burials. Accurate records should be made of the location of the burial pit(s) and these records should be deposited with the site archive. Skeletons should be bagged separately and placed in the pit(s) as individuals rather than co-mingled. Upon reburial, a brief church service may be appropriate. For large collections, costs of reburial may be significant.
289. On occasion, non-Christian burials may be excavated from Christian burial grounds (e.g. some churches are located on sites of prehistoric burial mounds so that prehistoric interments lie within the curtailage of the consecrated area). Because under these circumstances the non-Christian remains have lain many centuries among the Christian interments, it is suggested that the material be treated as a whole rather than attempting to separate out the non-Christian remains for special treatment.
290. Prior to reburial, remains should be recorded in accordance with current techniques. This means restudy of collections which have been recorded some time ago and of collections where original recording was inadequate. Ample time should be allowed for this. The advice of a qualified osteologist should be sought in individual cases in order to assist in determining what additional information, if any, needs to be recorded prior to reinterment. For recently excavated material, adequate time should be allowed between the publication of the site report and reburial for researchers to study the remains.
291. Prior to reinterment, restrictions on destructive sampling may be relaxed (the curatorial requirement to preserve the long term scientific potential of a collection is removed) and time should be allowed for any such proposals to be considered and for research to be completed or samples taken for permanent retention.
292. Where a good case can be made, scientific samples (e.g. histological sections) may be retained as a permanent archive of completed research, and as a means of re-examining research findings.
293. Where identified relatives or close community carry out reinterment of a named individual, their views on further sampling and the fate of existing scientific samples should be respected.
294. As a method of disposal, cremation of remains is normally inappropriate, and in any event it is often a difficult process to carry out on ancient skeletal material. However in instances of extensive soft tissue survival, cremation of bodies may be indicated by health and safety considerations.

Annex O1

List of Panel Members

Convenors: Joseph Elders (Council for the Care of Churches) & Simon Mays (English Heritage)

Editor of Working Group report: Simon Mays (English Heritage)

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Robert Clifford (Home Office)

Jonathan Goodchild (Council for the Care of Churches)

Fiona Pembroke (Home Office)

Alison Taylor (Institute of Field Archaeologists)

Julian Litten (Church Monuments Society)

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