

Review of the Scottish Treasure Trove system

Public consultation

19 February to 13 May 2024





Introduction

This public consultation has been commissioned by the King's and Lord Treasurer's Remembrancer ("KLTR"), the Crown's representative in Scotland who deals with ownerless property, known in law as *bona vacantia*. Archaeological objects found in Scotland are a category of *bona vacantia*. The position of KLTR is held by the Crown Agent, who is Chief Executive of the Crown Office and Procurator Fiscal Service.

The consultation starts on 19 February and ends on 13 May 2024.

The consultation forms part of a comprehensive review of the Treasure Trove system in Scotland, the first such review in over 20 years. Work on the Treasure Trove Review commenced in September 2023. A report and recommendations are scheduled to be published in Autumn 2024.



Aim of the consultation

The Review is tasked with considering and consulting on the arrangements for dealing with finds of portable antiquities (archaeological objects) in Scotland with reference in particular to:

- sustaining, adapting and improving the Treasure Trove system in the context of continuing growth in the numbers of finds reported.
- 2. clarifying organisational responsibilities and relationships in running the Treasure Trove system, enabling collaboration and participation of the interested organisations, excavators and finders.
- **3.** addressing areas of policy and strategy not covered in the existing Treasure Trove Code of Practice.
- **4.** informing a pending review of the procedures set out in the Treasure Trove Code of Practice.

The purpose of the consultation is to collect and collate the views of all those who use the Treasure Trove system, including museums and public heritage bodies, excavators, community archaeology and metal detecting groups, and all individuals with interests in archaeology and Scotland's cultural heritage. We ask for opinions, suggestions and evidence which will support the development of future policies for the Treasure Trove system and the Code of Practice. Responses to the consultation will inform the conclusions and recommendations of the Treasure Trove Review.

Legal basis and purpose of the Treasure Trove system

Under the Scots common law principles of bona vacantia ("ownerless property"), any archaeological objects, regardless of their composition, found by chance or through activities such as metal detecting, field-walking, or organised excavation, are the property of the Crown and may be claimed for the Crown through the Treasure Trove system. Neither finders nor landowners have ownership rights to any such finds made in Scotland. The Treasure Act 1996 which covers England and Wales does not apply in Scotland.

The purpose of the Treasure Trove system is to ensure that all archaeological finds are assessed and recorded and that museums in Scotland which meet the required accreditation standards have opportunities to preserve all significant finds in their collections for public benefit.



Late Medieval heraldic harness pendant, c.1200-1400CE. Highland



Treasure Trove process

Finders have a duty to report all archaeological finds to the Treasure Trove Unit, based at the National Museum of Scotland. The Treasure Trove Unit is operated by National Museums Scotland on behalf of the KLTR.

The Treasure Trove Unit assesses finds and has delegated authority from the KLTR to decide whether an object should be claimed for the Crown. If an object is not claimed, it is returned to the finder. If a find is claimed, it is advertised to accredited museums across Scotland who can then apply to acquire it for their collections.

An independent panel, the Scottish Archaeological Finds Allocation Panel, decides on museum allocation for each find, and on the payment of an ex gratia ("by favour") award paid to finders. Awards are not paid for finds made during archaeological excavations which are professional or otherwise organised. Ex gratia awards paid to finders are linked to the market value of the find, which is assessed by the Treasure Trove Unit and agreed by the Panel. In order to secure a find for its collections, a museum must raise the sum paid to the finder as an ex gratia award.

The KLTR has final authority on all museum allocations and ex gratia awards. The operation of the Treasure Trove system is governed by the Code of Practice which lays out the procedures that everyone involved must follow. (https://treasuretrovescotland.co.uk/code-of-practice/)

For more information about the Treasure Trove system, please see https://treasuretrovescotland.co.uk

Treasure Trove Review and the context of the consultation

The Treasure Trove Review is engaging with organisations, groups and individuals who have experience of the system, to share feedback about the benefits it delivers, the problems that arise and the challenges it faces. The Review is also assessing what can be learned from equivalent systems in other countries and other parts of the United Kingdom.

This public consultation is a key part of the work of the Review. The consultation questions address many of the topics and suggestions that have been raised and discussed in feedback. Some questions are specific and detailed, others are more general. The responses to these questions will help the Review to conclude how the system can be improved, as well as providing evidence about what works well.



Late Medieval gilded silver heart-shaped brooch,

c.1300-1500CE. Scottish Borders



How to respond to the consultation

We are inviting responses to this consultation by 13 May 2024

You can reply to the consultation in three different ways:

- > Online
- > By downloading and emailing the completed response form
- > By completing and submitting the response form by post

Online

You can reply to the consultation online here. You do not have to reply to all questions in the consultation, you can choose to reply only to those parts that interest you or where you have relevant experience of the system. You should note that there is a 250-word limit for responses online.

Email

You can reply by downloading and emailing the completed response form to Treasure Trove Review at ttreview@copfs.gov.uk You do not have to reply to all questions in the consultation, you can reply only to the parts that interest you or where you have relevant experience of the system. You should note that there is a 250-word limit for responses on the form.

By post

If you are unable to respond online or by e-mail, please print and complete the response form and send it by post to:

Treasure Trove Review Consultation KLTR

Scottish Government Building Area 1F North, Victoria Quay Edinburgh, EH6 6QQ

All responses must include:

- > Name (first name and surname)
- > Email address
- > Whether you are responding as an individual or on behalf of an organisation (and if an organisation, please include the name of the organisation)

Handling your response

Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be quoted in the final report and recommendations. If you ask for your response not to be quoted, we will regard it as confidential, and we will treat it accordingly. All respondents should be aware that the King's and Lord Treasurer's Remembrancer ("KLTR") is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation.

The Act and the Regulations contain a number of exemptions and exceptions to the requirement to disclose information, e.g. for personal data, and for information that is commercially sensitive and/ or confidential etc. If you consider that any of the information in your response is exempt from disclosure, it would be helpful if you would make clear at the time you provide your response which information you consider is exempt, why, and for how long you expect the information to remain exempt. The KLTR will take all views expressed into consideration when making any decisions about disclosure of information relating to consultation responses.

Your information will be processed by a third-party service provider Qualtrics LLC. KLTR control all information input and retained using the Qualtrics LLC software.

If, after submitting your response to the consultation, and before completion of the review, you decide to withdraw your contribution, you will need to contact the Treasure Trove Review at ttreview@copfs.gov.uk asking that your response be deleted. Please note we may require you to provide us with identifying information to allow the correct consultation response to be deleted.

To find out how we handle your personal data, please see our privacy statement at: https://www.kltr.gov.uk/privacy-statement/



Next steps in the process

Following the closing date, all responses will be analysed and considered along with any other available evidence to assist us with developing the report and recommendations. Analysis of the responses will be published in the final report in Autumn 2024.

Body responsible for the consultation

The consultation is being carried out as part of the Treasure Trove Review on behalf of the KLTR.

Comments and complaints

If you have any comments about how this consultation has been conducted, please send them to the Treasure Trove Review at ttreview@copfs.gov.uk

Relevance

The consultation is relevant to all individuals, groups and organisations interested in the Treasure Trove system and its role in preserving Scottish cultural heritage. This includes, but is not limited to, professional and community archaeologists, metal detectorists and field walkers, museum staff and volunteers. We welcome comments and observations, particularly where these are supported by empirical evidence.

Length of the Consultation

The consultation period starts on 19 February 2024 and ends on 13 May 2024.

Enquiries

If you have any enquiries, please contact Treasure Trove Review at ttreview@copfs.gov.uk





Respondent information form and consultation questions

Are you responding as	an individual or an organisa	tion?		
Individual	Organisation			
Full name or organisation's name				
Email				
	s an individual, what is your? (archaeological sector, mus			
Please confirm the loca	Il authority area you live in,	or that your organisation is		
Aberdeen City	East Renfrewshire	Orkney Islands		
Aberdeenshire	Falkirk	Perth and Kinross		
Angus	Fife	Renfrewshire		
Argyll and Bute	Glasgow City	Scottish Borders		
City of Edinburgh	Highland	Shetland Islands		
Clackmannanshire	Inverclyde	South Ayrshire		
 Dumfries and Gallowa	y Midlothian	South Lanarkshire		
Dundee City	Moray	Stirling		
East Ayrshire	Na h-Eileanan Siar	West Dunbartonshire		
East Dunbartonshire	North Ayrshire	West Lothian		
East Lothian	North Lanarkshire			



If you are responding from outside of Scotland, please provide the country and region.
The Treasure Trove Review would like your permission to quote from your consultation response in the published final report. Please indicate your preference.
Publish response with name
Publish response only (without name)
Do not publish response
Information for organisations
The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.
We may share your response internally with other teams within the KLTR Department if they are addressing the issues you discuss. They may wish to contact you in the future, but we require your permission to do so once the Review process has completed. Are you content for KLTR Department to contact you again in relation to this public consultation?
Yes
□ No



Consultation Questions



A Neolithic carved stone ball decorated with geometric designs. Perth and Kinross



Scope and principles of the Treasure Trove system

The Treasure Trove system that operates under Scots law has unique characteristics. Notably, the range of archaeological finds that can be claimed by the Crown is broad and not limited to what people might usually think of as "treasure". As well as gold and silver objects, and coin hoards, the Crown can claim other metal objects, worked stone, pottery, glass, textiles and individual coins. This includes archaeological finds from all periods of human activity, from the prehistoric to the modern.

People who find archaeological objects by chance, or through metal detecting or field-walking are all required by law to report their finds. Research organisations and commercial archaeological companies who conduct archaeological excavations and investigations must also report their finds. All finds are assessed for claim by the Crown according to their cultural, historical, and archaeological significance.

By ensuring the preservation and recording of archaeological finds, the Treasure Trove system contributes to the cultural life of Scotland. It supports the work of Scotland's national, regional and local museums and heritage organisations, and it helps to deliver plans such as the Scotlish Government's Cultural Strategy for Scotland, Scotland's Museum and Galleries Strategy and Scotland's Archaeology Strategy.

The Treasure Trove system has helped to ensure that Scotland has a remarkably strong archaeological record preserved in museums across the country, enriching our understanding of the past.

The questions in this section are about assessing the benefits delivered by the system.



Treasure Trove Unit excavations, Abbey St. Bathans, Scottish Borders.



Public benefit

The Treasure Trove system aims to deliver public benefit by preserving significant archaeological finds in accredited museums, where they are then available for public engagement and research. In addition, the Treasure Trove Unit now operates, and is further developing, an online database of finds and finds distribution patterns available to the public for reference and research.

1a. Does the preservation and recording of heritage delivered by the Treasure Trove system represent meaningful public benefit?

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1b. What more can the Treasure Trove system do to deliver public benefit (for example: training and research)?

Type your answer here in under 250 words	
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Significance criteria

The Treasure Trove system in Scotland uses comprehensive criteria for assessing the archaeological and historical significance of finds (see Appendix at the end of this consultation document, also pages 45-48 in the *Treasure Trove Code of Practice*). These criteria allow a wide range of finds to be recorded and give opportunities for museums in Scotland to preserve all significant material in their collections.

2a. Given the high levels of archaeological activity across Scotland in recent years, do these comprehensive criteria remain fit for purpose?

Type your answer here in under 250 words	



2b. If not, what change would you suggest?

Type your answer here in und	er 250 words	



Human and animal remains and environmental samples

The Crown only has a legal claim to object finds. During some archaeological excavations, unmodified human and animal skeletal remains are found together with objects, and environmental samples are taken. To ensure all the material from these excavations is preserved together, the Treasure Trove system currently allocates the entire excavation assemblage to museums, including the non-object items for which the Crown does not have a legal claim. However, where human and animal remains and environmental samples have been excavated or found **without** any associated objects, there is currently no clear system to process and allocate such material.

3a. Should the Treasure Trove system take on the role of allocating archaeological human and animal remains and environmental samples that have been excavated or found without any associated objects?

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3b. If not, where do you consider the responsibility for this material lies?

Type your answer here in under 250 words	



Working with museums and finders

Over the last 20 years, levels of archaeological activity across Scotland, including metal detecting, have grown significantly overall. This means more finds are being assessed and preserved through the Treasure Trove system than ever before, but also that the operation and funding of the system has increasingly come under pressure. The workload is considerable, and it can take time for finds to be processed through the system.

For museums and heritage organisations who work with and preserve archaeological finds, the financial climate is challenging.

The Treasure Trove process is operated by the Treasure Trove Unit, a small team of finds specialists based in Edinburgh. For the system to work well, the Unit has to connect with finders, museums and archaeologists across the whole of Scotland.

The system is not voluntary, but it depends on the support and cooperation of finders, and on collaboration among all the organisations who support the system.

The questions in this section are about identifying ways to make the system more effective and efficient, to ensure that heritage is preserved and that the law is followed.



Treasure Trove Unit 'Finds Day', Dumfries Museum.



Treasure Trove Partner Museums

In parts of the country, museums work with the Treasure Trove Unit to liaise with finders, share advice about finds, and temporarily store finds for further assessment. We are considering whether a more robust and formal network of 'Treasure Trove Partner Museums' would strengthen relationships between museums and finders, archaeologists, and the Treasure Trove system across the country.

4a. Would such a network encourage reporting and communication? If not, why?

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4b. What benefits would 'Treasure Trove Partner Museum' status bring for museums?

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4c. What kind of support would museums need to act as partners?

Type your answer here in under 250 wo	rds	



Obstacles to museums bidding

Type your answer here in under 250 words

Feedback suggests that museums sometimes face financial and other challenges in bidding for allocation of archaeological finds through the Treasure Trove system. In recent years, a growing number of assemblages and finds have been allocated to "last resort" museums to ensure preservation of significant material which has not attracted allocation bids.

5a. What are the main obstacles that museums face in the bidding and allocation process?

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5b. What measures could be taken to adapt the system to support museums in their bids for allocation of Treasure Trove finds?

Type your answer here in under 250 words	



Reporting levels

The law requires archaeological finds in Scotland to be reported to the Treasure Trove Unit. Feedback suggests significant levels of under-reporting. Possible reasons for failure to report include the effort involved for finders in reporting and submitting finds, and the time it can take for reported finds to be processed.

6. What are the main obstacles to the reporting of finds?

Type your answer here in under 250 words	



Reporting app

To make reporting of finds as easy as possible, we are considering the usefulness of a mobile app which would enable finders to record their finds easily and accurately in the field, linked directly to the recently introduced case management system. The app could help the Treasure Trove Unit conduct an initial assessment of finds, speeding up the claiming and disclaiming process. The app would run alongside existing means of reporting finds to the Treasure Trove Unit.

7a. Would an app of this kind be widely used by finders? If not, why not, and what would encourage its use?

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7b. What additional measures could be taken to make reporting easier?

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Awards and market value

Type your answer here in under 250 words

Chance finds that are allocated to a museum through the Treasure Trove system are usually acknowledged by an ex gratia ("by favour") award paid to the finder. To secure allocation of chance finds, museums pay sums into the system equal to the ex gratia award given to finders. The ex gratia award is linked to market value, which is researched by the Treasure Trove Unit and recommended to the KLTR by an independent panel (the Scottish Archaeological Finds Allocation Panel).

8a. Is the principle of ex gratia awards linked to market value fair for finders and museums, and does it work well in practice?

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8b. Are there any measures concerning the method of setting of *ex gratia* awards that could increase confidence in the system?

Type your answer here in under 250 words	
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Waiving of rewards

Feedback suggests there is an interest among finders in helping museums acquire finds by waiving (choosing not to accept) ex gratia awards or agreeing to reduce them. In practice, this option is rarely taken up.

9. What measures might encourage finders to waive ex gratia awards to help museums acquire finds?

Type your answer here in under 250	words	



Observing the law

Feedback suggests a commitment to best practice from the vast majority of finders, but there are exceptions. The Treasure Trove system requires finders to observe the law by reporting all archaeological finds. Under Scottish common law, non-reporting of archaeological finds, including attempts to sell them, is considered theft. Removal of finds from Scotland without permission may also be considered theft. We are exploring ways to raise awareness about non-reporting and the illegal trade in Scottish archaeological finds, in the context of heritage crime.

10. What more could be done to address deliberate non-reporting of finds and tackle dishonesty?

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Governance and resourcing

The Scots common law principles of bona vacantia have been used to protect heritage in Scotland for more than 200 years. During that time, the Treasure Trove system has adapted in response to the beginnings and growth of archaeology, the development of museums and, more recently, the emergence of metal detecting and development-led archaeology (work required as part of the planning system for housing, roads and infrastructure).

Several heritage organisations now work together to operate and support the Treasure Trove system. The system has evolved, and previous reviews have helped it adapt to change.

The Treasure Trove system is funded by the Scottish Government, the KLTR Department and in-kind contributions from National Museums Scotland and other heritage organisations. Museums across Scotland put funds into the system to secure allocation of chance and metal detected finds, paying sums equal to the *ex gratia* award given to finders. Finders are not charged for the processing of finds through the system.

The questions in this section are about how the Treasure Trove system is run and funded.



Late Medieval biconical lead spindle whorl. South Lanarkshire



A Late Medieval copper alloy annular brooch, c.1200-1600CE, with inscribed decoration. Highland



An incomplete Late Bronze Age gold penannular ring around a copper alloy core, c.1,000-800BCE. Highland



A Post Medieval copper alloy knife pommel, c.1600-1800CE. Shetland



Medieval Papal Bulla, broken in half. Papal bullae were attached to documents issued by the Pope. Angus



A Late Bronze Age socketed axehead dating to c. 1000-800 BCE. Perth and Kinross



Leadership and communication

The Treasure Trove system relies on multiple organisations working in partnership. Feedback suggests a need for increased communication and clearer understanding of roles and responsibilities among the organisations involved. To support more proactive KLTR leadership of the system, we are considering the creation of an advisory group which would meet regularly with the KLTR Department and Treasure Trove Unit to discuss operations, planning and issues arising.

11a. Would the creation of an advisory group, led by the KLTR Department, bring benefits to the system?

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11b. What other practical measures could improve communication and definition of roles?

Type your answer here in under 250 words	



Funding

In recent years, continuing growth in the numbers of finds reported has placed increasing strain on the Treasure Trove system. In the last three years, additional Scottish Government and KLTR Department funding has been used to increase the permanent and temporary staff establishment of the Treasure Trove Unit, and to develop a case management system linked to an online public database for reported finds.

12. What impact have these investments made on the operation of the system?

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Financial reserves and cost recovery measures

We are assessing how to support the future financial sustainability of the system in relation to the likelihood of continuing growth in the number of finds being reported. In addition to the need for sustainable resources from core funders for staff and operating budgets, we are assessing whether other measures could make the system more financially resilient.

We are considering the feasibility of introducing a small administrative fee, or a box fee, for the allocation of assemblages excavated by professional organisations. The fees would be paid by excavators. The funds raised would be retained within the Treasure Trove system to help build financial reserves and fund improvements to the system.

13. Would the charging of excavation allocation fees on this basis be fair in principle?

e your answer here in under 250 words	



From time to time, extraordinary chance and metal detecting finds require emergency fieldwork and further work to ensure that objects and important archaeological information from the findspot are properly preserved. This work can create significant costs for heritage organisations supporting the system which cannot be covered by the operating budget of the Treasure Trove Unit (for example: emergency excavation, pre-allocation conservation, scientific analysis, and commercial valuation of complex archaeological hoards).

We are considering the feasibility of introducing an element of cost recovery for extraordinary finds where, for example, pre-allocation costs could be deducted up to a reasonable limit from high value ex gratia awards paid to finders.

14. Would cost recovery on this basis be fair in principle?

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Looking ahead

Since the last full review of the Treasure Trove system in 2003, the emergence of development-led and community archaeology, the growing popularity of metal detecting, developments in archaeological science and other technology have all changed the operating context for the system. Museum standards for public engagement, collecting and conservation have evolved, while funding challenges for museums and heritage organisations have grown.

The number of finds reported is increasing year on year, and spectacular discoveries such as the Galloway Hoard, found by metal detecting in 2014, have prompted major fundraising, conservation and research projects. There has been strong public and media interest in archaeological discoveries which has raised the profile of the Treasure Trove system.

The questions in this section are about future developments might impact on the Treasure Trove system.





Future proofing

One of the aims of the Treasure Trove Review is to make recommendations to ensure the system is fit for purpose for the next decade and beyond.

15. What opportunities and risks should the Treasure Trove system anticipate in relation to developments over the coming decade (for example: future technologies, the growing popularity of commercial metal detecting events, the emergence of magnet fishing, the potential impact of climate change)?

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Code of Practice

The Treasure Trove system requires that everyone involved in the process follows the published Code of Practice. A revision of the Code of Practice will follow on from the Treasure Trove Review to ensure that the Code remains comprehensive and is easier to use.

16a. Are there areas of the Code of Practice that need to be changed or clarified?

Type your answer here in under 250 words	



16b. Are there risks to archaeology, the environment, and/or to wider public benefit delivered by the system that are not covered in the existing Code of Practice?

lype your answer here in under 250 words	



Other comments

17. Do you have any other comments about the Treasure Trove system in Scotland that you wish to bring to the attention of the Review?

Type your answer here in under 250 words				



Appendix

Description of criteria for assessment of significance (from the Treasure Trove Code of Practice)

The Treasure Trove Unit (TTU) will assess the significance of all material (both chance finds and assemblages) reported as Treasure Trove against the criteria set out in this Appendix. The specific criteria set out in this Appendix are not exhaustive and in addition the TTU will apply professional judgement and experience to the assessment of each object and assemblage and, for an assemblage, will have regard to any assessment of significance in the report of the assemblage.

Significance is determined by the potential of any portable antiquity to contribute to the cultural record of Scotland. Objects and assemblages are claimed for their archaeological or historical importance rather than financial value and objects do not have to be over 300 years old to be considered significant or claimed as treasure trove.

Material may be defined as being of national importance if any or all of these criteria is or are fulfilled:

- > it is a rare or unique type in a Scottish context or part of an assemblage containing such material; or
- > it is of particularly high quality within its type; or
- > it provides information of major significance (e.g. concerning the methods used in its manufacture or the nature of its subsequent use) not normally found on objects of its type; or
- > the contextual information concerning the object or assemblage is of an exceptional nature.

All material assessed as being of national importance will be considered significant.

Beyond this there are a number of other criteria which will be used. They are not intended to be hierarchical in importance, nor do they use categories such as regional or local significance.

In applying the criteria below, the TTU will also exercise professional judgement and experience and will make reference to current research trends and, for an assemblage, any assessment of significance in the report of the find (see below):

- > Where material can be considered by its type (whether common or not) to provide a new source of archaeological or historical information.
- > Where the context of discovery or findspot can be said to provide new information.
- > Where a group of finds can be demonstrated to form a coherent archaeological assemblage, whether or not they are found within an archaeological context or linked through excavation.
- > Where the significance of an object lies in its association with other artefacts (including those discovered previously) or by association with a site or monument.

Subject to the judgement and experience of the TTU, who will have regard to any assessment of significance of an assemblage in the report of the find (see below), such material will be considered significant.

Any object or assemblage not falling within any of the foregoing will be considered significant if in the professional judgement and experience of the TTU, who will have regard to any assessment of significance of an assemblage in the report of the find (see below), it is considered to contribute sufficiently to the archaeological, cultural or historic record of Scotland such that it is considered appropriate that the chance find or assemblage be claimed by the Crown.



Email: ttreview@copfs.gov.uk, Web: www.kltr.gov.uk

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