This guidance on standards of good practice is concerned with the treatment of objects that are found on church land and which would, but for the Treasure (Designation) (Amendment) Order 2023, be 'treasure' for the purposes of the Treasure Act 1996. The guidance is intended for any person or body within the Church of England responsible for the use, care, conservation, repair, planning, design and development of churches.

It applies to all Church of England churches, including cathedral churches, in England and the small number of Church of England churches in Wales*. It also applies to the land connected to closed churches that are held by incumbents and managed under the Faculty Jurisdiction Rules. The guidance is, in particular, intended for the assistance of incumbents, churchwardens, parochial church councils (PCCs) and Diocesan Advisory Committees (DACs).

The Treasure Act 1996 and the exemption

The Treasure Act 1996 abolished the law of treasure trove, and made fresh provision in relation to treasure. Under the 1996 Act, ‘treasure’ is:

- any metallic object, other than a coin, provided that at least 10 per cent by weight of metal is precious metal (that is, gold or silver) and that it is at least 300 years old when found. If the object is of prehistoric date it will be Treasure provided any part of it is precious metal.

- any group of two or more metallic objects of any composition of prehistoric date that come from the same find (see below)

- two or more coins from the same find provided they are at least 300 years old when found (but if the coins contain less than 10 per cent of gold or silver there must be at least ten of them). Only the following groups of coins will normally be regarded as coming from the same find:
  - hoards that have been deliberately hidden
  - smaller groups of coins, such as the contents of purses, that may have been dropped or lost
  - votive or ritual deposits.

- any object, whatever it is made of, that is found together with, or had previously been together with, another object that is treasure. This applies to a discrete group of objects but not to a whole site assemblage.

*This guidance and exemption under the 2023 amendment is not applicable to other churches or faith groups*
any object that would previously have been treasure trove, but does not fall within the specific categories given above. Only objects that are less than 300 years old, that are made substantially of gold or silver (50%), that have been deliberately hidden with the intention of recovery and whose owners or heirs are unknown will come into this category

any object that is at least 200 years old when found, which provides an exceptional insight into an aspect of national or regional historical, archaeological or cultural importance by virtue of factors such as their rarity, locality, or connection to a particular person or event. If a single object does not meet this requirement, a group of objects, when considered together, may satisfy the significance criteria to be considered treasure

The Treasure Act 1996 provides that treasure vests, subject to prior rights and interests, in the ‘franchisee’ or otherwise in the Crown (A franchisee is a body such as the Duchy of Lancaster or the Duchy of Cornwall, which has been previously granted a franchise of treasure trove by the Crown.). It further establishes duties on persons finding treasure to notify the coroner within 14 days of discovery or becoming aware that the find qualifies as treasure.

Exemption for objects found on church land

During the Parliamentary process leading to the Treasure Act 1996, the Government gave an undertaking to bring forward an Order under section 2(2) of the Act to exempt objects that are subject to the Church of England’s own systems of control over movable articles. This undertaking has now been given effect through the Treasure (Designation) (Amendment) Order 2023.

The exemption is for:

• objects subject to the faculty jurisdiction found on land which is itself subject to the faculty jurisdiction and held or controlled by an ecclesiastical corporation (usually an incumbent of a benefice), a parochial church council or a diocesan board of finance (referred to in this guidance as ‘church land’)

• objects which are found in or under a cathedral church or within its precinct (‘cathedral land’)

An object found in a church or churchyard which would have been ‘treasure’ as defined in the Treasure Act 1996 is, therefore, usually exempt from the processes set out in the Act. Instead, if such an object is found on church land, it should be dealt with under this guidance. In this guidance, such an object is referred to as an ‘exempt object’.

Responsibility for exempt objects

Because exempt objects do not have the protection of the Treasure Act 1996, the responsibility for their care rests with the relevant ecclesiastical authorities (incumbents, PCCs, DACs and consistory courts). Therefore, the purpose of this guidance is to provide guidance as to standards of good practice on the procedures that should be followed where an exempt object is found (separate procedures apply with respect to objects found on cathedral land.).

It is envisaged that any exempt objects found on church land will normally be retained indefinitely by the incumbent and PCC. Exceptionally, where a faculty is sought for the disposal of an exempt object, the PCC should seek, in the first instance, to agree arrangements for the disposal of the object to a national museum. This matter is considered under ‘Faculty jurisdiction’ below.

What to do if an object is found on church land

If an object is found on church land and the object seems to fall within the Treasure Act’s definition of ‘treasure’ (see above), the first thing that the incumbent and churchwardens or PCC need to do is to seek the advice of the DAC. The DAC, if necessary, as advised by the Church Buildings Council and the Diocesan Registrar, should be able to advise the parish on the nature of the object, including whether it falls within the definition of ‘treasure’ in the Treasure Act 1996, and whether it is nevertheless an exempt object. The DAC should also be able to provide the
parish with advice on how to care for and conserve the object, or how to obtain specialist advice on how to do so. The DAC may also need to alert the archdeacon and advise on whether any steps that involve obtaining a faculty need to be taken.

If, exceptionally, an object that is found on church land is considered to be treasure and not to be an exempt object, the find must be reported to the coroner within the relevant 14-day period in section 8 of the Treasure Act 1996.

See the relevant Government guidance at https://assets.publishing.service.gov.uk/media/64c909cb19f56222360f3c14a/Treasure_Act_1996__Code_of_Practice.pdf

Where an object is at risk of loss or damage, the archdeacon may order that it be removed and deposited in a place of safety and then apply for a faculty. This might be appropriate, for instance, if no secure conditions can be provided at the church, or where continued retention in the church building will be detrimental to the condition of the object. Such an order will usually be made with the consent of the incumbent and PCC, but where an archdeacon’s order is not complied with, it may be necessary for the archdeacon to refer the matter to the chancellor so that the consistory court can consider making an order.

Clergy or churchwardens may occasionally receive approaches from individuals wishing to use a metal detector on church land. Permission for this should never be granted. Moreover, if a churchyard is scheduled as an ancient monument, the use of such a metal detector without the consent of Historic England would be a criminal offence.

**Safekeeping and recording**

Any specific advice received from the DAC, the Church Buildings Council or a specially instructed conservator should be followed. However, there are some general procedures that should be followed in all cases where an exempt object is found.

An exempt object should be properly identified, recorded, and kept in a suitable environment. It should be reported to the local Historic Environment Record office and to the local finds liaison officer (the finds officer may report the record to the HER office), who will be able to ensure the find is recorded under the Portable Antiquities Scheme. The finds liaison officer will be a good source of initial advice on identifying and dating the object, as will the archaeologist involved in any excavation work in connection with the find. Where excavation work has necessitated archaeological input, reference to the find should be made in the documentation for the project.

An exempt object and any other object and articles found in association with it (which would, but for the exemption, also be treasure under the 1996 Act) should be treated appropriately so they will not deteriorate in a different environment, and the storage conditions should be suitable. The conservation staff of the Church Buildings Council will be pleased to give initial advice on this. It will often be possible to keep an object in the church safe. However, if temperature and humidity-controlled conditions are desirable, then placing the object in a cabinet for the storage of historic parish records and registers may be the way forward. In other cases, deposit of the object in a museum under faculty (including possibly an interim faculty) may be an appropriate way forward (see further below).

Any exempt object that is found must be recorded in the church inventory. Information on the context of the find should also be recorded alongside details of the project in the church log book.
The Church Buildings Council recommends that PCCs should give sympathetic consideration to requests from bona fide researchers to examine a particular object.

**The faculty jurisdiction rules**

Where a church is subject to the faculty jurisdiction, the land on which the church stands, the churchyard or other curtilage and any objects contained in the church, or in or on that land, are subject to the jurisdiction of the consistory court of the diocese. An authorisation from the consistory court known as a ‘faculty’ is required for the lawful removal of any object from the site (or, in the case of urgent temporary removal, an archdeacon’s place of safety order). Consistory courts have wide powers to issue injunctions and restoration orders to prevent unlawful actions relating to churches and objects associated with them.

As stated above, it is envisaged that an exempt object, once found, will be retained indefinitely in the ownership and care of the churchwardens and PCC. Exceptionally, however, it may be proposed that the object be loaned, made the subject of a gift or sold.

Those considering such a disposal should be aware that the sale of such objects is rarely permitted. This is because there is a strong legal presumption against the sale of church treasures. It should not be assumed that such a course will be either straightforward or inexpensive. Proceedings for a faculty to authorise the sale of church treasures are usually considered at a full hearing in the consistory court, the costs of which are normally borne by those seeking the faculty. The criteria adopted by the consistory courts in considering petitions for the sale of such items are as follows:

- before a sale can be permitted, the grounds for sale have to be sufficiently compelling to outweigh the strong presumption against the sale of treasures. The more valuable or significant the object, the more difficult it is for those seeking permission to sell to discharge the burden of proof to establish sufficiently compelling grounds for sale
- where there are compelling reasons why a treasure can no longer be retained in the church to which it relates, a loan to a museum or gallery or to the diocesan treasury will normally be a sensible solution. By contrast, sale to a museum is not lightly allowed and requires special justification
- consistory courts apply a “sequential approach” when the disposal of church treasures is contemplated, considering first disposal by loan, and only where that is inapposite, disposal by limited sale; and only where that is inapposite, disposal by outright sale

The above principles are derived from the judgment of the Court of Arches in the case of In St. Lawrence Oakley with Wootton St. Lawrence [2014] Court of Arches.

Where the disposal – whether by loan, sale or otherwise – of an exempt object is being contemplated, those concerned should consider the above matters carefully. Those concerned may also be well advised to discover more about the object, for instance through contact with the Finds Liaison Officer.

It is likely that all cases involving the disposal of an exempt object will come within rule 9.6 of the Faculty Jurisdiction Rules 2015, which deals with objects of special historic, architectural, archaeological or artistic interest. The rule makes it mandatory for the chancellor to seek the advice of the Church Buildings Council, and the Council stands ready to provide any necessary advice.

When the sale of an exempt object is being pursued, the British Museum should also be consulted. The British
Museum will be able to advise within four weeks whether it is interested in acquiring the object or, if not, whether another specified museum should be provided with information about the object and requested to indicate whether it is interested in acquiring the object.

If a regional or national museum is interested in acquiring the object, the Treasure Valuation Committee will be able to provide a valuation. If no museum wishes to acquire the object the Treasure Valuation Committee will not be able to provide a valuation. In those cases where the Treasure Valuation Committee has provided a valuation, this will be forwarded to those concerned with the proposal to dispose of the object.

Where a faculty permitting sale of an exempt object is to be granted, unless the British Museum or other specified museum has indicated that it has no interest in purchasing the object, the Church Buildings Council recommends that it should be granted on condition that the specified museum should have up to four months to purchase the object once the Treasure Valuation Committee has determined the price.

The care of cathedral rules

Under the Treasure (Designation) (Amendment) Order 2023, treasure found in or under a cathedral church or within its precinct is exempt from the Treasure Act 1996. Instead, treasure found in or under a cathedral church or within its precinct will come within Part 7 of the Care of Cathedral Rules 2006, with Schedule 1 providing a detailed procedure for reporting the finding of a potential treasure object and determining whether it is under the 1996 Act.

Should any object be found on cathedral land and is considered to be treasure, the following process, summarising Schedule 1, should be adopted.

Preliminary arrangements and determination

On discovery, a preliminary description of the object should be notified to the administrator, who will then notify the cathedral archaeologist (if not currently aware), and a formal record of the information around the object will be held by the administrator, as advised by the cathedral archaeologist. After examining the object, the cathedral archaeologist will notify the Chapter (if necessary) and the administrator in writing whether the object is a potential treasure as defined by the Treasure Act 1996.

Once notified, the Chapter will obtain expert advice as soon as reasonably practicable as to the conditions that are appropriate for the preservation of the object and ensure that it is kept in a secure and appropriate condition with regard to that advice. The object will then be recorded in the cathedral inventory and designated as treasure. The administrator will then contact the Commission to report the discovery of the potential treasure object, which in turn will notify the Vicar-General and the Secretary of State.

On determining whether the object is treasure, the administrator, within 28 days of receiving notification from the cathedral archaeologist, will seek expert advice in writing from the British Museum (and if the Chapter thinks it necessary, one or more other suitably qualified persons or bodies) as to the nature and age of the object and any other matters which appear to be relevant to whether it is treasure. This advice will then be reported to the Vicar-General, who, after seeking any further details necessary, will make a declaration in writing, stating whether the object is or is not treasure. The Chapter will then make any necessary amendments to the entry in the cathedral inventory. Should the object be classified as treasure, the find will then be reported to the local Historic Environment Record Office and the local finds liaison officer, who will be able to ensure the find is recorded under the Portable Antiquities Scheme.

Display of treasure and access by the public

The Chapter shall, wherever and so far as it is reasonably practicable to do so, ensure that any object of treasure discovered within the precinct of the cathedral concerned is made available to be viewed by members of the public in conditions which are secure and appropriate for its preservation. In the interests of the security and preservation of objects of treasure, individual access by those who are not officers of the cathedral or persons carrying out work for the cathedral shall be limited to those who have been expressly authorised in writing by the Chapter for that purpose and who, at the time of inspection, provide such documentary evidence of personal identification as the Chapter may
reasonably require.

**Work to an object of treasure**

If the fabric advisory committee has designated the object as being of outstanding architectural, archaeological, artistic or historical interest, an application to the Commission will need to be sought by the Chapter. If the object is not classified as outstanding architectural, archaeological, artistic or historical interest, an application should be made to the fabric advisory committee.

**Sale, loan or disposal of object of treasure**

The Commission must approve all sales, loans or disposals of an object of treasure and any application can only be made after the Chapter has consulted the fabric advisory committee.

In such cases, an application to the Commission for the approval of a proposal involving the sale or other disposal (other than a loan) of an object of treasure shall be made only after the Chapter has done the following:

- Provided the British Museum with photographs and a description of the object, and a request to specify which museum is to be the specified museum in relation to the object; and, if that museum is to be the British Museum, whether it is interested in acquiring the object.
- If the British Museum does not wish to be the specified museum, the Chapter will need to supply photographs and a description of the object to the specified museum and seek clarification on whether it is interested in acquiring the object.

An application to the Commission for the approval of a proposal involving the sale, loan or disposal of an object of treasure shall

- be made in writing in Form 16, stipulating the proposed sale, loan or other disposal of the object
- be accompanied by photographs and a detailed description of the size, features and history (where known) and the significance of the object
- where the proposal is for the sale or other disposal of the object (other than a loan), be accompanied by copies of the correspondence between the Chapter and the British Museum as to which museum is to be the specified museum in relation to the object concerned, and copies of the correspondence between the Chapter and the specified museum as to the interest of that museum in purchasing or otherwise acquiring the object if the Commission were to approve the Chapter’s proposal
- at the same time as an application, the administrator shall display for 28 days, inside and outside the cathedral, where it is readily visible to the public, a notice in Form 17, which will give particulars of the proposals

Following the necessary legal steps, the Commission will then decide whether to approve the Chapter’s proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse the application. If the Commission decides to approve a proposal for the sale or other disposal of an object of treasure other than a loan and other than disposal to the specified museum on terms already agreed with that museum, unless the specified
museum has confirmed in writing that it has no interest in purchasing the object, the Commission shall

- specify a reasonable period for the purchase price to be paid by the specified museum;
- should the museum not wish to proceed, the object may be sold in accordance with the proposal approved by the Commission, subject to any specified conditions.

Valuations of objects may be obtained from one or more independent valuers with experience in the market nationally and internationally or via an independent panel of experts through the Treasure Valuation Committee. The valuation provided will be the agreed purchase price, and should any disagreements exist over the valuation, in exceptional cases, the Vicar-General will determine the final purchase price.

Should the Chapter wish to loan the object, permission must be sought, and all of the following details must be provided:

- duration of the loan
- the host venue
- pre-loan assessment (including condition)
- proposed handling
- insurance valuation
- exhibition arrangements
- a statement on the background of the loan proposal
- the inventory extract
- a statement by the Cathedral Archaeologist

**What is not Treasure**

The Treasure Act 1996 specifies that the following types of objects are not deemed to be treasure:

Naturally occurring objects such as fossils or minerals, even if they are found in association with objects that are treasure.

Unworked human and animal remains, even if found in association with objects that are treasures. Bones that are part of a composite object, have been worked, and include metal may be considered treasure.

Wreck material from a maritime vessel may be subject to the salvage regime that applies to wreck under the Merchant Shipping Act 1995. Any finds related to Wreck material should be reported to the Receiver of Wreck.