

2017

# Guidance for Best Practice for the Treatment of Human Remains Excavated from Christian Burial Grounds in England

*Second Edition*



Advisory Panel on the  
Archaeology of Burials in England

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## Summary

The treatment of human remains is one of the most emotive and complex areas of archaeological activity. In 2001, a Human Remains Working Group was convened jointly by English Heritage and the Church of England in order to address the issues. Their remit concerned burials from Christian contexts dating from the 7th-19th century AD in England. This provided a coherent group of material 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 first edition of this document, published in 2005, was a synthesis of the results of the group's deliberations. It aimed to provide reasonably comprehensive guidelines covering treatment of human remains and associated artefacts 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 was primarily archaeologists, local authority planning departments, museums, clergy, and church organisations such as parochial church councils, diocesan advisory committees and consistory courts. This second edition represents an update to that document, intended principally to reflect developments in matters relating to burial law that have taken place since 2005.

The **principal assumptions** underpinning this document are:

- 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, and the archaeological evidence for the rites which accompanied and commemorate their burial, are important sources 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 **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 beforehand. Any subsequent exhumations should be monitored, and if necessary carried out, by suitably qualified archaeologists.
- b. The developer, whether a religious or a secular organisation, should be responsible for the cost, including study of excavated remains, archiving and publication of the results of that study, and the reburial or deposition of remains 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 should normally 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, archiving and publication of the results of that study, and the reburial or deposition of remains 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 document.

- 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 trench should be extended so that the skeleton may be lifted in its entirety, provided this will not result in disturbance of further burials. If it is not deemed necessary to lift the burial then the exposed remains should be reinterred in the trench.
- c. Destructive analysis of human remains is acceptable provided that research aims are identified and adequately justified and if permission is given by the living close family of the individual involved, if known.
- d. On excavations conducted for the purposes of evaluation of a site, lifting of human remains should be undertaken to an extent sufficient to ensure adequate evaluation.

## **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. In some cases, redundant churches or crypts provide an acceptable compromise between the desirability of deposition in a consecrated place and the desirability of continued research access. This policy has been successfully implemented in some cases (Mays 2013), and an advisory committee exists, part of whose remit is to promote this policy (see section 6 below

## **6. Advisory committee**

- a. The Advisory Panel for the Archaeology of Christian Burials in England (APACBE) was set up in 2005, and reformed as the Advisory Panel for the Archaeology of Burials in England (APABE) in 2008. As well as taking forward the recommendations of this document, APABE provides casework advice on archaeological burials of all periods in England, and promulgates policy in this area

## **7. Wider implications**

- a. 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. Many of the issues raised here would benefit from further consideration in the broader context of dealing with human remains.



## Introduction

1. Several thousand human skeletons are disturbed each year in England due to building and other development work, and all archaeological field 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 but high standards of practice have only recently begun to be codified.

2. A number of guidance notes exist which are relevant to English contexts, and which are complimentary to this document. These cover various aspects of the treatment of human remains including: excavation (McKinley & Roberts, 1993); post-excavation processing (Mays, 1991); post-excavation assessment and analysis in fieldwork projects (Mays *et al*, 2002; Brickley & McKinley, 2004); care of human remains in museums (Swain *et al*, 2005); codes of practice and a code of ethics for osteoarchaeologists (BABAO, 2010a, b); treatment of human remains from burial vaults (Elders *et al*, 2010); destructive sampling of human remains (Mays *et al*, 2013); and archaeological fieldwork projects in large burial grounds (Mays *et al*, 2015). Guidelines aimed specifically at the treatment of archaeological human remains in Scotland (Historic Scotland, 1997) and Eire (O'Sullivan & Kilgore, 2003) are also available.

3. Human remains less than 100 years old are subject to the Human Tissue Act 2004. Under this act, a licence is required from the **Human Tissue Authority** ([www.hta.gov.uk/](http://www.hta.gov.uk/)) to hold material for a purpose scheduled under the Act. Such purposes include scientific research and public display.

4. The focus of this document is on burials interred in Christian burial grounds since the foundation of the Church in England in AD 597. Restricting the

guideline in this way provides a coherent body of material for which a consistent theological framework can be applied to help inform ethical treatment, and for which reasonably specific guidance may be given. Three of every four skeletons excavated on archaeological sites in England come from Christian burial grounds dated to the 7th century AD 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. Burials from post-reformation Catholic and non-conformist burial grounds are beyond the strict scope of this document, as are military and maritime remains. Nevertheless, it is hoped that the recommendations made here may be of some value in informing decisions concerning treatment in those instances. 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 those earlier remains and stimulate debate concerning their treatment.

5. This guidance document will principally be concerned with remains over 100 years old (herein referred to as archaeological human remains). Because archaeologists are required to deal with all aspects of burial archaeology, not just human remains, the treatment of grave markers and burial artefacts will also be considered. The document covers remains from crypts and vaults as well as those from earth-cut graves.

6. 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 includes archaeologists, local authority planning departments, museums, clergy, and church organisations such as parochial church councils, diocesan advisory committees and consistory courts.



Excavations at Bedlam Burial Ground, Liverpool Street, London (by permission of Crossrail)

## The organisation of this document

7. This document is structured as a main text supported by annexes. The main text begins with overviews of the legal, ethical and scientific considerations associated with human remains and their context (burial artefacts and grave markers). It then proceeds to consider the circumstances under which disturbance of human remains is legitimate, and provides guidelines for the treatment of remains in archaeological fieldwork projects. The structure for this latter follows that recommended for archaeological projects by Historic England (Historic England, 2008), and the aim is to summarise the legal, ethical and scientific considerations pertinent at each particular phase of work, including the issues associated with long-term storage and archiving of remains following project completion. 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. The summary at the beginning of this document provides an overview and itemises the principal recommendations.

## General considerations

### Legal frameworks

8. 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.

9. 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) by the Ministry of Justice. Planning considerations may also apply, as may Scheduled Monument Consent.

10. The coroner or the police need not be informed of the discovery of human remains if they are properly interred in

a recognised burial ground or if there is reason to suppose that the burial is more than 100 years old.

11. On land currently under Church of England jurisdiction, and other municipal and private cemeteries subject to the legal effects of consecration, ecclesiastical law applies instead of secular statutes. Ecclesiastical law does not apply to disused monastic burial grounds, nor to most disused (lost) churchyards, although many ruined parish churches and their churchyards, churchyards “closed” by Order of the Privy Council (i.e. closed for new burials), and the churchyards of some closed churches, do remain under Church of England jurisdiction. In land subject to ecclesiastical jurisdiction, the ecclesiastical courts (or other statutory authorities in the case of cathedrals) both grant (or withhold) authority to disturb human remains and, if disturbance is authorised, regulate the treatment of remains. The presumption is that any remains that are disturbed will eventually be returned to consecrated ground.

12. An outline of the law on the exhumation of human remains is given in [Annex L1](#). In order to help those involved in projects disturbing 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](#). The application forms for Ministry of Justice authorisation to excavate human remains for archaeological purposes, together with their accompanying guidance notes, are reproduced for information in [Annex L3](#).

### Ethical treatment of human remains

13. 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 organisations 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.

14. 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 document 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, a factor which led to the convening of the Advisory Panel on the Archaeology of Burials in England (APABE) to serve as a national advisory body on archaeological human remains.

15. 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 instances 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 ([Annex L1](#)), 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.

16. 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.



17. 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 outlined, a consideration of public attitudes is given, and the scientific benefits of the study of human burials are summarised.

## Human remains in Christian theology (Annexes E1 & E2)

18. 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.

19. 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.

20. 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.

21. 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.

22. In summary, 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



An anthropoid coffin from St Andrew, Holborn, dated AD 1640-60, containing the remains of a middle aged man. Anthropoid coffins became fashionable in the 15th century and were still to be seen in some areas in the last decade of the 17th century (by permission of Adrian Miles)

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 of the physical remains, which matters.

## The meaning of consecration (Annex E3)

23. Consecration, for present purposes, is an act by which a thing is separated for ever from common and profane uses and set apart for a sacred use. When a body is buried in consecrated ground it comes under the protection of the Church.

24. 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. There are statutory mechanisms under which the legal effects of consecration can be removed. However, the religious aspect of the act of consecration cannot be reversed; 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

25. 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.

26. In general, the public shows a high degree of interest in scientific research on ancient human remains. This is evidenced by the popularity of television 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. A public opinion poll carried out in 2010 by a professional polling company, on behalf of English Heritage, indicates strong public support for research on human remains

from archaeological sites and for their retention and public display in museums (Mills & Tranter 2010).

27. The facts that remains from most archaeological sites are completely skeletonised, most often come from burial grounds no longer in use, are usually of unknown personal identity, and are generally many hundreds of years old, may account in large part for the public's acceptance of disturbance and long-term storage. It appears that public sensitivities are greater for more recent remains (Mills & Tranter, 2010). With regard specifically to exhumation, although an archaeological approach, which maintains the integrity of individuals, may be broadly acceptable, it is likely that mass removal of human remains by machine would be viewed less favourably, regardless of the date or religious affinity of the interments. We offer the above generalisations as reflections on what are very complex issues. The question of public attitudes toward human remains is one which requires fuller treatment and further research.

### Scientific benefits of burial archaeology

28. 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 of information including evidence for:

- Demography and health.
- Diet, growth and activity patterns.
- Genetic relationships.
- Burial practice, and thus of related beliefs and attitudes.

29. The study of buried human remains also provides valuable evidence of other kinds, including:

- Increasing our understanding of diseases and their history, which may contribute to the treatment of disease.



A skeleton being examined in an osteological laboratory

- Contributing to the development of forensic science, to assist in identification of remains and prevent miscarriages of justice.

30. These benefits are likely to increase as research methodology advances, and we are likely to see benefits in other areas as well.

31. Unless human remains are carefully excavated archaeologically, there is inevitably loss of contextual information. Clearance of burial grounds without archaeological intervention is therefore undesirable because it denies information about our past to future generations.

32. Reburial of remains after excavation (rather than their long-term retention for scientific research) denies a potentially valuable research resource to future workers. Therefore, indiscriminate reburial of human remains is undesirable.

### Specific considerations

33. The remainder of this guidance document 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](#))

34. 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

35. Government policy toward development is enshrined in the National Planning Policy Framework (NPPF) (DGLG, 2012). 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 public benefits of the proposed new use of the site. There is no specific provision for human remains in NPPF. Within the secular planning system, there is no greater presumption against disturbance of human burials than for other classes of archaeological remains.

36. 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 Chapter, the Fabric Advisory Committee or the Cathedrals Fabric Commission. 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 a 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

37. Many churchyards have been in use for burial for centuries, so 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 Ministry of Justice and planning / faculty regulation.

#### Research excavations

38. 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 Ministry of Justice or the Church which is responsible for decisions concerning whether a research excavation should proceed.

#### The archaeological fieldwork project

39. General standards for archaeological fieldwork projects are provided by the Chartered Institute for Archaeologists (CIfA, 2014a-e). What follows are recommendations for standards specifically 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.

40. All archaeological projects require attention to health and safety issues. Those specific to human remains are described in [Annex S5](#).

41. Archaeological projects should be carried out by suitably qualified organisations and by competent staff responding to briefs drawn up by the Diocesan Archaeological Advisor, Cathedral Archaeological Consultant or the Local Authority 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 (see [Annex S4](#) for guidance on estimation of



A Mediaeval burial in a stone-lined grave, Westminster, London.

post-excavation costs). Should there be, in individual cases, disagreement over what constitutes an appropriate level of archaeological response, the DAA, CAC or LAA should provide advice to help resolve this.

#### Site assessment, evaluation and mitigation ([Annex S2](#))

42. Proper forward planning is essential in ensuring a successful outcome to 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. At the project planning stage, negotiations should be initiated with a museum or other institution for storage space and curatorial care for the resulting archive. At this stage the long-term disposition 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.

43. 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 essential. Evaluation trenches may be used to confirm results of desk-based assessment. Remote sensing may also be of value.

44. Should DBA suggest the presence of an early burial ground of a specific non-Christian faith group, then representatives of that group should be approached so that an optimal strategy for any archaeological intervention can be formulated.

45. Where it is possible, avoidance of disturbance is the preferred option. Otherwise, the strategy should be to keep disturbance to a minimum.

46. The impact of a development may be mitigated 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.

47. Shallow raft foundations or piling (Williams *et al*, 2015) are techniques which have been used to mitigate the impact of development on archaeological deposits. Shallow raft foundations may obviate the need to disturb burials and the Ministry of Justice would consider carefully applications involving leaving burials *in situ* beneath raft foundations. However, it should be emphasised that further research is needed fully to evaluate the effect of raft foundations on the underlying burial environment and hence their effect on the preservation of interments and other archaeological deposits sealed beneath them. The Ministry of Justice considers each application on a case by case basis but would not normally consider any application which involves piling a burial site. The Ministry of Justice Coroners team can be contacted by telephone on 020 3334 3555 or by email at [coroners@justice.gsi.gov.uk](mailto:coroners@justice.gsi.gov.uk).

48. 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 may be obtained from the Ministry of Justice authorising that the burials remain *in situ*. The Act does not apply to land subject to the legal effects of consecration and which is, therefore, subject to Church of England jurisdiction.

49. 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 excavation procedures (**Annex S3**)

50. 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.

51. *In situ* human remains are of archaeological value whatever their date. This applies as much to more recent interments (e.g. 19th century) as it does to more ancient material.

52. 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 burials are encountered, the project osteologist will probably wish to be regularly present on site during fieldwork in order to help ensure optimal field procedures, and this will almost certainly be necessary if the site yields substantial quantities of human remains (more than about 30 burials).

53. Most excavations deal with skeletal remains in earth-cut graves, together with any accompanying buried finds. However, it should 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 tissue. In such instances, specific procedures will need to be followed (**Annex S3**).

54. Many people are interested in seeing the archaeological excavation of human remains, and this interest should not be discouraged. However, as some people may be upset by seeing human remains, visitors to a site should be warned before they see human remains, and cemetery excavations should be screened if they would be visible to casual passers-by.

55. 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**)

##### *Finds processing*

56. 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 (Watkinson & Neal, 1998); this is rarely if ever appropriate for skeletal remains.

##### *Post-excavation assessment*

57. The purpose of the assessment phase of an archaeological project 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 at this stage for the project osteologist to give recommendations concerning the desirability or otherwise of retaining the human remains as a research resource following completion of the fieldwork project.

### Post-excavation analysis

58. 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 (Mays *et al*, 2002; Historic England, 2008).

### Publication (Jones *et al*, 2001)

59. 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 excavated remains

60. 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 of human remains 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. This is followed by sections on legal, technical and ethical aspects of archiving human remains and burial artefacts, the educational value of human remains and technical aspects of reburial. Recommendations concerning best practice for the future are suggested.

### Current practice regarding retention or reburial

61. Although current practices with regard to the long-term disposition of skeletal collections are not uniform, a few generalisations can be made. Skeletal 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 skeletal material from land under Church of England jurisdiction by means of a faculty or other authorisation, a usual condition is that it is 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.



The nave of St Peter's Church, Barton-upon-Humber. There is an exhibition for visitors on the excavations that were undertaken in the 1980s within this redundant church and the surrounding churchyard. The internationally important assemblage of skeletal remains produced by the excavations is deposited in a store in a separate part of the church, where arrangements may be made to access them by researchers (by permission of J Elders).

### Archiving human remains: legal and technical aspects

62. 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 it is unclear 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.

63. Retention of human remains should be properly authorised by the lawful secular or ecclesiastical authorities ([Annex L1](#)).

64. Human remains should be curated by a suitable holding institution and kept in conditions which ensure their physical integrity. Access to remains should be normally be restricted to *bona fide* researchers in good standing with the holding institution. Requests for loans of material or destructive analysis of bone or tooth samples should be considered by competent individuals or committees ([Annex S7](#)).

65. The provisions of the Human Tissue Act 2004 mean that any institutions holding, for purposes scheduled under the Act, human remains which are *less* than 100 years old will need a license from the Human Tissue Authority.

### Archiving burial artefacts: legal and technical aspects

66. The remit of the Ministry of Justice does not extend to burial artefacts. The Church consistory court often confines itself to directions regarding human remains but it is within its power to make directions concerning the retention or disposal of associated artefacts if it considers it appropriate or it is invited so to do. Issues of ownership may be complex ([Annex L1](#)).

67. Burial artefacts 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

68. 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. Unstratified, disarticulated bone is normally of little value and can be reburied.

69. 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 groups of material, this is undesirable.

70. In Christian theology, human remains have no import for the resurrected life of the individual, nevertheless they should be treated with reverence and respect. Although the phrase '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.

71. Although in England there is general public support for retention of human remains in museums for research purposes, 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.

## Archiving of burial artefacts: ethical considerations

72. 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. In Christian theology, interred personal items have no import for the afterlife of the deceased, but it might nevertheless be argued that it is 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 wood fragments, nails or coffin handles. It is reasonable to retain these latter for future study, even in instances where the human remains are reinterred. Whether this is always reasonable for objects which appear to be personal items of the deceased is less clear. In such circumstance, decisions concerning retention or reinterment should (provided they are in accordance with proper legal practice with regard to ownership issues) be made by balancing the personal associations of the object against its educational, scientific and archaeological significance.

## Educational value of human remains

### *Display of human remains in museums*

73. Displays of human remains in museums are popular with the public and are acceptable provided that they serve a clear educational purpose. For example, human remains 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.

74. 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*

75. 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. Prior to their use for teaching, human remains should be osteologically recorded to current standards.

### *Handling sessions for the general public*

76. 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; it may be preferable to use plastic skeletons or anatomical casts rather than human remains for such purposes.



## Reburial of human remains: technical aspects (**Annex S8**)

77. Remains should be deposited in consecrated ground in areas where no disturbance of existing interments or other archaeology is likely. 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.

78. Cremation of ancient remains should be avoided unless there is substantial soft tissue survival, in which case it may be indicated by health and safety considerations.

### Retention versus reinterment: resolution of controversial cases

79. 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.

80. 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, from the scientific point of view, it is desirable that the material should remain accessible for research, but other parties with legitimate interests, such as the Church or local public opinion, desire that remains be returned to consecrated ground. A 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 archives of human remains (CAHRs), 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. This policy has been successfully implemented in some cases (Mays, 2013), and it is part of the remit of APABE to promote it more widely.

81. Pending the widespread establishment of CAHRs, 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.

82. 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 (i.e., 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 scientific 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.

83. Advice from third parties may be helpful in cases where there are differences of opinion concerning final deposition of human remains. One function of APABE is to be available to provide advice, if called upon, in such instances. Decisions can then be made by the Ministry of Justice or the Church based on representations both from interested parties and from any advisory bodies consulted. The Ministry of Justice is not involved in deciding the final destination of human remains but very occasionally may be involved in discussions as to where they are to be located.

## Annex LI: Exhumation of human remains: a short guide to the law

84. It is unlawful to remove or disturb any human remains without lawful authority. Permissions on land subject to the legal effects of consecration are controlled by the Church and are subject to ecclesiastical law. Otherwise secular controls apply, and authority must be obtained from the Ministry of Justice. 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.



Stalling Busk Old Church and churchyard, North Yorkshire (by permission of J Elders)

### Major projects – specific authorisation

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

### Compulsory Purchase

86. 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

87. Under the Disused Burial Grounds Act 1884, no building<sup>1</sup> may be erected on a disused burial ground, except for the purpose of enlarging a church, chapel, meeting house, or other places of worship. Under the 1884 Act, “burial ground” includes any churchyard, cemetery or other ground, whether consecrated or not, which has been at any time set apart for the purpose of interment; and “disused burial ground” means any burial ground which is no longer used for interments, whether or not the ground has been partially or wholly closed for burials under the provisions of a statute of Order in Council.

88. The prohibition in the 1884 Act was relaxed in relation to unconsecrated burial grounds, subject to certain safeguards, by the Disused Burial Grounds (Amendment) Act 1981. 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 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 State 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 Ministry of Justice 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.

89. Although the 1981 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.

90. 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.

91. Different exceptions to the prohibition contained in the 1884 Act are available in relation to disused Church of England churchyards and burial grounds.

92. Provisions are contained in the Mission and Pastoral Measure 2011 under which a statutory scheme may allow the erection of a detached building on a

<sup>1</sup> 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.

churchyard which is no longer used for burials despite the prohibition in the 1884 Act. A scheme may not be made if the land contains burials which took place within the previous 50 years and a relative or personal representative of a deceased person buried within that period objects to the scheme. The Measure contains similar provisions to the 1981 Act for human remains to be removed by personal representatives, or otherwise by the landowner, in accordance with Ministry of Justice directions.

93. Provision is also now made in the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 for the consistory court to grant a faculty permitting the erection of a building on a disused burial ground despite the prohibition in the 1884 Act. This is subject to the same conditions as a scheme under the Mission and Pastoral Measure 2011 in relation to burials which have taken place within the previous 50 years.

94. 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 bishop's order may, with the consent of the Secretary of State, provide for the preservation or disposal of remains. Otherwise, they must be disposed of in line with procedures under the Mission and Pastoral Measure 2011.

## The Burial Act 1857

95. Where there is no specific provision for exhumation in later legislation that is relevant to a particular proposal, exhumation is covered by the Burial Act 1857. The 1857 Act makes the removal of buried human remains a criminal offence unless (a) a licence has been authorised by the Secretary of State or (b) in relation to consecrated ground, a faculty has been issued by the consistory court or (c) in relation to a cathedral church or precinct, a relevant consent has been granted under the Care of Cathedrals Measure 2011. These jurisdictions are exclusive of each other. Only one form of approval should be needed in each case.

## Secretary of State's licences

96. A licence from the Secretary of State is not required (and cannot be granted) where the remains are in consecrated land subject to the jurisdiction of the consistory court or are in or under a Church of England cathedral or within its precinct.

97. In all other cases a licence from the Secretary of State is required and the Ministry of Justice consider applications for a Secretary of State's exhumation licence on a case by case basis but their practice in relation to burials within the last 100 years is to grant licences provided:

- 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 objections.

98. 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.

99. Where a licence is issued by the Secretary of State under the Burial Act 1857 in respect of archaeological remains, the licence is normally subject to 'precautions'. These 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.

100. When it is anticipated that burials will be encountered, application for authorisation to excavate them should be made in advance to the Ministry of Justice ([Annex I3](#)). However, 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, Ministry of Justice

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 Ministry of Justice by telephone (see paragraph 47) and relevant details to be emailed through. The Ministry of Justice aim to issue a licence within 20 working days. If the application is urgent, however, for example human remains have been unexpectedly discovered, the Ministry can authorise the licence more quickly. A licence cannot be authorised retrospectively.

## The faculty jurisdiction

101. Human remains which are in land (or a building) which is subject to the faculty jurisdiction may only be exhumed on the authority of a faculty issued by the consistory court. The faculty jurisdiction extends to all parish churches including their churchyards and crypts, as well as to other consecrated buildings and land, for instance chapels of ease and any burial grounds annexed to them and to private and municipal cemeteries. (See above as to the removal of the legal effects of consecration in certain cases.)

102. Unlike secular legislation which 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 lie undisturbed, and there is a legal presumption that remains should not be exhumed save in exceptional cases.

103. 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.

104. The following commentary has been written<sup>2</sup> on the phrase 'commit his/her body to the ground':

<sup>2</sup> Wheatley, Charles, 1794 *A Rational Illustration of the Book of Common Prayer*. Oxford: Clarendon



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.

105. The safe custody of the Church does not mean that human remains can 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.

106. Guidelines have been developed through judicial decisions as to what circumstances may lead to the granting of a faculty. Because of the presumption that human remains are not to be disturbed, the courts will require the submission of a cogent and persuasive case if they are to authorise exhumation.

107. 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.

108. 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 should 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.

109. 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



Recording gravestones removed from Parkstead House, London (by permission of AoC Archaeology Group)

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 support (or absence of support) of the incumbent and Parochial Church Council, and any relatives, for what is proposed will be a relevant factor. 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.

110. 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 and will need to be disturbed (whether because they are thought to be worthy of scientific study or for practical reasons), work in the immediate vicinity of the remains should be halted and a variation of the provisions of the faculty must be obtained from the Court.

## Redundant churchyards

111. Where a churchyard is closed along with a church under the Mission and Pastoral Measure 2011 the procedures for dealing with human remains in connection with development are as set out above.

## Cathedrals

112. Cathedrals are not covered by the faculty system. The primary legislation currently covering any works to a cathedral or its precinct is the Care of Cathedrals Measure 2011 (hereafter, the CCM).

113. The CCM states that approval is required for any proposal involving "works which would materially affect ... any human remains in or under the cathedral church or within its precinct".

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. The statutory bodies which determine applications under the CCM (the Cathedrals Fabric Commission and each cathedral's own Fabric Advisory Committee) can attach to an approval conditions relating to the treatment of any remains uncovered.

116. Since cathedrals are not subject to the faculty jurisdiction, a licence under Section 25 of the Burial Act 1857 (in addition to approval under the CCM) used to be necessary where human remains were to be removed, but this requirement was removed by changes made to Section 25 which came into effect in January 2015.

### Scheduled monuments

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

### Objects and artefacts

118. The law relating to objects retrieved in association with burials (whether deliberately placed with the body or residual in the grave fill) is complex. There may be differing claims to ownership of objects retrieved, 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. The landowner should be notified of any artefact retrieved as a result of exhumation operations.

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 later) 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 2008).

122. The Government has agreed in principle to exempt the Church of England from some of the provisions of the Treasure Act because of the existence of the Church's own controls over treasure, but no such exemption is yet in force.

### Grave markers

123. Before a gravestone is moved, an adequate record of it should be made ([Annex S3](#)). Grave markers remain the property of the grave owner, but under the Disused Burial Grounds (Amendment) Act 1981, grave markers not removed in advance of development by relatives or personal representatives of the deceased or by the Church should be removed by the landowner and either re-erected in an area of the burial ground unaffected by development or else disposed of. Where human remains are dealt with under the Mission and Pastoral Measure 2011, specific provision is made in Schedule 6 to the Measure for the removal and re-erection of grave markers with the remains or for their disposal under directions of the bishop. Under the faculty system, proposals for the relocation or disposal of grave markers would need to be subject to advice from the diocesan advisory committee and approved by the Chancellor.

124. The following hypothetical case studies involving development and other works on burial sites are presented to illustrate the use of Figure 1.

### Study 1: Barchester Bluefriars

125. 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 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.

126. 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.

127. *Because the site is not subject to the legal effects of consecration, secular burial laws apply. Because it is no longer a recognisable burial ground, The Disused Burial Grounds (Amendment) Act 1981 does not apply. The works will be covered by Section 25 of the 1857 Burial Act. If the site is a scheduled ancient monument, consent will also be required under the 1979 Act.*

128. *The Ministry of Justice has advised that it would not usually 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 is proposed.*



Church of the Holy Trinity, Wensley, North Yorkshire (by permission of J Elders)

### Study 2: Grantchester Cathedral

129. 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.

130. *Similar to study 1, the works will be covered by Section 25 of the Burial Act (1857). If the site is scheduled as an ancient monument, consent will be required under the 1979 Act.*

131. *If burials are also to be removed from land owned by the Dean and Chapter and the site falls within the precinct of the cathedral church for the purposes of the Care of Cathedrals Measure 2011, 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: Dingleddale Saxon cemetery

132. Archaeological evaluation in advance of a housing development on a rural farmland site known to have produced Saxon artefacts has revealed the presence of a large cemetery. The burials are early Saxon and there is some doubt as to whether some east-west orientated burials in one part of the burial ground are Christian; the others have grave goods and varying orientations. The site will have to be cleared for development.

133. *Similar to the previous studies, the works will be covered by Section 25 of the Burial Act 1857. If the site is scheduled as an ancient monument, consent will be required under the 1979 Act.*

134. *Any objects found which may be Treasure should be reported to the Coroner within 14 days of the find.*

### Study 4: Redburn municipal cemetery

135. 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*.

136. *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 Care of Churches & Ecclesiastical Jurisdiction Measure 1991. The remainder of the land would be dealt under the Disused Burial Grounds (Amendment) Act 1981. Therefore prior removal of the remains will be necessary unless a dispensation order is issued by the Ministry of Justice.*

### Study 5: Dipton A76

137. During road widening, 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. It is likely that the burials disturbed during the original road construction were destroyed without record.

138. *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 6: Abbotsford Cathedral

139. It is proposed to excavate the pre-Reformation monastic graveyard of the Cathedral as a preliminary to building offices and re-aligning the road which runs across it. Although the Chapter owns 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.

140. *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. Even though this was within the mediaeval precinct, it would not be covered by any current ecclesiastical legislation.*

### Study 7: Burychester Cathedral

141. 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.

142. *Approval would be required under the Care of Cathedrals Measure 2011 for the works.*

### Study 8: Canonminster Cathedral

143. 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.

144. *Approval would be required under the Care of Cathedrals Measure 2011 for the works as a whole, and approval would be required under the Care of Cathedrals Measure 2011 for the works that would materially affect human remains. The eventual reinterment of the remains would be within the jurisdiction of the Chapter; subject to any relevant conditions attached to the approval granted under the Measure.*

### Study 9: Deanschurch Cathedral

145. 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.

146. *Depending on what specific redevelopment works are proposed, approvals would be required under the Care of Cathedrals Measure 2011 from either the Cathedrals Fabric Commission or the Cathedral's own Fabric Advisory Committee.*

### Notes on Figure 1

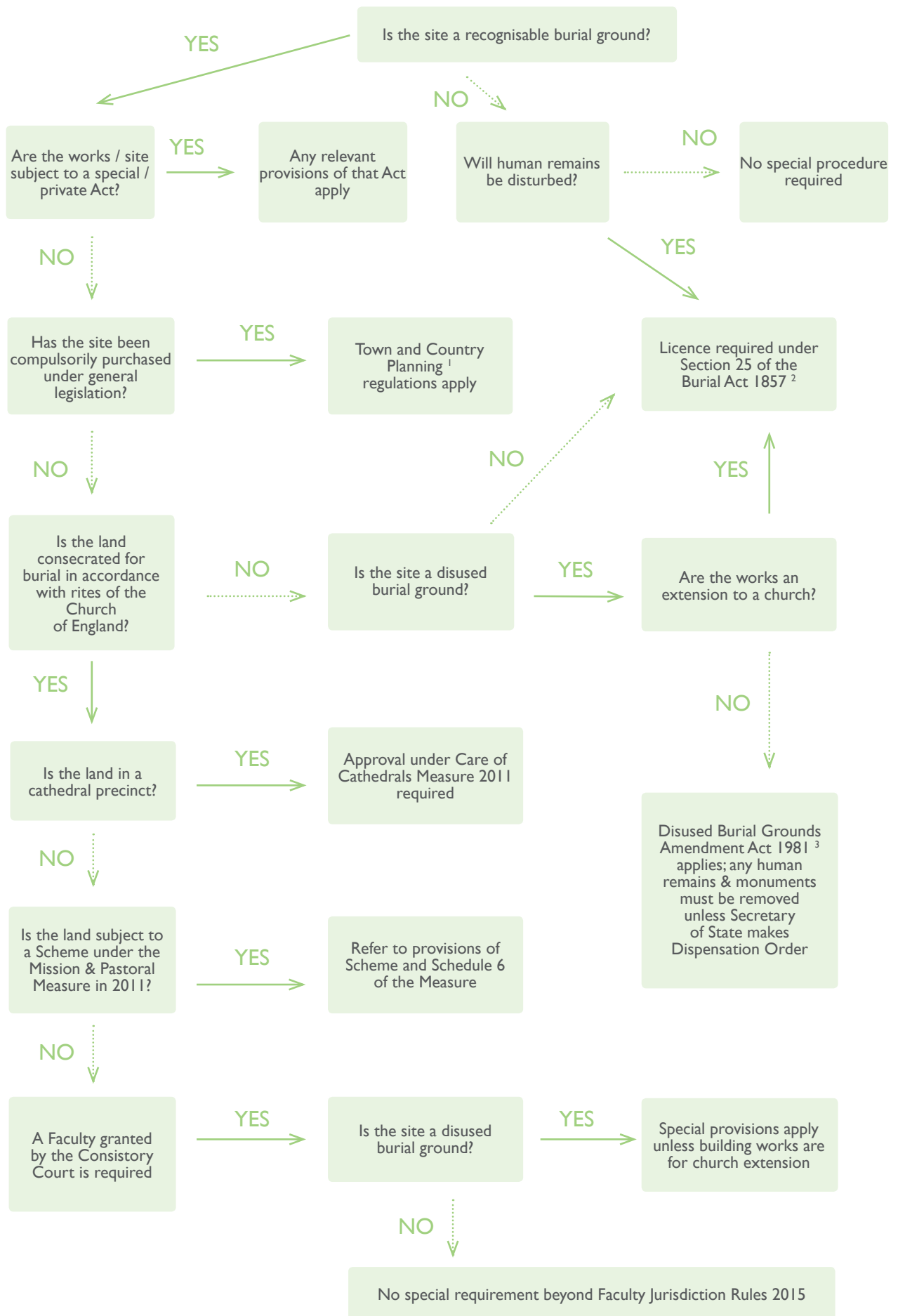
This chart is intended as a guide to the various legal procedures used to authorise exhumation in differing circumstances. Additional permissions may well be needed according to the status of the site and the work involved, e.g. where work affects a scheduled ancient monument, or approval under the Care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

1. Town and Country Planning (Church, Places of Religious Worship and Burial Grounds) Regulations 1950:  
(a) require all remains to be removed; and (b) make no provision for the cremation of removed remains.
2. Burial Act 1857, Section 25:  
Ministry of Justice 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 Grounds (Amendment) Act 1981) may be a pre-condition of the issue of a Ministry of Justice licence involving multiple burials if the graves are less than 100 years old.

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

3. Disused Burial Grounds (Amendment) Act 1981:  
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 Ministry of Justice directions as to the disposal of the remains will be expected. However, to the extent that no buried remains will be disturbed by any building-related works the Ministry of Justice 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.





Ministry  
of Justice

**Authority to excavate human remains  
for archaeological purposes  
– application form**

**Please read the Guidance Notes at the end of this form.**

The purpose of this form is to provide the Ministry of Justice with information to enable a decision to be taken on the issue of an excavation licence and any conditions to be attached to it regarding the treatment of the remains during and after excavation.

**Section A** is to establish who the applicant is and how to make contact.

**Section B** is to clarify the nature of the archaeological site, the legislation which applies to it, the purpose of the excavation, and who is to take responsibility for post-excavation and archive deposition and/or reburial.

**Section C** seeks information regarding the expected age, nature and number of the human remains.

**Section D** seeks information about any known or likely objections to the proposed excavation and study.

**Section E** asks what is to happen to the human remains after excavation.

**A. Applicant's details**

1. Name
2. Telephone number
3. Organisation (if applicable)
4. Position (if applicable)
5. Address
6. Email address
7. Do you observe a recognised code of practice on the treatment of human remains? ☐ Yes ☐ No  
If **Yes**, which one?   
If **No**, please give the title of your own code if you have one

**B. Site details**

8. Name of site (if it has one)
9. Address or location of site
- 10a. Please give a brief summary of the site archaeology and research questions
- 10b. Is the excavation necessitated by development? ☐ Yes ☐ No
11. Name and address of the land owner   
Is the site owned by a religious organisation? ☐ Yes ☐ No  
If **Yes**, which one?



12. Has the land owner given permission for the remains to be excavated? ☐ Yes ☐ No

If **No**, explain why not

13. Has the proposed excavation been developed in response to a brief or agreed written scheme of investigation from the appropriate curatorial archaeologist? ☐ Yes ☐ No

14. Is the site subject to Church of England faculty jurisdiction or the Care of Cathedrals Measure? ☐ Yes ☐ No

If **Yes**, has approval been given? ☐ Yes ☐ No

15. Is the site a burial ground in current use? ☐ Yes ☐ No

If **No**, has the site been put to other use? ☐ Yes ☐ No

16. If the site has been put to other use, has the site been built over (including roads)? ☐ Yes ☐ No

17. If the site has been put to other use, has the site been put to agricultural use or become open land? ☐ Yes ☐ No

18. Has the site been acquired commercially/by agreement? ☐ Yes ☐ No ☐ N/A

19. Has the site been acquired by Compulsory Purchase Order? ☐ Yes ☐ No ☐ N/A

20. Has Planning Permission been obtained? ☐ Yes ☐ No ☐ N/A

21. Is the site a scheduled monument? ☐ Yes ☐ No

If **Yes**, has scheduled monument consent been obtained for the excavation? ☐ Yes ☐ No

22. Is the excavation of human remains from the site subject to any specific Act of Parliament? ☐ Yes ☐ No

If **Yes**, which Act?

23. If the proposed excavation is not being carried out under planning conditions or scheduled monument consent, please give **brief** details of the planned programme of excavations, the relevant experience and qualification of the applicants the source(s) of funding and whether resources are in place to cover post-evaluation assessment, analysis, dissemination and archive deposition/reburial.

24. Do you/your organisation accept responsibility for ensuring that post-excavation study and archive deposition/reburial are completed? ☐ Yes ☐ No

If **No**, explain why not

25. Expected project start date  End date

26. Dates for excavation of human remains (if different from above):  
Start date  End date

### C. Human remains

27. Expected date range of the remains:

From

To

28. Expected number of buried individuals (or, if unknown, estimated range)

29. Expected type of remains ☐ Skeletal ☐ Soft tissue ☐ Cremated ☐ Not known

30. If some or all of the human remains are likely to be in sealed coffins or in a crypt, or to include preserved soft tissue, or to be less than 100 years old, please provide the contact details for the Environmental Health Officer (EHO) for the district.

31. Has the EHO already been notified that excavation will take place at the site? ☐ Yes ☐ No

32. Are the remains known to be of a particular religion or faith? ☐ Yes ☐ No

If **Yes**, which religion/faith?

If **Yes**, are representatives of that religion/faith aware of the excavations?

☐ Yes ☐ No

### D. Objections

33. Are there any known or likely objections to the removal, study and/or retention of the remains? ☐ Yes ☐ No

If **Yes**, state who is objecting or likely to object and their reasons

### E. What would happen to the remains?

34. Is it the intention to excavate and remove some or all of the human remains? ☐ Yes ☐ No

If **Yes**, please proceed to question E35–40

Is it the intention to uncover the remains, leave them *in situ* and rebury them?

☐ Yes ☐ No

If **Yes**, you do not need to complete questions E35–40.

35. If the human remains are to be examined, please outline the reasons:

36. If remains less than 100 years old are expected to be found, and will be examined, please outline how you intend to comply with the conditions of the Human Tissue Act 2004.

37. After excavation, what do you expect will happen to the remains?

☐ a. Assessed and studied as necessary, and then reburied

☐ b. Studied and then deposited in a museum or similar institution

☐ c. Not yet known

**38. If for question 37 you selected a:**

- i. Please provide the name and address of the location where the remains are to be reburied.

- ii. Who will be responsible for taking care of the remains until reburial occurs?

- iii. When will the remains be reburied?

Is appropriate funding in place?

☐ Yes ☐ No

**39. If for question 37 you selected b:**

- i. When and where will the remains be examined?

- ii. Who will make the decision about the retention of the remains?

- iii. When will the decision be made?

- iv. Has a museum or comparable institution agreed to take the remains?

☐ Yes ☐ No

- v. What is the museum or comparable institution's name and address?

- vi. Is it an accredited museum?

☐ Yes ☐ No

- vii. Who will be responsible for taking care of the remains until this happens?

- viii. Is appropriate funding in place?

☐ Yes ☐ No

**40. If for question 37 you selected c:**

- i. When is a decision likely to be known?

- ii. Who will make this decision?

- iii. Who will be responsible for taking care of the remains until this happens?

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**Declaration**

I confirm that the information given is true and correct to the best of my knowledge.

Name

Date

When completed, please email this form to: coroners@justice.gsi.gov.uk





Applications will be considered on their individual merits, balancing, amongst other things, the case for the removal, examination and retention of the remains in the interests of archaeological research against any countervailing factors, such as any public known concerns about the proposals or any risk to public confidence in the decent and respectful treatment of human remains in any particular instance.

An application for a licence should be made whether buried human remains are to be removed from the ground or intended to be left *in situ* (since excavation is likely to disturb them).

The following notes are intended to help applicants in completion of the form. Please ring 020 3334 3555 for any further assistance.

<b>Q A5</b>	Please give address of organisation unless applying as an individual, in which case give applicant's address.
<b>Q A7</b>	If you observe no code of practice, it is suggested that you adopt one.
<b>Q B9</b>	If there is no satisfactory address which will identify the site, please give the National Grid Reference or attach a plan of the site.
<b>Q B10</b>	Please explain why the excavation is required (e.g. because the site is to be developed, or for research purposes).
<b>Q B11</b>	The purpose of the supplementary questions about religious ownership is to enable any religious concerns there may be to be taken into account.
<b>Q B12</b>	It is expected that the site owner has given permission for excavation; if this is not the case, an explanation should be given.
<b>Q B14</b>	If the site is a Church of England burial ground and subject to ecclesiastical faculty jurisdiction, a faculty will be required in addition to a licence. However, a licence will not be needed if the remains are to be reburied within consecrated ground. If the site is within a cathedral precinct and subject to the Care of Cathedrals Measure, then formal approval for the works will also be required from either the Cathedrals Fabric Commission for England or, on occasion, the cathedral's own Fabric Advisory Committee. A copy of correspondence confirming this approval has been granted should be provided.
<b>Q B15-19</b>	The intention is to identify the specific legislation which governs the removal or disturbance of human remains buried on the site (e.g. the Burial Act 1857, the Disused Burial Grounds (Amendment) Act 1981, or the Town & Country (Churches, Places of Religious Worship, and Burial Grounds) Regulations 1950 and 1990).
<b>Q B22</b>	Large infrastructure projects are often subjected to a specific Act; if this is the case, the name of the Act should be given.
<b>Q B23</b>	This information is not required for sites excavated under scheduled monument consent or as a condition of planning consent, as the relevant regimes require good reason for excavation and appropriate planning and provision, and so these can be assumed to be in place already.
<b>Q B24</b>	In some emergency situations, funding for post-excavation and archive deposition may not be in place. If so, the circumstances should be explained.
<b>Q C27 and C28</b>	These may be unknown at the time of excavation; it would be helpful to provide any available information or estimate, and it is accepted that what is found may be unexpected. Disarticulated remains should not be included in the estimate of the number of buried individuals. For example: "100–150 burials and some disarticulated human remains".
<b>Q C29</b>	Please tick all that apply.

<b>Q C30 and C31</b>	It would normally be expected that an excavator should contact the EHO if soft tissue survival is likely, or if human remains less than 100 years old or sealed coffins or crypts are likely to be excavated.
<b>Q C32</b>	When remains are of known religion or faith, it may be appropriate to contact representatives of that religion, but this is not required. It is accepted that religion or faith are usually uncertain for pre-Mediaeval human remains.
<b>Q D33</b>	Applicants are not expected to research the existence of objections, simply to report if any such objections have come to their attention. Objections will be considered and balanced against the need for and benefits of excavation and study.
<b>Q E34</b>	If you tick <b>Yes</b> to the intention to uncover the remains, leave them <i>in situ</i> and rebury them, you do not need to complete questions E35–40. If, however, circumstances then change and it becomes necessary to remove any of the remains, you would need to apply to vary your licence, and would then need to answer these questions.
<b>Q E36</b>	If this applies, additional information may be required before consideration will be given to issuing a licence.
<b>Q E37a</b>	Please tick this option if it is expected that some or all of the remains will be assessed, studied as necessary as part of the site's post-excavation analysis, and buried once this is completed. Please complete all questions at E38.
<b>Q E37b</b>	Please tick this option if, after study as part of the site's post-excavation analysis, the intention is to retain some or all of the remains in a museum or comparable institution so that they are available for further study. Please complete all questions at E39.
<b>Q E37c</b>	Please tick this option if, at the time of application, no decision has been taken on what will happen to the remains, or if no decision can be taken until the remains have been examined. Please complete all questions at E40.
<b>Q E38 (ii), E39(vii) and E40(iii)</b>	If the application is made on behalf of an organisation, it will be assumed that if the individual who is named leaves the organisation, the responsibility remains with the organisation. A licence condition is likely to be attached requiring the remains to be under the control of a competent member of staff or the holder of the stated position. Please indicate if such a licence condition would be inappropriate.
<b>Q E39(ii) and E39(iii)</b>	These questions are to clarify when a decision on the future of the remains is likely to be taken and who will be involved in the decision-taking process (for example, the local authority archaeologist and local museum). Where these arrangements are clear, a licence may be issued to allow retention/curation of the remains subject to compliance with the specified timescale and process.
<b>Q E39(iv), E39(v) and E39(vi)</b>	The purpose of these questions is to ensure that deposited human remains will be treated appropriately. If the place of deposition is not an accredited museum, please provide information to show that it can and will provide appropriate care.
<b>Q E40</b>	Where the decision about the remains is unknown, it may be necessary to issue a licence with a re-burial condition only pending an alternative decision. An application to vary the licence would then need to be made at a later date.

## Annex E1: Human remains in Christian theology

147. 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 understanding<sup>3</sup>. As long as the body existed, however corrupt, the soul also existed in the subterranean world of Sheol<sup>4</sup>. 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 criminals<sup>5</sup>, 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.

148. 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.'<sup>6</sup> 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 dead<sup>7</sup>, the hypocritical become as whitened sepulchres<sup>8</sup>, he routinely challenges the actual physical death of certain individuals<sup>9</sup> and he is notoriously late for the funeral rites of a good friend<sup>10</sup>. 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 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.*<sup>11</sup> 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 east<sup>12</sup>, 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 rites<sup>13</sup>; at other times as a sign of rest before resurrection<sup>14</sup>; 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,



Churchyard cross, St Peter's churchyard, Barton-upon-Humber (by permission of Warwick Rodwell)

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.

149. 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*

6 cf Matthew Chapter 8 vs: 21-22

7 cf Matthew Chapter 22 vs: 32

8 cf Matthew 23 vs: 27

9 cf Matthew Chapter 9 vs: 24

10 cf John Chapter 11 vs: 5

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

12 cf A Dictionary of Liturgy and Worship, Ed J.G.Davies

SCM Press, 1972. London. Pages 96-97-chapter on Burial

13 Ibid. Page 97

14 Ibid. Page 99

3 Ronald De Vaux, DLT, 1974. London. Page 56. A live man is a living soul, and a dead man is a dead soul.

4 cf Ezekiel Chapter 32 vs: 17-32

5 cf Genesis Chapter 38 vs: 24



to each kind of seed its own body.<sup>15</sup> 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.*<sup>16</sup> The Canon Law of the Church of England now specifically upholds cremation as being in accordance with Christian belief and practice.<sup>17</sup>

150. 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 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*<sup>18</sup> 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.*<sup>19</sup> 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 individuals' emotions and strikes at the heart of a community's understanding and belief about itself, its history, its vocation and its significance.

151. 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 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.*<sup>20</sup> 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.

152. 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.

153. *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.*<sup>21</sup>

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

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

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

18 Presentation to the Ethics and Theology panel. 4.2.2003.

19 *Mystery of Salvation* Page 181

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

21 *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.

154. 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*)

155. 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.

156. 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*)

157. 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.

158. 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.

159. 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.

160. 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.

161. 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 – Eighth 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

162. 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 exist<sup>22</sup>, 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 baptistry which was probably a church. At

22 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



A grave lined with roof tiles, uncovered during excavations at the priory of St James, Northampton (by permission of Northamptonshire County Council)

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.

163. 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.

164. 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 practised. 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 England<sup>23</sup>.

### The significance of the consecration of burial grounds

165. 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 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

166. 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.

167. *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.*<sup>24</sup>

### Monastic and other disused burial grounds

168. 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 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

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



Cistercians at the former Cistercian Abbey burial ground at the St Mary Stratford Langthorne site, London.

169. In most cases the burials will simply be treated as the secular authorities see fit. Legally they will be dealt with under secular law, 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.

170. 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.

171. 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.

## Annex E4: The presumption of non-disturbance of archaeological remains and the question of research excavations

172. Demands for development are such that it is impractical to safeguard all archaeological remains from disturbance. Government policy regarding planning and the historic environment is enshrined in the National Planning Policy Framework (NPPF) (DCLG, 2012). Archaeological sites are considered heritage assets under NPPF, and any harm that might be done to a heritage asset by a development must be carefully weighed against the public benefits of that development. When a heritage asset is to be harmed or destroyed by a development, then the local planning authority should require the developer to record the asset, prior to work commencing, in a manner proportionate to the harm caused to, and the significance of, that asset. Consideration should be given to avoidance of disturbance of archaeological deposits by making adjustments to the location of the development. Where this 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 artefacts and ecofacts recovered.



Plan of graves uncovered during excavations at the medieval monastery of St Mary Stratford Langthorne, London. Note the bowing effect caused by the tendency of those toward the northern end to follow the orientation of the road, whilst those toward the south tend to conform to the orientation of the church (by permission of Museum of London Archaeology).

173. 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 the popularity of television programmes featuring burial archaeology, excavations in disused burial grounds (whether Christian or otherwise) are usually acceptable to the general public and indeed the public is 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.

174. In many cases, both secular and ecclesiastical authorities consider that the benefits in terms of finance and convenience of a development may outweigh the need to preserve ancient human remains undisturbed. By analogy, 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, which in that case are in terms of accrual of knowledge, which would result from the work. Only if the latter are considered to outweigh the former should work go ahead.

175. Several thousand 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 disturbance of human remains in research excavations on sites which are not threatened. 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. This means that it is difficult to address important questions concerning relationships between urban populations and those in settlements in their hinterlands.

176. The study of archaeological human remains has largely shifted from studies of single ‘interesting’ skeletons, toward problem orientated work aimed at identifying patterning in data at a population level. Normally, addressing properly formulated research questions will require excavation and study of sufficient burials to form an adequate statistical sample. Exceptions to this are excavations that desire to focus on the recovery of remains of a specific historic personage or other identified individual. Particular care should be taken in such cases to establish whether such work is in the public interest, has a realistic prospect of producing useful knowledge, and that the ethical implications of dealing with remains of identified individuals have been adequately considered (Mays *et al*, 2013).

177. 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.

A 19th century burial from the churchyard at Barton-upon-Humber, interred with a china bowl beneath the coffin  
(by permission of Warwick Rodwell)



## Annex E5: Excavation of skeletons lying partly under baulks

178. In archaeological fieldwork, when a burial lies partly beyond the excavation trench normal 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.

179. 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 intermingling the remains.

180. 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.

181. 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.



Mediaeval burials uncovered during excavations in the churchyard at Wharram Percy (by permission of the Wharram Research Project)

182. 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 pastorally (for example if it is marked and relatively recent), 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 necessary to lift the burial, the excavated part should be reinterred in the trench.

## Annex E6: The ethics of destructive sampling of human remains

183. Traditionally, osteoarchaeology has been a science based on measurement and visual examination of bony remains. However, in recent years, techniques which are, to a greater or lesser extent, destructive of human remains 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 accepting 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. A recent publication (Mays *et al*, 2013) provides detailed guidance on destructive sampling of human remains, but the following major considerations apply.

184. Can the research question(s) be addressed using non-destructive techniques? Destructive sampling should only be contemplated if this is not so.



Sampling a bone for radiocarbon dating

185. 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.

186. For burials of named individuals, permission should be sought from surviving family members, if known.

187. If the feasibility of a technique is questionable but it is 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.

188. 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.

189. 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.

190. All sampling should be fully documented so future researchers will know what has been taken.

191. 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 or scan and 3D print of parts which will be damaged or destroyed.

## Annex SI: 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?

**192. 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.

### Human osteology in archaeology

**193. 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, 2010: 83-88).



Human skeletal remains being studied in an osteological laboratory (by permission of AoC Archaeology Group)

**194. 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, 2010: 134-137) reveals that this trend may have a much earlier origin.

**195. 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).

**196. Genetic relationships:** Genetic relationships among earlier populations are generally reconstructed using skeletal morphology, or (if it survives) from DNA evidence.

*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, 2007).

**197. 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.

**198. Diet and migrations:** Chemical analysis of skeletal material can reveal various aspects of diets and shed light on movement of peoples from one geographic area to another.

*Example:* At a monastic site in Scotland, isotopic analyses indicated that senior clerics were recruited from outside the local area, and consumed a diet richer in seafood than that of people of lower status (Müldner *et al*, 2009).

**199. Burial practices:** The study of Christian burial practices is an invaluable source of information on past beliefs and social organisation.

*Example:* Analysis of grave form, body position, osteological attributes and associated artefacts emphasises the diversity in Mediaeval Christian funerary practice (Gilchrist & Sloane, 2005)

**200. Human evolution.** Anatomically modern human remains provide a baseline from which to evaluate skeletal morphology in early hominins 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

**201.** 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, osteoarchaeological studies, such as on a skeleton from a middle Saxon burial ground (McKinnon *et al*, 2013), have forced revision of this view.

**202.** 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 (Walker *et al*, 2015).

## Human osteology and our understanding of modern diseases

203. 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 severity of osteoporosis (Ross, 1996). However, studies on British archaeological material indicate that the disease was no less severe in the past, throwing doubt on the role of lifestyle factors (Mays, 2008). 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.

204. 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. Major articles discussing evolutionary scenarios for the bacteria responsible for tuberculosis (Brosch *et al*, 2002) and leprosy (Monot *et al*, 2009), include discussion of work on ancient DNA. 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 & Kash, 2011). 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

205. 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 or St Brides Church, Fleet Street, which are of documented age and sex. Some of the techniques used in forensic osteology have been tested (Mays, 2012) or revised (Falys *et al*, 2006) 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).



## Annex S2: Minimum standards for site assessment, evaluation and mitigation

### Introduction

206. All archaeological fieldwork should be carried out by competent and experienced staff on behalf of suitably qualified organisations to briefs drawn up for the work by Diocesan Archaeological Advisors, Cathedral Archaeological Consultants or Local Authority Archaeologists. The Church or secular developer should be aware of the need to allow for funds to cover the post-excavation examination and archiving / reburial costs of human remains and other recovered material as well as the costs of the excavation itself. The DAA, CAC or LAA may help adjudicate when there are disagreements over what constitutes an appropriate level of archaeological work. The phases of archaeological fieldwork considered in the sections below follow those recommended by Historic England (Historic England, 2008). General guidance on standards for archaeological fieldwork are given by the Chartered Institute for Archaeologists (CIfA, 2014a-e).

### Site assessment and evaluation

207. In any archaeological project, adequate pre-excavation planning is essential. This helps establish likely costs and ensures that an optimal approach is taken. This will generally involve a desk-based assessment (DBA) of the archaeological impact of the development, and subsequent geophysical survey (although this latter may often be problematic in burial grounds) and excavation of evaluation trenches as appropriate. The legal framework will depend upon the nature of the site in question. [Annexes L1](#) and [L2](#) may help identify relevant legislation.

208. 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 Historic Environment Records, and map regressions.

209. If the DBA indicates the likelihood that the proposed development will impact upon a burial ground of a specific non-Christian faith group (e.g. a Jewish burial ground), then the developer and



Church of St Vigor with All Saints, Fulbourn, Cambridgeshire. The gap in the gravestones corresponds to the site of a second church in the same churchyard which collapsed in the 18th century (by permission of J Elders)

the archaeologists should liaise with representatives of that faith group in order to help determine optimal procedures should human remains be encountered.

210. On most Christian burial sites, interments are densely packed and intercut. 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 100 square-metre 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.

211. 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, geophysical survey may be useful. However, conventional geophysical methods are usually unable to provide sufficiently detailed information to replace the need for trenched evaluation owing to their inability to accurately define density and depth of burials. Ground-penetrating radar may be able to detect large hollow spaces such as vaults below the surface prior to any groundworks, although this can be affected by metal and so may be difficult in urban situations. See David *et al* (2008) for more information on geophysical survey.

212. Evaluation trenches should normally be dug in order to confirm estimates of the extent and density of burials, and also to determine the degree of skeletal preservation. For evaluation of burial grounds to be useful it is generally advisable to excavate burials through to the base of the archaeological deposits. In larger burial grounds this should ideally be done in several different spatially distinct locations, selected using the results of the DBA, to enable comprehensive data gathering on the nature and quantity of remains.

213. The importance of an adequate Written Scheme of Investigation (WSI) is high, and it should be produced by a project team including an osteologist. The crux is to outline what is understood of the significance of the burial ground, and to frame research questions that are appropriate to its likely significance, and which can be addressed through excavation and analysis.

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 and that suitably qualified personnel are available. 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 disposition 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.

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).

### 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. However, it should be emphasised that further research is needed fully to evaluate the effect of raft foundations on the burial environment sealed beneath. The Ministry of Justice considers applications on a case by case basis but the use of piled foundations on a burial ground will not normally be considered appropriate. The use of shallow trench-arch drainage systems for waste water may help minimise disturbance to churchyard burials when installing pipe runs for toilet or kitchen facilities in churches.

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

## Annex S3: Minimum standards for archaeological excavation

221. It should be emphasised at the outset to all project staff involved in handling 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 remains.

223. Human remains *in situ* should be considered as of archaeological value whatever their date or disposition. Notwithstanding the views of some 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 a unique context number, 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:

- 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. Electronic distance measurers may be used to rapidly record plan and height data.
- The kinds of information to be recorded by excavators are discussed in detail elsewhere (McKinley & Roberts, 1993).
- The project osteologist will likely wish regularly to be present on site if human remains are encountered, and this will almost certainly be necessary if significant numbers of burials (about 30+) occur. 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.
- Human burials should not normally be 'chased' beyond the limits of the current work area/excavation trench ([Annex E5](#)).
- 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 given a different context number and 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, left hand, right hand, left foot, right foot. Durable labels giving the context number should be placed in the bags and the bags themselves should be labelled with this information on the outside.
- 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 recover loose teeth and small bone fragments and artefacts.
- 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



A project osteologist giving advice on site, Bedlam Burial Ground, Liverpool Street, London (by permission of Crossrail).



procedures. These include dealing with very large numbers of burials, recording of gravestones, dealing with crypts and vaults prior to their clearance, and treatment of burials showing substantial 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 large burial grounds (Mays *et al*, 2015)

227. Sometimes, a development may impact upon very large numbers (>2000 individuals) of burials. The question arises as to the extent to which it is reasonable in such cases for a developer to fund an archaeological fieldwork project to recover and study all the burials impacted, or whether archaeological treatment of a sub-sample of the whole would be a more proportionate response. A recently issued guideline (Mays *et al*, 2015) considers this question and provides a framework for decision-making concerning possible sampling strategies.

### Dealing with gravestones (Mytum, 2000)

228. 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 (Mytum, 2000). 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; Elders *et al*, 2010)

229. Recording of the structure of the crypt or external vault is as essential as of its contents: the information is of critical use in 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 Ministry of Justice concerning what permissions may be necessary. Recording should concentrate on:

- Entrance shaft, capping stone, steps and 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)

230. Human soft-tissue is most likely to be preserved in substantial quantities in sealed lead coffins and in desiccated crypt burials. When it is expected 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 substantial, 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:

- In most instances, sealed lead coffins should be left unopened. In such cases, and in other instances where bodies exhibit substantial soft tissue survival and further scientific analysis is not intended, burials 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 substantial soft tissue survival and upon which scientific research is intended should be recorded in the field and then immediately removed to an appropriate laboratory.
- 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.



Bedlam Burial Ground, Liverpool Street, London, under excavation. Note the platform (at left) for the visitors viewing the site (by permission of Crossrail).



## Public access

231. Where excavations are likely to be visible to passers-by (as is generally the case with urban excavations), the site should be screened from public view (and roofed where tall buildings overlook the site), and Ministry of Justice licensing invariably requires this. As well as being in the interests of decency and respect for the remains, this serves several practical purposes: to protect the public from viewing what may be considered distasteful or upsetting, to mitigate against possible looting or vandalism, and to protect site staff from adverse public reaction.

232. Although sites should be screened from the view of casual passers-by, the immense public interest in burial archaeology and strong commitment amongst archaeologists to outreach mean that arrangements for site visits require consideration. Sites may be opened to visitors provided that there is no more sensitivity than usual and security can be assured.

233. Sites may be open to casual visits from the general public who may view the site from platforms or walkways, or to visits by 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.

234. 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.

## Dealing with the Media

235. 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 television or radio journalists, but also applies to recorded interviews for radio or television and to dealings with print journalists, as it is usually 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.

236. Images of human remains, either under excavation or at the post-excavation phases of a project, in print or television 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 tend to make the archaeologists look like grave robbers). Issues such as these should be discussed with journalists / television 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 behaviour one can minimise the risks. It is best only to be involved with reputable groups.

## Annex S4: Minimum standards for post-excavation procedures

### Post-excavation processing

#### Human remains

237. 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 Historic England (Mays, 1991). Each bag containing part of an inhumation must be labelled with the site code and the context number of the skeleton. This information should also be marked on the bones in waterproof ink. Packing of bones is usually within polythene bags inside archive-standard boxes, which will also carry the unique site code/context number identifier. Use of stabilising conservation treatment (e.g. consolidants) should be avoided.

#### Associated grave finds

238. 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. Treatment of different finds classes should follow published guidelines (Watkinson & Neal, 1998). 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

239. The scientific value of excavated human remains and associated artefacts depends on a number of criteria, including their identity, date, condition, completeness, group value, rarity, association with other features or finds (**Annex S6**). It is vital that these criteria are judged dispassionately and in the whole. All human skeletal remains that are excavated must be retained pending an archaeological post-excavation assessment.

240. 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. The assessment 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 excavated, and recommendations for their future (ranging from immediate reburial to long-term retention for research purposes). Recommendations for further research should be explicitly framed within existing national, regional and or local research frameworks (Historic England, 2015)). Post-excavation assessment of human remains should follow published guidelines (Mays *et al*, 2002).

### Post-excavation analysis

241. 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; Brickley & McKinley, 2004).

242. 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. Because the strategy for post-excavation work varies greatly from case to case, generalisations are difficult. However a few points can be made. Usually, unstratified, disarticulated 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 of 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 osteological work at the analysis phase. So for example, if 20 articulated, complete and well-preserved



Use of a binocular microscope in an archaeological laboratory

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 as appropriate with the Diocesan Archaeological Advisor, Cathedral Archaeological Consultant or Local Authority Archaeologist.

### Dissemination of results

243. 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 Historic Environment Record (this can be included in the brief). Short reports would normally be published in county or period journals. Some investigations may justify monographs. Web-based publication is possible (Jones *et al*, 2001). Reports should be made available within an agreed timetable to the funding organisation, and data deposited as appropriate with the Archaeological Data Service (ADS).

## Annex S5: Health and safety aspects specific to human remains

244. 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.

245. 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 was reported among field staff working on the Christ Church 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.

246. 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 and the issues involved being discussed fully with them. 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 or lead-lined coffins, and to laboratory sampling of bone by sawing or drilling.
- Where soft tissue is preserved, gloves should be worn.



A breastplate from an 18th century coffin excavated from All Hallows-by-the-Tower, London (by permission of AoC Archaeology Group).



## Annex S6: Retention of skeletal collections and factors affecting the scientific value of collections

### Why retain collections for scientific study rather than rebury?

247. 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 that 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 agenda 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.

248. 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.

249. 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, or medical imaging techniques such as CT scanning, 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.

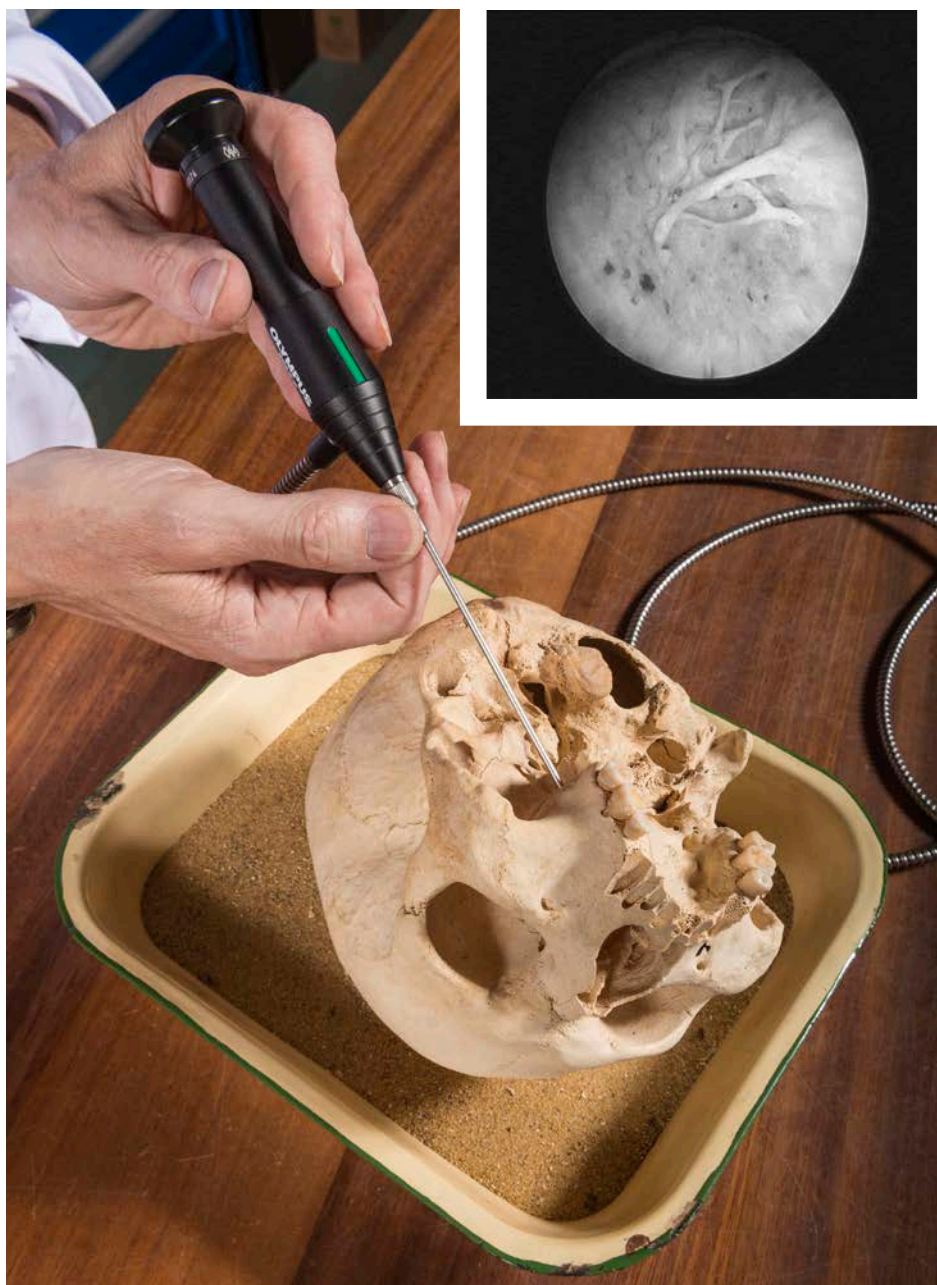
### Factors affecting the research value of a skeletal collection

250. 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:

#### Size of assemblage

251. 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



A cranium being examined in the laboratory using an endoscope. This revealed deposits of spicular bone (see inset) in the maxillary sinus suggestive of infection, showing this person had suffered from sinusitis.



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.

#### Type of assemblage

252. 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.

253. 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 particular 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), specific religious or ethnic groups (e.g. the 19th century Quaker burial ground at Kingston Upon Thames and the Mediaeval Jewish cemetery at Jewbury, York) or layfolk versus monastic brethren (e.g. Mediaeval parish churchyards versus monastic burial grounds). 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.

254. 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.

#### Skeletal preservation

255. 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.

#### The value of disarticulated material

256. 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, unstratified, disarticulated bone is of limited scientific value. However this may not be the case for deliberately placed disarticulated material, for example in ossuaries, which may be of significance, particularly from the cultural point of view.

#### Dating

257. 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.

#### Special assemblages

259. 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 18th and 19th centuries. 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.

#### Summary

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 that it is desirable that they should be retained long-term in museums or other institutions for further research. Most osteologists do not consider unstratified, disarticulated material of significant scientific value, and this material need not normally be retained but can be reburied following scanning, by an osteologist, for pathologies and unusual features.

## Introduction

261. The term 'holding institution', as used here, is a place used for the long term storage of 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 include museums, research institutions, university departments and archaeological units.

262. All holding institutions should be appropriately staffed. The minimum staffing level should be one permanent curator or collections manager, with appropriate curatorial 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 will 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 should include space for examining material.

271. An appropriately qualified advisory board or an appointed individual should evaluate all requests for access.

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 growth). 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. 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 to the holding institution. They should also 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 may be reburied in an unthreatened section of that burial ground. Remains should be reburied in locations which would not disturb existing burials or other archaeological features. 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 curtilage 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. Thought should be given as to whether it is appropriate to conduct a church service upon reburial when material to be reinterred includes non-Christian remains.

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 come and 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, it may be possible to retain scientific samples (e.g. histological sections) as a permanent archive of completed research, and as a means of re-examining research findings.

293. When close family members are to 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.



## Appendix: List of APABE members

### Standing Committee

Holger Schutkowski	<b>University of Bournemouth, current chair</b>
Elizabeth Popescu	<b>Oxford Archaeology, current secretary</b>
Joseph Elders	<b>Church of England</b>
Simon Mays	<b>Historic England</b>
Margaret Clegg	<b>Human Remains Subject Specialist Network</b>
Rekha Gohil	<b>Ministry of Justice</b>

### Consultative Forum

Daniel Antoine	<b>British Museum</b>
David Baker	<b>Society for Church Archaeology</b>
Jelena Bekvalac	<b>Museum of London</b>
Judith Bernstein	<b>Ministry of Justice</b>
Angela Boyle	<b>Freelance Burial Archaeologist</b>
Quinton Carroll	<b>Cambridgeshire County Council</b>
Becky Clark	<b>Cathedrals Fabric Commission for England</b>
Philip Dixon	<b>Cathedrals Archaeologist</b>
David Hillelson	<b>Heritage Network</b>
Tim Howard	<b>Chartered Institute of Field Archaeologists</b>
Louise Humphrey	<b>Natural History Museum</b>
Julian Litten	<b>Church Monuments Society</b>
Jackie McKinley	<b>Wessex Archaeology</b>
Richard Mason	<b>Ministry of Justice</b>
Sebastian Payne	<b>Retired Chief Scientist, Historic England</b>
Jane Sidell	<b>Historic England</b>
Barney Sloane	<b>Historic England</b>

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APABE is a panel supported by Historic England, the Ministry of Justice and the Church of England. Its purpose is to provide a unified source of advice to professionals on the treatment of human burials from archaeological sites in England. APABE supports professionals and others in interpreting guidance documents on human remains that have been issued by the Department for Culture, Media and Sport (DCMS), by Historic England, and the Church of England. It also produces new guideline documents as necessary and provides casework advice on any aspect of archaeological burials. The objective is to foster a consistent approach to ethical, legal, scientific and other issues surrounding the treatment of burials from archaeological sites.

APABE will either give advice itself or refer the enquirer to the relevant expert organisations or individuals. The advice is free of charge. Enquirers are referred to [www.archaeologyuk.org/apabe](http://www.archaeologyuk.org/apabe) for further details.

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Front cover: Cistercian monks visiting the excavations at the site of the Mediaeval Cistercian monastery of St Mary Stratford Langthorne, London (by permission of Museum of London Archaeology)

Text compiled by Simon Mays.

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