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Guidance for best practice for treatment of human remains excavated from Christian burial grounds in England

THE CHURCH OF ENGLAND

ENGLISH HERITAGE

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The study of excavated human remains has a central part to play in our understanding of past lives.

However, dealing with human remains from archaeological sites presents challenges of a quite different nature from those which attend work on other types of evidence. Human remains are a focus of religious beliefs and notions of decency and respect for the dead, as well as arousing great public interest. The challenge for those involved in working with ancient human remains is to attempt to balance these considerations.

Given the pace of modern development, many burials are excavated each year in advance of building work, so the need for guidance in this area is pressing. Best practice can only be achieved by a balanced consideration which recognises the legitimacy of views, whether based on religious faith, secular concepts of decency and respect for the dead, or on science.

It is in this spirit that I welcome the production of this guideline which is a contribution toward doing this for human remains excavated from Christian burial sites in England. As well as providing guidance in this specific area, I hope that it will stimulate debate on best practice for dealing with remains from a wider range of contexts. In particular, we are proud of our collaboration with the Church of England; collaborative initiatives must surely be the way forward for tackling the complex array of issues raised by human remains.

Simon Thurley
Chief Executive, English Heritage

THE CHURCH OF ENGLAND

ARCHBISHOPS' COUNCIL

Cathedrals Fabric Commission for England

Council for the Care of Churches

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From the Chairs of the CFCE and CCC

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CONTENTS

4 SUMMARY

6 INTRODUCTION

7 How this document is arranged

8 GENERAL CONSIDERATIONS

8 Legal frameworks
8 Ethical treatment of human remains
10 Scientific benefits of burial archaeology

11 SPECIFIC CONSIDERATIONS

11 Disturbance of human remains
11 The archaeological fieldwork project
13 Archiving and long-term storage of excavated remains

17 ANNEXES

17 **L1** Exhumation of human remains: a short guide to the law
23 **L2** Legal case studies
25 **E1** Human remains in Christian theology
28 **E2** Theological position of the Church of England regarding the curation of human remains interred under, and still within, its jurisdiction
29 **E3** Definition of the theological effects of consecration on the status of a burial, and the effects of the dissolution of the monasteries
31 **E4** The presumption of non-disturbance of archaeological remains and the question of research excavations
33 **E5** Excavation of skeletons lying partly under baulks
34 **E6** The ethics of destructive sampling of human remains
35 **S1** A summary of some of the potential benefits from the study of collections of human skeletons from Christian burial grounds
37 **S2** Minimum standards for site assessment, evaluation and mitigation
40 **S3** Minimum standards for archaeological excavation
43 **S4** Minimum standards for post-excavation procedures
45 **S5** Health and safety aspects specific to human remains
46 **S6** Retention of skeletal collections and factors affecting the scientific value of collections
48 **S7** Archiving, longer term access and storage
50 **S8** Reinterment: technical aspects
51 **O1** List of panel members
52 **O2** List of respondents to the consultation report

53 REFERENCES

FIGURES

21 **1** Flow chart summarising legal provisions pertinent to archaeological excavation of human remains
39 **2** The phases of an archaeological project

SUMMARY

The treatment of human remains is one of the most emotive and complex areas of archaeological activity. Feedback from archaeologists, parishes and clergy has indicated a clear need for guidance in this area. In 2001 a Human Remains Working Group was convened jointly by English Heritage and the Church of England in order to address the issues. The working group's remit concerned burials from Christian contexts dating from the 7th to 19th centuries 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 Human Remains Working Group comprised eighteen members, organised into three separate panels, who were asked to address legal issues, theology and ethics, and scientific and technical matters. Coordination between the three panels was handled by the convenors and by means of meetings of the entire group. This document is a synthesis of the results of the group's deliberations. It aims to provide reasonably comprehensive guidelines covering treatment of human remains and associated 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 is primarily archaeologists, local authority planning departments, museums, clergy, and church organisations such as parochial church councils, diocesan advisory committees and consistory courts.

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

- Human remains should always be treated with dignity and respect.
- Burials should not be disturbed without good reason. It was noted, however, 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 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 working group's **main recommendations** are:

1 CONTINUING BURIAL

a Digging any fresh graves in parts of an established burial ground thought to be an area of archaeological significance should be avoided unless all graves in the area are first excavated archaeologically.

b Archaeological monitoring of grave digging in churchyards and cemeteries is otherwise not something that can reasonably be required on a routine basis.

2 DEVELOPMENT OF BURIAL GROUNDS

a If burial grounds, or areas within burial grounds, which may contain interments more than 100 years old, have to be disturbed – whether for minor building work or larger scale development – to a depth that is likely to disturb burials, the relevant areas should be archaeologically evaluated. Any subsequent exhumations should be monitored, and if necessary carried out, by archaeologists.

b The developer, whether a religious or a secular organisation, should be responsible for the cost, including study of excavated remains and their reburial or deposition in a suitable holding institution.

3 RESEARCH EXCAVATION

a Research excavation of unthreatened burial grounds or areas of burial grounds is only acceptable if interments are more than 100 years old, and the proposed work is acceptable to the living close families of those who are buried, if known.

b Research excavations 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 and their reburial or deposition in a suitable holding institution.

4 EXCAVATION, STUDY AND PUBLICATION

a Archaeological excavation, study and publication of burials should conform to the standards and procedures set out in the body of this 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 kept to the minimum compatible with adequate evaluation.

5 REBURIAL AND DEPOSITION

a Excavated human remains should be reburied, if living close family members are known and request it.

b Excavated human remains shown after due assessment to have limited future research potential should be studied and then reburied.

c Reburial should normally be by inhumation rather than by cremation.

d When excavated human remains are more than 100 years old and have significant future research potential, deposition in a suitable holding institution should be arranged. Redundant churches or crypts provide an acceptable compromise between the desirability of deposition in a consecrated place and the desirability of continued research access. A working party, to succeed the Human Remains Working Group, should be set up to pursue this, looking in particular at funding and at establishing proper working practices.

6 ADVISORY COMMITTEE

a A standing committee should be set up jointly by English Heritage and the Church of England to serve as a national advisory body on human remains from Christian burial grounds in England. This committee will take forward the issues raised in this document and will complement any human remains committees which may be set up as a response to the findings of the Department for Culture, Media and Sport (DCMS) working group on human remains in museum collections.

7 WIDER IMPLICATIONS

a The working group recognises that many of the issues raised here may have more general applicability to human burials excavated from English sites. It is hoped that this document will stimulate debate, which may lead to formulation of policy for dealing with human remains from a wider range of contexts.

b The working group recognises that many of the issues raised here would benefit from further consideration in the broader context of dealing with human remains.

INTRODUCTION

Excavation of a medieval graveyard in London (by permission of Museum of London Archaeology Service)

1 Several thousand human skeletons are disturbed each year in England as a result of building and other development work, and all archaeological units have to deal with human remains on a regular basis. However, their treatment is still one of the most emotive and complex areas of archaeological activity. Currently, the law relating to human remains is complex, and none of it was drafted with archaeological work in mind. Recent scientific advances have resulted in a marked increase in the research value of human remains, and with this has come an explosion of public interest in burial archaeology, as witnessed by television programmes and museum exhibitions. Most archaeologists are conscious of the need to afford the dead respectful treatment and to avoid offending religious or secular sensibilities when dealing with human remains; however, high standards of practice have yet to be codified. Although the UK has been spared the polarised debate sparked by the issue of human remains in other countries (notably in North America and Australasia), this has also meant that many ethical issues have tended to remain implicit and poorly articulated.

2 Guidelines aimed specifically at the treatment of archaeological human remains in Scotland (Historic Scotland 1997) and the Republic of Ireland (O'Sullivan *et al* 2000) are available. A similar document is currently lacking for England, but a number of guidance notes exist which are relevant to English contexts. These cover aspects of the treatment of human remains at specific phases of archaeological fieldwork projects, including excavation (McKinley and Roberts 1993), post-excavation processing (Mays 1991), and post-excavation assessment and analysis (Mays *et al* 2002; Brickley and McKinley 2004). In addition, discussions of some of the legal aspects of disturbance of burials have appeared (Garrett-Frost 1992; Pugh-Smith and Samuels 1996, 59–61). The international Vermillion Accord (World Archaeological Congress 1989) sets out some very general ethical principles for dealing with human remains, but little has been written concerning ethical guidelines specifically in an English context (although see Parker Pearson 1995). Feedback from archaeologists and clergy indicates a need for specific and comprehensive guidelines relating to legal, ethical, and archaeological and scientific considerations in the treatment of ancient human remains excavated in England.

3 Several initiatives bearing on the treatment of human remains have taken place recently.

4 First, the government has initiated a review of burial law, which it considers out of date and in need of reform, and in January 2004 a consultation paper was produced **(www.homeoffice.gov.uk/docs2/buriallawconsult.pdf)**. The review covers secular law relating to the provision of burial grounds, regulation of the burial process, cemetery management, and exhumation and disturbance after burial. In the sections relating to exhumation and disturbance of burials, the consultation paper specifically raises issues relating to archaeological excavation of ancient burials, including the question of whether excavation of archaeological remains should continue to be subject to the same regulatory regime as other exhumations.

5 Secondly, the Human Tissue Bill, before Parliament in late 2004, proposes setting up a Human Tissue Authority to oversee and licence work on, and retention of, human tissue **(www.publications.parliament.uk/pa/pabills.htm)**. As currently drafted, the Bill only covers material less than 100 years old.

6 Thirdly, a working group, set up by the DCMS in 2001 specifically to investigate the ethical and legal status of human remains held in UK museums, has recently reported **(www.culture.gov.uk/cultural_property.htm)**. This group recommended changes in the law to facilitate the repatriation of overseas remains and the setting up of a licensing system for institutions holding human remains. Although that group's principal focus was on overseas remains, the proposal is that the licensing system would apply also to remains excavated from archaeological sites in the UK. The group's report forms the basis for a consultation report issued by the DCMS in 2004 **(www.culture.gov.uk/global/consultations/2004+current+consultations/cons_historic_human_remains.htm)**.

7 The developments outlined above mean that the production of guidelines on archaeological human remains from England is particularly timely. A working group was convened in 2001 by English Heritage and the Church of England with the aim of producing a guidance

document. The group was split into three panels, to consider legal matters, theology and ethics, and scientific and technical aspects. Panel memberships are given in Annexe O1.

8 A consultation report was assembled from the results of the working group's deliberations. The consultation report was revised according to the responses received during the consultation period (for a list of respondents see Annexe O2); the result is this guidance document.

9 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; ancient burial mounds, for example, 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 (such as 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 the document 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.

10 This guidance document will principally be concerned with remains over 100 years old (herein referred to as ancient human remains). For more recent remains, legal, practical and ethical considerations are often rather different from those pertaining to the older material which is the principal concern of the archaeological community. Because archaeologists are required to deal with all aspects of burial archaeology, not just human remains, the treatment of grave markers and burial artefacts will also be considered. The document covers remains from crypts and vaults as well as those from earth-cut graves.

11 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 sets out 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, while having regard to public opinion concerning 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.

HOW THIS DOCUMENT IS ARRANGED

12 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 considers 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 these guidelines follows that recommended for archaeological projects by English Heritage (English Heritage 1991), and the aim is to summarise the legal, ethical and scientific considerations pertinent at each particular phase of work, 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 and theological, or scientific and technical matters. Annexes prefixed O deal with organisational matters in the preparation of this guidance document. The summary at the beginning of this document provides an overview and itemises the principal recommendations.

GENERAL CONSIDERATIONS

LEGAL FRAMEWORKS

13 It is unlawful to remove or disturb human remains without lawful authority. Various laws, both secular and ecclesiastical, provide a framework for the treatment of human remains according to the type of burial place, the ownership of the land, and the future use to which the site is to be put. The following paragraphs, together with Annexe L1, attempt to summarise the existing legal framework, but it should be recalled that this is currently under governmental review (paragraph 4 above).

14 Secular law is generally aimed at regulating the way in which human remains and grave markers are cleared from burial grounds, rather than preventing or restricting this. For ancient burials, authorisation to disturb human remains is given (or withheld) by the Home Office. Planning considerations may also apply, as may Scheduled Monument Consent.

15 The coroner 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.

16 On land currently under Church of England jurisdiction, and other municipal and private cemeteries subject to the legal effects of consecration, ecclesiastical law applies in addition to relevant secular statutes. Ecclesiastical law does not apply to disused monastic burial grounds, nor to most disused churchyards, although many ruined parish churches and their churchyards, and some redundant churches in alternative use, do remain under Church of England jurisdiction. In land subject to its jurisdiction, the process of ecclesiastical law both grants (or withholds) authority to disturb human remains and, if disturbance is authorised, regulates the treatment of remains.

17 An outline of the law on the exhumation of human remains is given in Annexe L1. In order to help those involved in projects which disturb human remains to navigate safely through the various legal provisions which apply in different circumstances, a flow chart (Figure 1) is provided. The use of Figure 1 is illustrated with reference to hypothetical examples in Annexe L2.

ETHICAL TREATMENT OF HUMAN REMAINS

18 Ethical treatment of human remains involves making decisions that take into account, via appropriate consultation, the views of individuals and groups with legitimate interests in those remains. These interests include those of the dead themselves and their surviving family and descendants, the Church and other bodies responsible for the care of the dead, the general public, particularly those with direct links to the place of burial, and the scientific research community, including archaeologists, osteologists, and medical and forensic scientists.

19 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; this is one factor which has led us to recommend that a standing committee be convened jointly by English Heritage and the Church of England to serve as a national advisory body on human remains from Christian burial grounds in England.

20 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 (Annexe L1), it would be ethical to accord views of living close family members strong weight. When excavation of 18th- or 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.

21 The great majority of archaeological excavations, however, deal with the remains of long-dead individuals of unknown 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.

22 Respect for the dead is a feature of most world religions; it is also 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, the 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 be likely to 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 and a consideration of public attitudes is given.

Human remains in Christian theology (Annexes E1 and E2)

23 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.

24 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.

25 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.

26 The Church of England's attitude to burial is that human remains should be treated with respect and reverence: a society that cares for the dead demonstrates that it values life.

27 In summary, it is central to Christian theology that, after death, the human body ceases to have any significance for the ongoing resurrected spiritual life of the individual. However, following death, the physical remains should be treated with respect and reverence, even though ultimately it is the fate of the soul, rather than of the physical remains, which matters.

The meaning of consecration (Annexe E3)

28 Consecration is an act by which a thing is separated from the common and profane to a sacred use, or by which a person or thing is dedicated to the service and worship of God. When a body is buried in consecrated ground it comes under the protection of the Church.

29 Consecration of Christian burial grounds began in the 8th century, and for burial grounds of this date onwards consecration should be assumed. Consecration has specific effects in ecclesiastical law, which can be revoked. However, the act of consecration is permanent; the theological status of consecration remains even when the legal effects are removed. In disused monastic burial grounds and some disused churchyards, the legal effects of consecration no longer apply (Annexe 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

30 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, as has been the case in, for example, North America.

31 In general, the public shows a high degree of interest in scientific research on ancient human remains. This is apparent in 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.

32 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 is likely that public sensitivities are greater for more recent remains. 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. Although the working group considers that the above generalisations are broadly valid, they are based on experience rather than on hard, systematic data. They are offered only as reflections on what are very complex issues. The question of public attitudes toward human remains is one that requires fuller treatment and further research.

SCIENTIFIC BENEFITS OF BURIAL ARCHAEOLOGY

33 Research into our past is of the utmost importance: it helps us to understand ourselves better, and, perhaps, 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 (Annexe S1), providing a range of information including evidence for:

- demography and health
- diet, growth and activity patterns
- genetic relationships
- burial practice, and thus related beliefs and attitudes.

34 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
- contributing to the development of forensic science, to assist in identification of remains and prevent miscarriages of justice.

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

36 Unless human remains are carefully excavated archaeologically, there is inevitably loss of contextual information. Clearance of burial grounds without archaeological intervention is therefore undesirable in that it is a denial of information about our past to future generations.

37 Reburial of remains after excavation (rather than their long-term retention for scientific research) denies a potentially valuable research resource to future workers. Indiscriminate reburial of museum collections is therefore undesirable.

A skeleton being examined in an osteological laboratory

SPECIFIC CONSIDERATIONS

38 The remainder of this guidance document looks initially at the circumstances under which disturbance of human remains may be considered legitimate. The subsequent sections set out guidelines for the treatment of human remains during archaeological fieldwork projects, following the logical order of fieldwork interventions. The aspects covered comprise project planning, including mitigation strategies to minimise disturbance of remains; excavation procedures and practices; and post-excavation work. The final section looks at archiving issues, including the use of remains for display and teaching purposes and the question of long-term storage or reinterment of remains.

DISTURBANCE OF HUMAN REMAINS (ANNEXE E4)

39 Key factors leading to disturbance of remains at Christian burial sites include threats to all or part of a burial ground from construction work; 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

40 Government policy, enshrined in Planning Policy Guidance (PPG) 16: Archaeology and Planning, is that archaeological remains should not be 'needlessly or thoughtlessly destroyed'. In making decisions within the planning system, when development of a site is proposed the acknowledged desirability of preserving archaeological remains is weighed against the likely benefits of the proposed new use of the site. There is no specific provision for human remains in PPG16. Within the secular planning system, there is no greater presumption against disturbance of human burials than for other classes of archaeological remains.

41 When construction, or other work such as crypt clearance, which would result in the disturbance of human remains, is proposed on land under Church of England jurisdiction, ecclesiastical law applies and decisions are made by diocesan consistory courts or, in the case of cathedrals, by the Dean and Chapter, 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: it 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

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

Research excavations

43 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, decisions concerning whether a research excavation should proceed are the responsibility of the Home Office and/or the Church.

THE ARCHAEOLOGICAL FIELDWORK PROJECT (FIGURE 2)

44 Recommendations for standards for treatment of human remains and associated finds during fieldwork interventions are set out below. Detailed guidelines are provided in annexes on forward planning, evaluation and mitigation (Annexe S2), archaeological fieldwork techniques (Annexe S3) and post-excavation procedures (Annexe S4). These, or similar standards, should be adopted as required minima to be included in project briefs and specifications.

45 All archaeological projects require attention to health and safety issues: those specific to human remains are described in Annexe S5.

46 Archaeological projects should be carried out by suitably qualified organisations and by experienced staff responding to briefs drawn up by the Diocesan Archaeological Advisor (DAA), Cathedral Archaeological Consultant (CAC) or the County Archaeologist (CA). 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 Annexe S4 for guidance on estimation of post-excavation costs). Should there be, in individual cases, disagreement over what constitutes an appropriate level of archaeological response, the DAA, CAC or CA should provide advice to help resolve this.

Site assessment, evaluation and mitigation (Annexe S2)

47 Proper forward planning is essential in helping to ensure the successful outcome of a fieldwork project. Whether in response to a threat to a site or purely for research purposes, a fieldwork project should have properly defined research aims, and an academic justification for it must be clearly formulated. It will be necessary to negotiate with a museum or other institution for storage space and curatorial care for the resulting archive at the project planning stage. At this stage the long-term fate of the human remains will probably not be clear. However, arrangements for storage should still be negotiated; even if subsequently it is determined that remains will ultimately be reburied, short- or medium-term storage may still be required.

48 The legal framework for the project will depend upon the nature of the site (Annexe L1). Desk-based assessment (DBA) of the likely archaeological impact of the proposed development is recommended. Remote sensing or evaluation trenches may be used to confirm results of DBA.

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

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

51 One way of mitigating the impact of a development is by careful siting of courtyards or other open or landscaped areas. In smaller scale works, pipes and other services should, if feasible, be laid away from areas used for burial, even at the cost of longer distance.

52 Shallow raft foundations or piling are techniques that have been used to mitigate the impact of development on archaeological deposits. Shallow raft foundations may obviate the need to disturb burials and the Home Office would consider carefully applications involving leaving burials *in situ* beneath raft foundations. 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 Home Office would not normally consider any application that involves piling a burial site.

53 If any human remains are to be left *in situ* on a site where development is to take place, care is needed to ensure that the procedure complies with relevant legislation (Annexe 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 Home Office authorising that the burials remain *in situ*.

54 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 (Annexe E4).

Archaeological excavation procedures (Annexe S3)

55 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.

56 *In situ* human remains are of archaeological value whatever their date. This applies as much to more recent interments (for example, from the 19th century) as it does to more ancient material.

57 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 thirty burials).

58 Most excavations deal with skeletal remains in earth-cut graves, together with any accompanying buried finds. However, it should be borne 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 (Annexe S3).

59 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.

60 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.

Cistercian monks visiting the excavations at the site of the medieval Cistercian monastery at St Mary Stratford Langthorne, London (by permission of Museum of London Archaeology Service)

Post-excavation procedures (Annexe S4)

Finds processing

61 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 and Neal 1998); this is rarely, if ever, appropriate for skeletal remains.

Post-excavation assessment

62 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

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

Publication (Jones *et al* 2001)

64 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

65 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. Current practice in this area is briefly outlined in the next section. This is followed by sections on legal, technical and ethical aspects of archiving human remains and burial artefacts, on the educational value of human remains, and on technical aspects of reburial. Finally, recommendations concerning best practice for the future are suggested.

Current practice regarding retention or reburial

66 Although current practices with regard to the long-term fate 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 a period during which scientific study is permitted. Current practice appears to favour retention of grave finds even when skeletal material is reburied.

Archiving human remains: legal and technical aspects

67 Under English law there is no property in human tissue. However, property rights may accrue if there is application of skill to the remains. This might include dissection or mounting, but whether normal post-excavation processing, such as marking the bones with site and context identifiers, constitutes work sufficient to endow skeletal remains with property rights is unclear.

68 Retention of human remains should be properly authorised by the lawful secular or ecclesiastical authorities (Annexe L1).

69 Human remains should be curated by a suitable holding institution and kept in conditions that ensure their physical integrity. Access to remains should be granted to all *bona fide* researchers in good standing with the holding institution. Requests for loans of material or destructive analysis of bone samples should be considered by competent individuals or committees (Annexe S7).

70 A recommendation of the DCMS working group on human remains in museum collections (paragraph 6 above) was that in future all institutions holding human remains would need to be licensed. That working group's findings were based almost entirely on evidence concerning overseas material. Although there may be benefits in a licensing system, we believe that careful thought needs to be given as to what a licensing scheme for ancient English human remains would accomplish and what the consequences for English archaeological work would be, before the introduction of any such scheme for English archaeological material.

71 The provisions of the Human Tissue Bill, as currently drafted, will mean that any institutions holding human remains that are less than 100 years old will need to be licensed.

Archiving burial artefacts: legal and technical aspects

72 The remit of the Home Office 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 disposal of associated artefacts if it considers it appropriate or it is invited so to do. Issues of ownership may be complex (Annexe L1).

73 Burial artefacts are not generally stored with 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

74 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 (Annexe 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 affecting 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 Annexe 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.

75 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.

76 In Christian theology, human remains have no import for the resurrected life of the individual, but nevertheless should be treated with reverence and respect. Although the phase 'laid to rest', common parlance for burial, implies that remains should be undisturbed, it is acknowledged that it is not always possible to respect the finality of burial and remains may legitimately be 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.

77 Although in England there is no activism toward wholesale reburial of collections of human remains, in some instances public opinion, particularly local public opinion, may favour reburial of excavated human remains. The circumstances under which this may be the case are difficult to generalise, although experience has shown that it is rarely the case with material excavated from disused burial grounds but more often so with material excavated from churches and churchyards still in active use. In the case of human remains from cemeteries of some minority faiths (such as Judaism), opinion of contemporary representatives may strongly favour reburial.

Archiving of burial artefacts: ethical considerations

78 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 objects for future study, even in instances where the human remains are reinterred. Whether this is always reasonable for objects that appear to be personal items of the deceased is less clear. In such circumstances, 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

79 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.

80 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

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

Handling sessions for the general public

82 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, such as 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 (Annexe S8)

83 Remains should be deposited in consecrated ground in areas where no disturbance of existing interments or non-burial 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 intermingled.

84 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

85 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.

86 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 possible solution in such cases may be deposition of remains in disused crypts or redundant churches. Placing

A skeleton under study in an osteological laboratory (by permission of AOC Archaeology Group)

human remains in such stores, which might be termed church archives of human remains (CAHRs), would simultaneously satisfy the desire for remains to be returned to consecrated ground and at the same time, if suitable environmental controls were in place, ensure their physical integrity and continued availability to legitimate researchers. Such stores would probably need to be managed by committees which would include representatives of the local community, the Church and the research community. It is recommended that this possibility be further investigated.

87 Pending the establishment of CAHRs, the following guidelines for reburial or retention of human remains should be followed. They are in essence a regularisation of what is in general existing practice.

88 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 in the site is recognised (ie for Church of England sites, normally excavated under faculty), should be returned for reburial after scientific studies have been completed. Exceptions may be made if there are overwhelming 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 that need to be respected.

89 Where there are differences of opinion concerning final deposition of human remains, advice from third parties may be helpful. It is suggested that one function of the proposed standing national advisory committee to be set up jointly by English Heritage and the Church of England (paragraph 19 above) would be to be available to provide advice, if called upon, in such instances. The Home Office or the Church should make a decision, based on written representations both from interested parties and from any advisory bodies consulted.

ANNEXE L1

EXHUMATION OF HUMAN REMAINS: A SHORT GUIDE TO THE LAW

90 It is unlawful to remove or disturb any human remains without lawful authority. Various laws provide a framework for the treatment of human remains; the legal authority for dealing with the human remains must therefore be discovered in each case. The procedures to be followed may be complex. In order to keep this Annexe short, only a brief summary is given of the relevant procedures; reference must be made therefore to the relevant legislation. It should be recalled that, at time of writing, the legal framework described here is under governmental review (see paragraph 4).

Major projects – specific authorisation

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

Compulsory purchase

92 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

93 Under the Disused Burial Grounds Act 1884, no building[1] work may take place on a disused burial ground, except for the purpose of enlarging a church. This provision was relaxed subject to certain safeguards in relation to disused burial grounds (excepting consecrated land) in the Disused Burial Grounds (Amendment) Act 1981. Disused in this context means a burial ground that has at any time been set apart for the purpose of interment and is no longer used for interments, whether or not the ground has been closed for burials. The 1981 Act provides that notices must be displayed on the land and in local newspapers giving notice of a proposal to erect a building. Where human remains have been buried within the previous fifty 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[2] that the erection of a building on such land will not involve the disturbance of any remains. In such instances, a dispensation order can be issued by the Home Office in confirmation. The Act provides for relatives or personal representatives of the deceased (or in relevant cases the Commonwealth War Graves Commission) to themselves remove and reinter or cremate the remains.

94 The Home Office does not generally apply the 1981 Act to burials more than about 500 years old. Although the Act refers to reinterment or cremation of remains, cases for long-term retention of skeletal material in museums or similar institutions for the purpose of scientific research will be considered on a case-by-case basis.

95 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.

96 The 1981 Act does not extend to any land to which the legal effects of consecration apply. In relation to Church of England churchyards (churches and parish church cathedrals), provisions are contained in the Pastoral Measure 1983 for a pastoral scheme to cover a churchyard (notwithstanding the 1884 Act), which would allow the erection of a detached building. A pastoral scheme may not be made if the land contains burials made up to fifty years previously. The Measure contains similar provisions for human remains to be removed by personal representatives, or otherwise by the landowner, in accordance with Home Office directions.

97 Where land is consecrated but is not under Church control or ownership, such as a cemetery, provision is contained in the Care of Churches and Ecclesiastical

Jurisdiction Measure 1991 for the bishop of the diocese to remove by order the legal effects of consecration where no purpose would be served by the land remaining subject to church jurisdiction. The order may, with the consent of the Home Secretary, provide for the preservation of remains. Otherwise, they must be disposed of in line with procedures under the Pastoral Measure 1983.

The Burial Act 1857

98 Where there is no specific provision in later legislation that is relevant to a particular proposal, exhumation is covered by the Burial Act 1857. The 1857 Act makes the removal of buried human remains an offence unless a Home Office licence has first been obtained or unless, in relation to consecrated ground where the remains are to be reinterred in a different place of burial, a faculty has been issued.

99 Home Office practice in considering applications 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 legitimate objections, and

c the application is for personal family reasons.

100 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.

101 Where a licence is issued 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 (such as the use of disinfectants, oversight by environmental health officers), preservation of public decency (such as screening of the site), or action in the public interest (such as scientific examination of remains). Similar provisions are made within any 'directions' made in accordance with site development legislation.

102 The presence of buried remains cannot always be predicted, especially if the burials took place in antiquity and the location is no longer recognised as a burial ground. Where burials are discovered by accident in such circumstances, Home Office practice is, provided remains are evidently, or can be certified to be, over 100 years old, and no other relevant legislation evidently applies, to issue an 1857 Act licence on application. The procedure is for contact to be made with the Home Office by telephone and relevant details to be faxed through. A licence can normally be issued (and faxed back) within the hour.[3]

The faculty jurisdiction

103 In relation to the Burial Act 1857, it is important to emphasise that the exemption mentioned above (paragraph 98) only covers removal and reinterment in a different consecrated place of burial. There may be circumstances where, in relation to consecrated land, a Home Office licence is required as well as a faculty – for example, if remains are to be stored above ground rather than removed to another consecrated place of burial.

104 The faculty jurisdiction extends to parish churches including churchyards and crypts, as well as to other consecrated areas, for instance in private and municipal cemeteries. The jurisdiction continues until, in the case of churches, it is removed, for instance by a scheme under the Pastoral Measure 1983. In the case of land not held by an ecclesiastical corporation, jurisdiction may be removed by an order by a bishop under section 22 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991. Such an order may be subject to conditions relating to the disposal of human remains, subject to the consent of the Secretary of State.

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

106 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* 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.

107 The following commentary has been written[4] on the phrase 'commit his/her body to the ground':

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

and in sure and certain hope of the resurrection to eternal life.

108 The safe custody of the Church does not mean that human remains may never be disturbed. The finality of Christian burial must be respected even though it may not be absolutely 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) may take place without good and proper reason.

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

110 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.

111 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.

112 The courts have held that the passage of time, especially where this runs into years, makes it less likely that a faculty will be granted. This guideline was developed in cases relating to the exhumation proposals from relatives. It is clear therefore that historic remains are not considered as being under lesser protection than more recent remains. The agreement of the incumbent and parochial church council, and any relatives, will be a relevant factor, as will the effect of the granting or refusal of a faculty on the mission of the Church. Public health factors and improper motives militate against the granting of a faculty. The court will have regard to the intentions and wishes of the deceased, as far as they can be discovered or inferred. The Chancellor will also have regard for the setting of a precedent for future similar cases. If there is no intention to reinter in consecrated ground, this will argue against the granting of a faculty.

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

Closed churchyards and cathedral land – detached buildings

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

Redundant churchyards

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

Cathedrals

116 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 1990 (hereafter the CCM).

117 The CCM states that approval is required for any proposal involving 'works which would materially affect:

i the architectural, archaeological, artistic or historic character of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or

ii the immediate setting of the cathedral church, or

iii any archaeological remains within the precinct of the cathedral church.'

118 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 medieval 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.

119 There are no specific references to human remains or their treatment within the CCM, and the definition of 'archaeological remains' is generally held to cover burials (and their contents), but not the individual remains once they have been exhumed. The organisations that determine applications under the CCM (the Cathedrals Fabric Commission and each cathedral's own Fabric Advisory Committee) can, however, attach to an approval conditions relating to the treatment of any remains uncovered.

120 Since cathedrals are not subject to the faculty jurisdiction, a licence under the Burial Act 1857 will be necessary where human remains are to be removed.

Scheduled monuments

121 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

122 The law relating to objects found in association with burials is complex. There may be differing claims to ownership of objects found, for instance between the owner of the land, the heir-at-law of the person buried, and (in the case of the clergy) the successor in office, and the Crown, if treasure.

123 The landowner should be notified of any artefact found as a result of exhumation operations.

124 Some objects fall under the definition of 'treasure' under the Treasure Act 1996:

- coins, at least 300 years old, and more than ten in a find
- coins, at least 300 years old, more than two in a find and at least 10 per cent precious metal
- objects, at least 300 years old and at least 10 per cent 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.

125 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 in October 2002).

126 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

127 Before a gravestone is moved, an adequate record of it should be made (Annexe 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 Pastoral Measure 1983, 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 agreed by the diocesan advisory committee and the Chancellor.

Notes

1 The term 'building' is defined by section 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
- a large monument.

2 Currently the Secretary of State for the Home Department.

3 During standard office hours, Monday to Friday.

4 Wheatley, Charles 1794 *A Rational Illustration of the Book of Common Prayer.* Oxford: Clarendon

Gravestones in the churchyard of St Mary's Church, Potton, Bedfordshire (by permission of P Dixon)

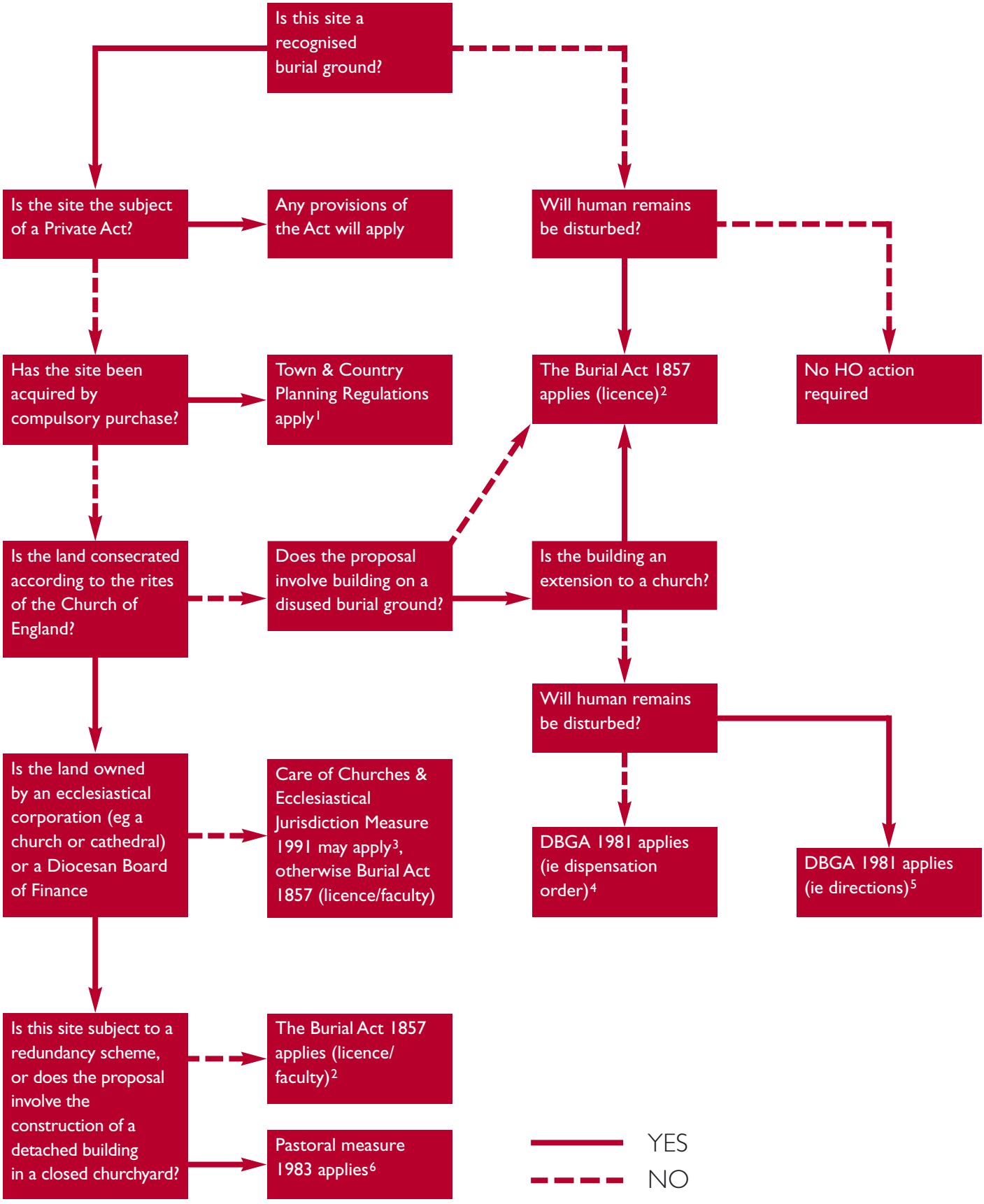

Figure 1: Flow-chart summarising legal provisions pertinent to archaeological excavation of human remains

Notes

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, for example, where work affects a scheduled ancient monument, or approval under the Care of Cathedrals Measure.

1 The Town and Country Planning regulations require all remains to be removed, and make no provision for the cremation of removed remains.

2 A Home Office licence is required where human remains are removed, except in cases where a body is moved from one consecrated place of burial to another under authority of a faculty. A Home Office licence is therefore required in addition to a faculty in relation to consecrated land if the remains are to be cremated, stored above ground, or if they are not to be removed to another consecrated place of burial.

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

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

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

3 This Measure allows an order to be made removing the legal effects of consecration on land not owned by the Church of England. The order may provide for the preservation or removal of the remains.

4 The Disused Burial Grounds Act 1981 applies, and unresolved objections from relatives of those buried at the site within the previous fifty years will be fatal to the development. Removal of all the remains will otherwise be required. However, to the extent that no buried remains will be disturbed by any building-related works, the Home Office may issue a dispensation order to relieve the obligation to remove such remains. Remains expected to be disturbed by non-building-related works are subject to the provisions of the Burial Act 1857.

5 The Disused Burial Grounds Act 1981 applies, and unresolved objections from relatives of those buried at the site within the previous fifty years will be fatal to the development. Removal of all the remains will otherwise be required and compliance with the prior advertisement provisions and any Home Office directions as to the disposal of the remains will be expected.

6 This Measure does not require the removal of buried remains unless they are liable to disturbance. A dispensation order may be made to the extent that buried remains will not be disturbed. Where remains need to be removed, arrangements for their disposal are subject to Home Office directions. Fresh or amended orders will be required on change of use or ownership.

ANNEXE L2
LEGAL CASE STUDIES

128 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

129 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, and is 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 0.5m, and that below this level there are likely to be many burials of the period.

130 The developers have proposed three possibilities:

a to pile the site for foundations, which they claim would only destroy 3 per cent of the affected area and leave the archaeological remains largely *in situ*;

b to construct the buildings on a raft foundation over the site, leaving all archaeological remains and burials *in situ*;

c to clear the site of burials by total excavation, which may be prohibitively expensive from their point of view.

131 *The works will be covered by the Disused Burial Grounds (Amendment) Act 1981. Therefore, prior removal of the remains will be necessary unless a dispensation order is issued by the Home Office. If the site is scheduled as an ancient monument, consent will be required under the 1979 Act.*

132 *The Home Office has advised that it would not consider any application that involved piling the site. It would, however, carefully consider applications involving raft foundations. Authority is most likely to be granted where clearance of the area of land to be built on (not necessarily the entire site) is proposed.*

Study 2: Grantchester Cathedral

133 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.

134 *As in Study 1, the works will be covered by the Disused Burial Grounds (Amendment) Act 1981. Therefore, prior removal of the remains will be necessary unless a dispensation order is issued by the Home Office. If the site is scheduled as an ancient monument, consent will be required under the 1979 Act.*

135 *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 1990, approval under the Measure will be required for the disturbance of archaeological remains. The remains may be buried within the precinct unless the burial ground has been closed by Order in Council.*

Plan of the graves uncovered during excavations in the northern cemetery of the medieval monastery at 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, while those toward the south tend to conform to the orientation of the church (by permission of Museum of London Archaeology Service)

Study 3: Dingledale Saxon cemetery

136 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 churchyard are Christian; the others have grave goods and varying orientations. The site will have to be cleared for development.

137 *As with the previous studies, the works will be covered by the Disused Burial Grounds (Amendment) Act 1981. Therefore, prior removal of the remains will be necessary unless a dispensation order is issued by the Home Office. If the site is scheduled as an ancient monument, consent will be required under the 1979 Act.*

138 *Any objects found which may be Treasure should be reported to the coroner within fourteen days of the find.*

Study 4: Redburn municipal cemetery

139 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.

140 *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 and Ecclesiastical Jurisdiction Measure 1991. The remainder of the land would be dealt with in a similar manner to the other cases under the Disused Burial Grounds (Amendment) Act 1981.*

Study 5: Dipton A76

141 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.

142 *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

143 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 (ie the 'green line'). It would, however, have been part of the medieval precinct.

144 *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 medieval precinct, it would not be covered by any current ecclesiastical legislation.*

Study 7: Burychester Cathedral

145 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 medieval 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 18th- and 19th-century burials, and occasional ones from the 20th century.

146 *Approval would be required under the Care of Cathedrals Measure 1990 for the archaeological works, and as the burial ground is effectively still in use and has not been 'closed', the disturbance of burials would require a licence from the Home Office under section 25 of the Burial Act 1857.*

Study 8: Canonminster Cathedral

147 It is proposed to install underfloor heating under the nave of this cathedral. There are known to be a number of medieval to 18th-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.

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

Study 9: Deanschurch Cathedral

149 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.

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

151 *The removal of burials in this instance might require a licence from the Home Office under section 25 of the Burial Act 1857, but advice should be sought depending on the specifics of the particular case.*

ANNEXE E1

HUMAN REMAINS IN CHRISTIAN THEOLOGY

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

152 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, among 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; and 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 1st century. Deeply rooted in the Old Testament teachings on death, the Hebrew mind was incapable of separating soul and body; the distinction was foreign to their understanding.[1] As long as the body existed, however corrupt, the soul also existed in the subterranean world of Sheol.[2] 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;[3] 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 such tombs 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.

153 By contrast, Jesus seems to have had a far lower 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".'[4] 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,[5] the hypocritical become as whitened sepulchres,[6] he routinely challenges the actual physical death of certain individuals,[7] and he is notoriously late for the funeral rites of a good friend,[8] 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.[9]

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,[10] 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,[11] at other times as a sign of rest before resurrection,[12] and at yet other times as a symbol that the looked-for resurrection of the body had begun. It seems that there is little in Christian history to suggest that human remains have a theological significance after the funeral rites and interment have taken place. Indeed, throughout history Christian remains have been treated with practical realism: the charnel houses of England, Ireland and elsewhere demonstrate a robust attitude to the facts of death and the corruption and disposability of the human body.

154 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 that 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 reconstituted at the consummation of history in the second coming of Christ (leading to the suspicion of cremation among certain Christian denominations), this cannot be deemed to be the view of St Paul and other later theologians. St Paul writes of the resurrected life:

> Someone will ask, 'how are the dead raised? With what kind of body do they come?' Fool! What you sow does not come to life unless it dies. And as for what you sow, you do not sow the body that is to be, but a bare seed, perhaps of wheat or some other grain. But God gives it a body as he has chosen, and to each kind of seed its own body.[13]

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.'[14] The canon law of the Church of England now specifically upholds cremation as being in accordance with Christian belief and practice.[15]

155 However, an understanding of the true place of the human body in Christian thought and belief does not imply 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.'[16] 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.'[17] The classic Christian position on the meaning and significance of human remains, therefore, must not detract 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; it 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.

156 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. While 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 that 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.'[18] 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.

157 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, by according dignity and care to human remains as well as learning from them. All these attitudes can signify the deeper fundamental attitudes of the living and of the society in which they are nurtured towards life and death.

158 '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.'[19]

Notes

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

2 Ezekiel 32: 17–32

3 Genesis 38: 24

4 Matthew 8: 21–2

5 Matthew 22: 32

6 Matthew 23: 27

7 Matthew 9: 24

8 John 11: 5

9 Epistle of St Paul to the Romans 6: 1–4

10 Davies, J G (ed) 1972 *A Dictionary of Liturgy and Worship*. London: SCM Press, 96–7 (chapter on burial)

11 Ibid, 97

12 Ibid, 99

13 First Epistle of St Paul to the Corinthians 15: 35–7

14 Doctrine Commission of the Church of England 1995 *The Mystery of Salvation. London*: Church House Publishing, 191

15 Canon B38, *The Canons of the Church of England*. London: Church House Publishing (2000)

16 Presentation to the Ethics and Theology panel, 4 February 2003

17 *Mystery of Salvation*, 181

18 Harte, J 2001 *Guidelines on Policy for Human Remains in Surrey Museums*. Kingston-upon-Thames: Archaeological Curators Group of the Surrey Museums Consultative Committee

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

ANNEXE E2

THEOLOGICAL POSITION OF THE CHURCH OF ENGLAND REGARDING THE CURATION OF HUMAN REMAINS INTERRED UNDER, AND STILL WITHIN, ITS JURISDICTION.

159 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)

160 Much of the liturgy and prayer contained in *Common Worship* that relates to death and funerals emphasises 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.

161 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)

162 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.

163 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.

164 The reuse of Christian burial grounds has been 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; the bones are then often placed in an ossuary. In other European countries, reuse is planned by granting a lease on a grave for a set number of years.

165 The reuse 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.

166 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 Hill, Rt Revd Christopher, Bishop of Stafford 2002 'Theology of Burial'. Paper prepared for the Court of Arches re Blagdon Cemetery

4 Davies, Douglas J 2002 *Death, Ritual and Belief* 2nd edn. London: Continuum

5 House of Commons Select Committee for Environment, Transport and Regional Affairs 2001 *Eighth Report: Cemeteries* **(www.parliament.the-stationery-office.co.uk/pa/cm200001/cmselect/cmenvtra/91/9102.htm)**

ANNEXE E3

DEFINITION OF THE THEOLOGICAL EFFECTS OF CONSECRATION ON THE STATUS OF A BURIAL, AND THE EFFECTS OF THE DISSOLUTION OF THE MONASTERIES

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

167 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,[1] 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 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.

168 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.

169 The Pontifical of Egbert, Archbishop of York (732–66) 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.[2]

The significance of the consecration of burial grounds

170 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.

171 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.

172 '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.'[3]

Monastic and other disused burial grounds

173 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 (such as at Gloucester Cathedral) or parish churchyard (such as at 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 lobbied in the past for respectful treatment of Christian burials in cases beyond its jurisdiction, often successfully as at the recent clearance of St Pancras Old Church cemetery in advance of the construction of the Channel Tunnel Rail Link, or in the case of Cherry Hinton mentioned above. There have also been several cases of monastic orders present in this country asking for consultation on the handling and reburial of excavated burials from 'their' monastic sites, for example the Cistercians at the former Cistercian abbey burial ground at the St Mary Stratford Langthorne site, London.

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

175 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.

176 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.

177 In conclusion, separate Christian cemeteries have existed in England since at least the 4th century. Some of these were related to church buildings, others not. Urban burial in cemeteries and churchyards in English towns dates from perhaps as early as the 7th century, and the 8th century at the latest, from which date also they may have been consecrated, and these guidelines contend that this should be assumed; consecration of churchyards and cemeteries was certainly common practice from the 10th century. Where these cemeteries and churchyards are no longer within the curtilage of a parish church or cathedral church, or otherwise not under the Church's jurisdiction, the Church's legal protection of the Christian dead has lapsed in favour of the secular; however, an ethical interest or duty of care remains, as the dead were committed into the care of the Church upon burial.

Notes

1 Zadora-Rio, E 2003 'The making of churchyards and parish territories in the early medieval landscape of France and England in the 7th–12th centuries; a reconsideration', *Medieval Archaeology* 47, 1–19

2 Gittos, M 2002 'Creating the sacred: Anglo-Saxon rites for consecrating churchyards', in Lucy, S and Reynolds, A (eds) *Burial in Early Medieval England and Wales*. SMA Monograph 17. London: Society for Medieval Archaeology

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

ANNEXE E4

THE PRESUMPTION OF NON-DISTURBANCE OF ARCHAEOLOGICAL REMAINS AND THE QUESTION OF RESEARCH EXCAVATIONS

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

178 Demands for development are such that it is impractical to safeguard all archaeological remains from disturbance. Nevertheless, it is government policy, enshrined in PPG16, that archaeological remains should not be 'needlessly or thoughtlessly' destroyed. When development of a site is proposed it is necessary to weigh the need to preserve archaeological remains against the benefits of the proposed new use of the site. PPG16 states that consideration should be given to avoidance of disturbance of archaeological deposits by making adjustments to the location of the development. Where 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.

179 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.
- Television programmes such as *Meet the Ancestors* and *Time Team* have shown that excavations in disused burial grounds (whether Christian or otherwise) are usually acceptable to the general public, and indeed the public seems interested in such work.
- When disturbance of human remains on land under Church of England jurisdiction is required, to make way for building development or other works, the Church, like the secular planning system, is required to balance the need to disturb remains against the perceived benefits of a new development. The law of the Church of England is protective and encompasses a presumption against disturbance, and any disturbed remains should be reinterred in consecrated ground as close as possible to their original resting place within a specified time, even when a period of research is allowed. Pastoral issues are also more prominent, as public sensitivities tend to be greater when remains from churches or churchyards in active use are exhumed than in excavations of disused burial grounds.

180 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 the need to preserve ancient skeletal remains undisturbed against the benefits – in this case the accrual of knowledge – which would result from the work. Only if the latter are considered to outweigh the former should work go ahead.

181 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 that 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 that cannot adequately be addressed. For example, since most development takes place in urban areas, extant skeletal collections from the historic periods are dominated by urban samples – there are few adequate rural collections (Mays nd). This means that it is difficult to address important questions concerning relationships between urban populations and those in settlements in their hinterlands.

182 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 such as 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 to accept research excavations at disused burial grounds. However, sensitivities may be greater for material excavated under church faculty from churches and churchyards.

ANNEXE E5

EXCAVATION OF SKELETONS LYING PARTLY UNDER BAULKS

183 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.

184 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 and see Annexe E1). The notion that a skeleton should remain together clearly did not weigh heavily with early grave diggers, who had no compunction about cutting through previous burials and scattering and intermingling the remains.

185 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.

186 The degree of inter-cutting 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 belonging 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, most or all skeletons lifted would in fact be incomplete to some extent.

187 In general, it is recommended that human burials should not be chased beyond the limits of the current trench or work area. However, if the burial is deemed osteologically or archaeologically important, the skeleton should be followed under the baulk so that it may be lifted in its entirety, provided this will not result in disturbance of further burials. If it is not deemed necessary to lift the burial, the excavated part should be reinterred in the trench.

A mass burial pit under excavation at the site of the medieval hospital cemetery at St Mary Spital, London (by permission of Museum of London Archaeology Service)

ANNEXE E6

THE ETHICS OF DESTRUCTIVE SAMPLING OF HUMAN REMAINS

188 Traditionally, osteoarchaeology has been a science based on measurement and visual inspection of bony remains. However, in recent years, techniques which are, to a greater or lesser extent, destructive of 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 accepts archaeological work on human remains, and in fact it is often the results from work based on destructive sampling (such as DNA analysis) that most interest the layman. In this light it is suggested that destructive sampling is ethically acceptable in certain circumstances. The following points provide guidance.

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

190 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.

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

192 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 of material is given.

193 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.

194 The location in the skeleton from which the sample(s) is/are taken should be carefully considered. For example, sampling from areas of known osteological landmarks (such as the midpoints on long-bone shafts) should be avoided, 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.

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

196 The skeletal element sampled should be fully recorded and measured prior to sampling. Under some circumstances (for instance, if the skeleton is intended for museum display) consideration should be given to producing a cast of parts which will be damaged or destroyed.

ANNEXE S1

A SUMMARY OF SOME OF THE POTENTIAL BENEFITS FROM THE STUDY OF COLLECTIONS OF HUMAN SKELETONS FROM CHRISTIAN BURIAL GROUNDS

What can we learn from human remains?

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

Human osteology in archaeology

198 **Demography:** Determination of age at death and sex of ancient skeletons can aid the reconstruction of the demography of earlier populations.

Example: Examination of an 18th-century collection from a church crypt in London of documented age at death led to a re-evaluation of current techniques for age at death estimation in skeletal remains (Aiello *et al* 1993). Re-assessment of the demography of skeletal samples in the light of these results has indicated that, contrary to popular belief, adult life expectancy in many earlier populations was good, with many individuals living into old age (Mays 1998, 70–73).

199 **Growth:** Plotting bone size against age at death enables growth profiles of earlier populations to be reconstructed.

Example: It is known from written sources that there has been a trend toward increased height for age in children over the last 150 years. Archaeological evidence (Mays 1999a) reveals that this trend may have a much earlier origin.

200 **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 medieval 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 medieval period (Lewis *et al* 1995).

201 **Genetic relationships:** Currently, genetic relationships among earlier populations are generally reconstructed using skeletal morphology, particularly cranial form. It is likely, however, that analyses of DNA from skeletal remains will play an increasing role in future.

Example: Morphological analysis of crania from Yorkshire confirms that Scandinavian migrants probably made a substantial contribution to the population of medieval York, but this does not appear to be the case in rural areas (Mays, forthcoming).

202 **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.

203 **Diet:** Chemical analysis of skeletal material can reveal various aspects of diets.

Example: Stable isotope analysis of skeletal remains from monastic sites confirms that the brethren's diets were different from those of layfolk (Mays 1997).

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

Example: Recent work on grave form, body position, osteological attributes and associated artefacts has shown a wide variation in Christian funerary practice (Gilchrist and Sloane 2005).

205 **Human evolution:** Anatomically modern human remains provide a baseline from which to evaluate skeletal morphology in early hominids and are used in comparisons with living non-human primates. Large and diverse skeletal collections are needed and these typically include material from the Christian era.

Example: A study of cranial and dental development in archaeological skeletal material provided a baseline from which to evaluate growth in Neanderthals (Stringer *et al* 1990).

Human osteology in medical history

206 The possibility of identifying disease in human remains means that the study of ancient skeletal remains may play a major role in elucidating the history of various diseases. In some instances, this involves demonstrating that the history of certain diseases extends much further back in time than the earliest written descriptions. For example, rheumatoid arthritis had long been held to be a disease of modern origin (Short 1974). However, recent osteoarchaeological studies, such as on a skeleton from

medieval Abingdon Abbey (Hacking *et al* 1994), have forced a revision of this view.

207 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 medieval England, indicate that the disease was in fact present in Europe well before the Columbus voyages (Mays *et al* 2003).

Human osteology and our understanding of modern diseases

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

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

Human osteology in forensic science

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

ANNEXE S2

MINIMUM STANDARDS FOR SITE ASSESSMENT, EVALUATION AND MITIGATION

The 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)

Introduction

211 All archaeological fieldwork should be carried out by suitably qualified organisations to briefs drawn up for the work by Diocesan Archaeological Advisors (DAAs), Cathedral Archaeological Consultants (CACs) or County Archaeologists (CAs). The Church or secular developer should be aware of the need to allow for funds to cover the post-excavation examination of human remains and other recovered material as well as the costs of the excavation itself. The DAA, CAC or CA 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 English Heritage (Figure 2).

Site assessment and evaluation

212 A key factor in the successful undertaking of fieldwork on human remains lies in forward planning. If any work requiring a faculty, planning permission, or scheduled ancient monument consent is envisaged, a desk-based assessment (DBA) of the likely archaeological impact is recommended. It eases risk management and allows realistic financial planning. The legal framework will depend upon the nature of the site in question. Annexes L1 and L2 may help identify relevant legislation.

213 DBAs compare likely extant archaeological deposits with the scale and scope of the proposed work, and summarise the potential impact. Methodology includes basic documentary trawls, searches of Sites and Monuments Records, and map regressions.

214 If the DBA indicates the likelihood that the proposed development will impact upon a burial ground of a specific non-Christian faith group (such as a Jewish burial ground), then the developer and the archaeologists should liaise with representatives of that faith group in order to help determine optimal procedures should human remains be encountered.

215 On most Christian burial sites, interments are densely packed and inter-cut. Thus even fairly small developments may precipitate archaeological excavations which involve the recovery of the remains of large numbers of burials. For example, in a burial ground, attached to a church or cathedral, which was in use for burials for several centuries, experience has shown that a 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.

216 A number of methods are available for evaluating the extent and density of burial within the footprint of an area affected by development. On certain sites, remote sensing may be a very useful risk-evaluation exercise. Ground-penetrating radar may be able to detect large hollow spaces such as vaults below the surface prior to any groundworks. Evaluation trenches may be dug in order to confirm estimates of the extent and density of burials, and also to determine the degree of skeletal preservation; in such interventions, lifting of human remains should be kept to the minimum compatible with adequate evaluation.

217 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.

218 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 fate of the human remains will probably not be clear. However, storage space for them should still be negotiated. Even if subsequently it is determined that they will ultimately be reburied, short- or medium-term storage may still be required. The institution will often issue a 'site code' which must be referenced on every subsequent document concerning or related to the investigation.

Mitigation strategies

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

220 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 if this is at the cost of longer distance.

221 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 use of piled foundations on a burial ground will not normally be considered by the Home Office.

222 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 (Annexe L1).

223 It should be noted that leaving human remains *in situ* at a development site may be inappropriate in some cases. For example, in residential developments occupiers may be concerned at the thought of human remains lying beneath their dwellings (and developers may find it difficult to sell the residential units for that reason). Leaving interments *in situ* would also be potentially problematic if remains lie close to the surface and the new use of the site is likely to lead regularly to minor works which might disturb remains (as might be the case in residential units).

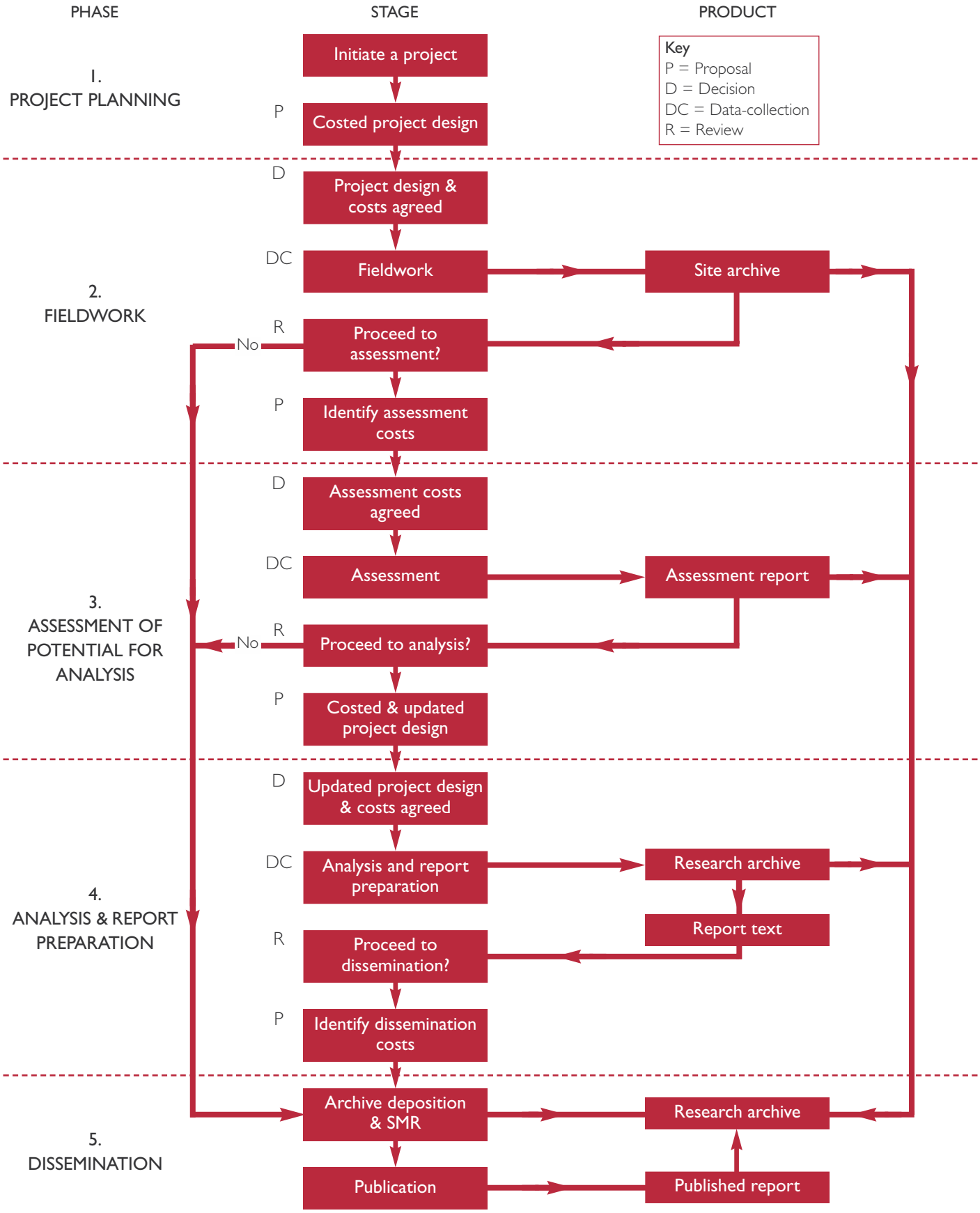

Figure 2:The phases of an archaeological project (from English Heritage 1991)

ANNEXE S3

MINIMUM STANDARDS FOR ARCHAEOLOGICAL EXCAVATION

224 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.

225 In terms of field recording, human remains form part of a sequence of archaeological 'contexts' which will often include such deposits as natural subsoil, graveyard soils, paths, roads, dumps, walls, pits and so on. They must be excavated stratigraphically to be of any archaeological value. Only in this way can associated material (dating evidence, grave finds, coffin fittings, monuments) be securely linked with the skeletal material.

226 Human remains *in situ* should be considered as of archaeological value, whatever their date or disposition. Notwithstanding the views of many people that this is not the case for more recent burials (18th- and 19th-century interments, for example), in time these too will be ancient. Necessary disturbance therefore brings a responsibility to record to a minimum standard.

227 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*.

228 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 its 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. Frequently, electronic distance measurers are used by archaeologists to record digitally plan and height data very rapidly.
- The kinds of information to be recorded by excavators are discussed in detail elsewhere (McKinley and Roberts 1993).
- The project osteologist will probably wish to be present on site regularly if human remains are encountered, and this will almost certainly be necessary if significant numbers of burials (about thirty or more) 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 or excavation trench (Annexe 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 sub-samples: from the head area, the torso, and the leg/foot area. These should then be wet-sieved and sorted to remove loose teeth and small bone fragments.
- Grave structures, coffin stains, and associated features within the grave must be measured in on plan, and photographed *in situ*. Some require context recording in their own right.

229 The above are general guidelines applicable to the excavation of earth-cut burials. However, there are some additional special circumstances which archaeologists may face when dealing with burials which may require special procedures. These include recording of

gravestones, dealing with crypts and vaults prior to their clearance and treatment of burials showing 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 gravestones (Mytum 2000)

230 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)

231 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 Home Office 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

Excavations at East Smithfield Black Death cemetery, London (by permission of Museum of London Archaeology Service)

- photographic record
- backfilling and resealing.

Dealing with human soft tissue (Cox 2001)

232 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 (Annexe 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.

Public access

233 Where excavations are likely to be visible to passers-by (as is generally the case with urban excavations), the site should be screened (and roofed where tall buildings overlook the site), and Home Office licensing usually requires this. 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.

234 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.

235 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.

236 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

237 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. Care is needed, however. This is particularly the case for live interviews with television or radio journalists, but also applies to recorded interviews for radio or television and to dealings with print journalists, as it is often not possible to insist on editorial control once an interview has been given. Attempts to sensationalise the excavations should always be resisted, and what archaeologists can expect to learn about the past from the remains should be emphasised. Site personnel should always be warned by the project director when site visits by the media are planned.

238 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 (for instance, gravestones in the background tend to make archaeologists look like grave robbers). Issues such as these should be discussed with journalists or television producers before photography or filming. Although one cannot in every case prevent sensationalist or ghoulish reporting of burial ground excavations, thoughtful pre-planning and sensible behaviour can minimise the risks. It is best only to be involved with reputable groups.

ANNEXE S4

MINIMUM STANDARDS FOR POST-EXCAVATION PROCEDURES

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

Post-excavation processing

Human remains

239 As part of post-excavation processing, recovered human bones must be washed, dried, marked, and packed. For large projects these procedures often take place on site, and would need dedicated resources. Guidelines on best practice are available from English Heritage (Mays 1991). Each bag containing part of an inhumation must be labelled with the site code and the 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 (such as consolidants) should be avoided.

Associated grave finds

240 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 and Neal 1998). The skeleton(s) with which exceptional grave finds were found should be readily identifiable (noted on the label, for example, or included in a database).

Post-excavation assessment

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

242 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 the current state of knowledge of the group (date, stratigraphic and artefactual associations, and 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 (English Heritage 1998). Post-excavation assessment of human remains should follow published guidelines (Mays *et al* 2002).

Post-excavation analysis

243 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 and McKinley 2004).

244 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 and 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 and 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 twenty articulated, complete and well-preserved skeletons were recovered in an excavation, the rule of thumb would suggest that 20 x (daily specialist rate for an osteologist) is the approximate maximum expense likely to be incurred for recording, analysis and the writing of an osteological report. Additional costs over and above this would need to be clearly justified, and agreed as appropriate with the Diocesan Archaeological Advisor, Cathedral Archaeological Consultant or County Archaeologist.

Dissemination of results

245 The assessment stage will have identified any requirement for (and scale of) publication, and identified the likely costs such publication will incur (in the form of report writing, editing, printing and refereeing where necessary). All investigations should be notified to the Sites and Monuments Record and the National Monuments Record (this can be included in the brief). 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.

ANNEXE S5

HEALTH AND SAFETY ASPECTS SPECIFIC TO HUMAN REMAINS

246 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 100 years old, risks should always be assessed carefully.

247 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 overestimated: attempts to culture smallpox from preserved scabs from crypts have failed, and while anthrax spores could possibly survive, they have low infectivity. Tetanus and leptospirosis, which are risks associated with all excavation of soil, are of greater real concern in almost all situations – and risks we accept when gardening. Fungal spores may be present in high concentrations in crypts.
- *Psychological stress.* A high rate of staff turnover has been reported among field staff working on the Spitalfields crypt project, perhaps related to the stress of working for long periods with well-preserved and fairly recent human remains in confined conditions.
- *Lead.* Lead coffins and coffin linings create a risk of lead poisoning.

248 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 (such as washing hands before eating).
- In dusty situations, it is sensible to wear a suitable filter mask covering nose and mouth. This applies particularly in crypts, when bodies are buried in lead-lined coffins, and to laboratory sampling of bone by sawing or drilling.
- Where soft tissue is preserved, gloves should be worn.

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

ANNEXE S6

RETENTION OF SKELETAL COLLECTIONS AND FACTORS AFFECTING THE SCIENTIFIC VALUE OF COLLECTIONS

Why retain collections for scientific study rather than rebury?

249 It is a common misconception that the osteological report published as part of the archaeological site report represents the culmination of scientific work on a skeletal assemblage. Indeed, it is sometimes suggested that reburial of remains is appropriate at this point. However, far from signalling the end of scientific analysis, the publication of the osteological report results in increased scientific work on a collection. In fact, most scientific work on important collections is usually carried out after the appearance of the site report. This is because the publication of the bone report publicises the existence of the collection and stimulates interest in it among researchers, who then bring their own research 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.

250 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 (Buikstra and Gordon 1981). 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.

251 Innovations in scientific techniques allow new information to be obtained from old collections. This too ensures that museum collections are returned to time and time again by researchers. The development of new techniques, such as DNA and stable isotope analyses, could not have been foreseen when most of the collections currently stored in museums were excavated. The unpredictable nature of scientific innovation 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

252 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

253 Other things being equal, a large assemblage is generally of greater potential since patterning in data is more readily detected with larger numbers of individuals. However, it should also be remembered that even if an assemblage is of too few skeletons to permit proper statistical analysis, a number of small assemblages may be combined to produce a workable body of data. The extent to which a small assemblage adds to the existing data for a region clearly depends upon the material we already have. For example, a collection of five medieval skeletons from a city where we already have curated collections totalling several thousand individuals will probably not 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 be borne 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

254 The great majority of skeletal remains come from rescue excavations in urban contexts. Thus, for both medieval and post-medieval 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.

255 Skeletal assemblages from different sites come from different social sub-groups and hence inform us about different sectors of earlier populations. Thus skeletal material may relate to particular social classes (such as middle-class and

lower-class 18th- and 19th-century Londoners at the burial sites of Christ Church Spitalfields and Redcross Way, Southwark, respectively); specific religious or ethnic groups (such as the 19th-century Quaker burial ground at Kingston upon Thames and the medieval Jewish cemetery at Jewbury, York); or laypeople versus monastic brethren (medieval parish churchyards as opposed to 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.

256 Most burial grounds represent an accumulation of burials over an extended period of time, but some burial contexts are associated with particular historical events (such as battles, shipwrecks and outbreaks of plague). They enable the closer study of such events and the human populations involved in them.

257 Specific demographic aspects of a collection may render it particularly valuable. For a variety of reasons, few medieval or post-medieval urban assemblages contain many child or infant burials. Urban collections containing significant numbers of juveniles are therefore needed to shed light on childhood in earlier urban communities.

Skeletal preservation

258 More scientific data can obviously be extracted from skeletons that are complete and well preserved than from poorly surviving material (although it is worth noting that gross bone preservation may not be a good indication of the viability of biomolecular analyses). However, in some regions, soil conditions mean that bone survival in general 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

259 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 on both 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

260 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 medieval collections can only be dated to within a few centuries, whereas it is often possible to tie down post-medieval 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 (such as 'medieval/post-medieval'), and there are no compelling reasons for radiometric dating of remains, this seriously compromises the value of an assemblage.

261 The availability of curated collections of different dates varies from region to region. A period which is well represented in one area may be totally lacking in material in another. Assemblages that fill these 'gaps' are particularly useful. It is also worth noting that, at a national level, there are few curated assemblages that can be securely dated to the 16th or 17th centuries.

Special assemblages

262 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-medieval 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

263 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.

ANNEXE S7

ARCHIVING, LONGER TERM ACCESS AND STORAGE

Introduction

264 The term 'holding institution', as used here, means 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.

265 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 (for example in relation to policy, accessions, research, destructive sampling or conservation), either from specialist staff within the same institution or through an external advisory board.

Remains of a brick-lined vault uncovered in excavations on the site of the Church of St Mary Graces, London (by permission of Museum of London Archaeology Service)

Holding institutions should have a written policy for the treatment of human remains.

Storage

266 Collections should be maintained in conditions intended to preserve their physical integrity.

267 Human remains should be kept in dedicated storage areas.

268 Where possible, human remains should be stored as distinct individuals (this may not be possible for intermingled collections).

269 Materials used in storage should be of conservation grade, particularly for a collection likely to be retained indefinitely.

270 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).

271 A rolling programme of collections inspection should be implemented.

Access

272 The holding institution should be required to produce access procedures, addressing access by specialist researchers, media and other interested parties.

273 Collections should be stored in such a way as to facilitate different types of access. This should include space for examining material.

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

275 Research access should be restricted to suitably qualified individuals, in good standing with the holding institution, and conducting research in a relevant discipline (such as bioarchaeology, human evolution and variation, clinical and forensic sciences).

276 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.

277 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.

278 Researchers should be required to contribute to an ongoing condition survey. In doing so they should list items studied and highlight any curatorial or conservation issues observed (such as intrusive elements, recent breakage, or fungal infection). Since this type of survey records individual usage of the collections it has the indirect benefit of encouraging careful handling.

279 Human remains should not be cleaned, cast, photographed or otherwise imaged without permission from the curator, who may refuse such requests.

280 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 (such as

the remains of named individuals) to be accompanied by staff.

281 The holding institution should be able to provide basic facilities for external researchers (such as work space, access to toilet facilities and adequate lighting). A risk assessment should be conducted covering the use of storage and research facilities (including heavy lifting, use of ladders, etc.).

282 Destructive sampling may be permissible in some circumstances (Annexe E6).

Archiving

283 Copyright issues and archival responsibility must be resolved at the start of the project.

284 The holding institution should retain copies of all relevant paper or digital records (such as authorisations and funding agreements, correspondence, excavation records, specialist reports and data underpinning those reports).

285 The holding institution should undertake to maintain this archive in accordance with accepted best practice. Copies of key data should be kept off-site.

286 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.

287 Following publication of initial research findings, the core project archive (such as 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).

288 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.

289 All research, conservation actions, sampling, loans, filming and photography, media coverage and other types of access should be documented.

290 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.

ANNEXE S8

REINTERMENT: TECHNICAL ASPECTS

291 If reinterment is the preferred option for a collection, then the remains should be deposited in a consecrated area. Unless the entire burial ground from whence the remains were excavated is threatened by development, remains can be reburied in an unthreatened section of that burial ground. They should be reburied in locations that 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 intermingled. Upon reburial, a brief church service may be appropriate. For large collections, costs of reburial may be significant.

292 On occasion, non-Christian burials may be excavated from Christian burial grounds: for instance, 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.

293 Before reburial, remains should be recorded in accordance with current techniques. This means restudying collections which have been recorded some time before and 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 help determine what additional information, if any, needs to be recorded before 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.

294 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.

295 Where a good case can be made, scientific samples (such as histological sections) may be retained as a permanent archive of completed research, and as a means of re-examining research findings.

296 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.

297 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 where extensive soft tissue survives, cremation of bodies may be indicated by health and safety considerations.

ANNEXE 01
LIST OF PANEL MEMBERS

Convenors:
Joseph Elders (Cathedral and Church Buildings Division, Church of England) and Simon Mays (English Heritage)

Editor of guidance document:
Simon Mays (English Heritage)

Legal Panel

David Baker *(Chair)* (Association of Diocesan and Cathedral Archaeologists, Council for British Archaeology)

Robert Clifford (Home Office)

Jonathan Goodchild (Cathedral and Church Buildings Division, Church of England)

Fiona Pembroke (Home Office)

Alison Taylor (Institute of Field Archaeologists)

Julian Litten (Church Monuments Society)

David Turner (QC, Chancellor of Chester Diocese)

Joseph Elders (Cathedral and Church Buildings Division, Church of England)

Simon Mays (English Heritage)

Ethics and Theology Panel

Timothy Ellis *(Chair)* (Archdeacon of Stow and Lindsey)

Margaret Cox (Bournemouth University)

Maurice Davies (Museums Association and DCMS Working Party on Human Remains in Museum Collections)

Andrew Lane (Southwark Diocesan Advisory Committee)

Alison Taylor (Institute of Field Archaeologists)

Joseph Elders (Cathedral and Church Buildings Division, Church of England)

Simon Mays (English Heritage)

Science & Technical Panel

Sebastian Payne *(Chair)* (English Heritage)

Phillip Dixon (Cathedrals Archaeologist)

Julian Litten (Church Monuments Society)

Barney Sloane (English Heritage)

Jane Sidell (English Heritage)

Louise Humphrey (Natural History Museum)

Margaret Cox (Bournemouth University)

Joseph Elders (Cathedral and Church Buildings Division, Church of England)

Simon Mays (English Heritage)

Secretaries & Facilitators to the Panels

Jude Johncock *(née* Webster) (Cathedral and Church Buildings Division, Church of England)

Allie Nickell (Cathedral and Church Buildings Division, Church of England)

ANNEXE O2

LIST OF RESPONDENTS TO THE CONSULTATION REPORT

We are grateful to the following individuals and organisations who responded to the working group report during the three-month consultation period.

1 Patrick Ashmore (Historic Scotland)

2 Julian Cotton (Herefordshire Council)

3 John Reddington (The Church of All Hallows-by-the-Tower)

4 Charlotte Roberts (Archaeology Dept, University of Durham)

5 Durham Diocesan Advisory Committee

6 Revd Canon D W V Weston (Carlisle Cathedral)

7 J McNaught (PhD Student, Archaeology Dept, University of Durham)

8 Megan Brickley (Institute of Archaeology and Antiquity, University of Birmingham)

9 Andrew Pike (Hereford Diocesan Archaeological Advisor)

10 Durham Cathedral

11 Malin Holst (York Osteoarchaeology)

12 Norwich Cathedral Fabric Advisory Committee

13 Lincoln Diocesan Advisory Committee

14 Historic Environment Section, Cornwall County Council

15 London Diocesan Advisory Committee

16 Rochester Diocesan Advisory Committee

17 Museum of London (including Museum of London Archaeology Service, Museum of London Specialist Services and London Archaeological Archive and Resource Centre)

18 Derby Diocesan Advisory Committee

19 Peterborough Diocesan Advisory Committee

20 Craig Barclay (Hull Museums and Art Gallery)

21 Association of Diocesan and Cathedral Archaeologists

22 Cathedral Architects Association

23 Council for British Archaeology

24 York Minster Fabric Advisory Committee

25 Institute of Field Archaeologists

26 Stuart Black (Archaeology Dept, University of Reading)

27 Melissa Melikian (AOC Archaeology)

28 Guy Purdey (South East Museum, Library and Archive Council)

29 Oxford Archaeology

30 J McKinley (Wessex Archaeology)

31 The Museums Association

32 British Association of Biological Anthropologists and Osteoarchaeologists

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English Heritage
Customer Service Department
PO Box 569
Swindon SN2 2YP
Tel: 0870 333 181
Fax: 01793 414926
Email: customers@english-heritage.org.uk

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Cistercian monks visiting the excavations at the site of the medieval Cistercian monastery at St Mary Stratford Langthorne, London (by permission of Museum of London Archaeology Service)

Excavation of a medieval graveyard in London (by permission of Museum of London Archaeology Service)

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