



department for
**culture, media
and sport**

Triennial Review of the Treasure Valuation Committee

Stage Two

June 2012

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Section 1: Introduction

The terms of reference of this Triennial Review of the Treasure Valuation Committee (TVC) are to:

- i. provide robust evidence on the continuing need for the TVC in term of its functions and form and
- ii. review its governance arrangements to ensure compliance with the corporate governance principles contained in the Cabinet Office Triennial Review Guidance.

Stage One of the review set out the background to the TVC and looked at its key functions. Stage One made a number of recommendations:

- The key functions of the TVC continue to be appropriate in terms of delivering the Government's objectives.
- The TVC's functions are most effectively and cost-efficiently provided at arm's length from Government through an advisory non-departmental public body.
- Stage Two of the Triennial Review should consider whether and how the transparency of the TVC might be enhanced.
- The British Museum is the most appropriate location of the body.
- The question of transferring responsibility for remaining treasure cases from DCMS to the British Museum should be considered in the context of the review of the Treasure Code of Practice.

Stage Two of the review looks at whether the TVC operates in accordance with the recognised principles of corporate governance by being open, transparent and accountable.

The review has been led by the Department for Culture, Media and Sport (DCMS) and is overseen by a Review Group with members drawn from key stakeholders in the treasure valuation process. The Lead Reviewer is Paul Blaker (Head of World Heritage and Treasure, DCMS). The Review Group is made up of:

- Sophie Marment, Public Bodies Reform Team, DCMS
- Steve Critchley, National Council for Metal Detecting

- Dr Jonathan Williams, Department of Prehistory and Europe, British Museum
- Helen Shipsey, Country Land and Business Association

The Review Group agreed the Terms of Reference for the Review and has been consulted at each point.

The review was first announced in Parliament on 15 December 2011. Further details of the review were published on the DCMS website on 10 January 2012 and stakeholders were invited to contribute views on the key questions for Stage One.

Stage Two of the review considers the TVC against the requirements in the Cabinet Office's guidance on the principles of good corporate governance for Advisory Non-Department Public Bodies. These requirements are considered individually in the sections below. The presumption is that the TVC complies with these requirements. Where there are areas of non-compliance, these are noted and reasons are given or recommendations are made.

Stages One and Two of the review have been signed off by the Review Group and discussed by the TVC itself. They were submitted in March 2012 to the Culture Minister, Ed Vaizey. Copies are placed in Parliament and published on the DCMS website.

Section 2: Accountability

The Cabinet Office principle is that the Minister is ultimately accountable to Parliament and the public for the overall performance of the public body.

The review finds that the following Cabinet Office requirements are met with regard to the TVC:

- The Minister and DCMS exercise appropriate scrutiny and oversight of the TVC.
- Appointments to the board are made in line with the *Code of Practice* issued by the Commissioner for Public Appointments.
- The Minister appoints the Chair and all non-executive board members of the TVC. The Terms and Conditions of appointment state that the Minister is able to remove individuals whose performance or conduct is unsatisfactory.
- The Memorandum of Understanding between DCMS and the British Museum notes that the Secretary of State is subject to the Freedom of Information (FOI) Act 2000 in relationship to any requests for information relating to the administration of the Treasure Act 1996 and says that the British Museum will handle any FOI requests it receives in accordance with the FOI Act 2000 and the FOI Handling Protocol between it and the Secretary of State. There is a specific provision requiring the provision of information and briefing as requested by the Secretary of State in relation to
 - Ministerial and official correspondence
 - Parliamentary questions
 - Contributions to briefing for parliamentary debates, Select Committee Enquiries and so forth and
 - Enquiries by the National Audit Office or the Public Account Committee

The following Cabinet Office requirements are not met with regard to the TVC:

- The Minister is not consulted on the appointment of the Chief Executive because the TVC is an advisory committee and it does not have officers.
- The Minister does not meet the Chair on a regular basis. Meetings may take place from time to time as appropriate to discuss treasure policy in general. It is not necessary, however, to have regular meetings to discuss the work of the TVC because the TVC's functions are relatively straightforward: its work programme consists of making recommendations about treasure finds as they come forward.

- There is no requirement for the TVC to consult the Minister on its corporate plan because, as its functions are so straightforward, it does not need to have a corporate plan.
- There is no requirement for the exercise of particular functions of the TVC to be subject to guidance or approval from the Minister and there is no general or specific power of Ministerial direction over the TVC. This is because the TVC only makes recommendations. Under the Treasure Act 1996, Ministers remain responsible for making decisions about rewards to finders of treasure. Nevertheless, the TVC has sought guidance from DCMS from time to time, for example about the detailed interpretation of the Treasure Code of Practice. Ministers can, and sometimes do, ask the TVC to look in more detail at the reasoning behind its recommendations or to look again at particular cases.
- There is no requirement for the Minister to be consulted by the public body on key financial decisions because the TVC does not make financial decisions.

The review has also considered whether DCMS officials need to observe meetings of the TVC. The Memorandum of Understanding between DCMS and the British Museum suggests that DCMS officials will observe meetings. However, confidence in the secretariat support provided by the British Museum has grown since cases were transferred from DCMS and the Memorandum of Understanding was signed and there have been occasions in recent years when DCMS officials have not attended, for example when the cases to be discussed have not been particularly unusual or complex.

The review does not consider the fact that DCMS officials do not always attend TVC meetings to be a cause for concern. DCMS receives copies of papers in advance of TVC meetings and copies of the draft minutes. Attendance at every meeting is a significant commitment of resources at a time when DCMS' administration budget is being reduced by 50%. Steps should be taken, however, to ensure that the Memorandum of Understanding properly reflects current practice.

It might be considered more important that DCMS officials attend meetings of the TVC if the decision is taken to transfer the remaining treasure cases from DCMS to the British Museum. Stage One of this review recommended that decision should be considered in the context of the next review of the Treasure Code of Practice.

Recommendation 1: The question of whether DCMS need to observe meetings of the TVC should be reviewed in the context of the next review of the Treasure Code of Practice.

The Memorandum of Understanding says that the British Museum will account to the Minister for services provided under the Treasure Act in an annual written report (separate from and in addition to the Treasure Annual Report). The review understands that in fact no such account has been produced since the British Museum took on responsibility for treasure cases. This oversight is likely to have come about because officials in the two

organisations have worked together effectively throughout that time and it has not been thought necessary to devote resources to the production of an additional report. The review does not suggest that such a report needs to be produced in future, but the Memorandum of Understanding should be reviewed in due course to ensure that it reflects current practice.

Recommendation 2: The Memorandum of Understanding between the DCMS and the British Museum should be revised and it should reflect actual practice.

Finally, the review considered the Cabinet Office requirement that Parliament should be informed of the activities of the public body through the publication of an annual report. Section 12 of the Treasure Act says that the Secretary of State should report to Parliament each year on the operation of the Act. The Treasure Act Annual Report is compiled by the British Museum and laid in Parliament by DCMS. It provides detailed information about reported treasure finds, such as their location, the acquiring museum and the value. The TVC's role is just one part of the broader treasure regime established by the Act and the Treasure Act Annual Report does not always provide full details of the membership and functions of the TVC. We recommend that in future it should do so.

Recommendation 3: The Treasure Act Annual Reports should in future include a list of the membership of the TVC and should set out the functions of the TVC as set out in the Treasure Code of Practice.

Section 3: Roles and responsibilities

The Cabinet Office principle is that the Chair is responsible for leadership of the board and for ensuring its overall effectiveness.

The review finds that the following Cabinet Office requirements are met with regard to the TVC:

- The TVC is led by a non-executive Chair.
- There is a formal, rigorous and transparent process for the appointment of the Chair which is compliant with the Code of Practice issued by the Commissioner for Public Appointments. When there is a vacancy, it is publicised on the DCMS and Cabinet Office websites with a role description and a deadline for applications. A selection panel is formed made up of the DCMS official responsible for treasure policy, the Head of Treasure at the British Museum and an independent public appointments assessor. The selection panel recommends a shortlist, which is then agreed by the Minister. The selection panel interviews shortlisted candidates and advises the Minister on those who have met the selection criteria most comprehensively, from among whom the Minister makes an appointment.
- The Chair has a clearly defined role in the appointment of members. He sits on the selection panel for new member appointments, alongside the DCMS official responsible for treasure policy, the Head of Treasure at the British Museum and an independent public appointments assessor.
- The duties, role and responsibilities and terms of office of the Chair are set out clearly and formally defined in writing. Terms and conditions are in line with Cabinet Office guidance.
- The responsibilities of the Chair include:
 - representing the TVC in discussions with Ministers (although in practice this does not need to happen very often).
 - advising DCMS and Ministers about board appointments and the performance of individual board members. As mentioned above, the Chair is a member of the selection panel for new board appointments. When members are due for possible reappointment, the Chair is asked to provide written views which are put to the Minister as part of the reappointment submission.

- ensuring that members of the TVC have a proper knowledge and understanding of their corporate role and responsibilities. In practice, this responsibility is mostly undertaken by DCMS and British Museum officials. When new members are appointed, they are provided with the Cabinet Office publication *Guidance on Codes of Practice for Board Members of Public Bodies*. The Chair provides an informal welcome and introduction to the role of members of the Committee.
- ensuring that the board, in reaching decisions, takes proper account of guidance provided by the sponsoring department or Ministers.
- ensuring that the board carries out its business efficiently and effectively.
- representing the views of the board to the general public. In practice, however, this happens rarely because it is not the role of the TVC to develop or implement policy. This issue is considered further in Section 4 (Communications) below.
- developing an effective working relationship with senior staff. The TVC does not employ senior staff, but the Chair is responsible for developing effective working relationship with staff at the British Museum who provide secretariat support.

The following Cabinet Office requirement is not met with regard to the TVC:

- The Chair is not asked to undertake an annual assessment of members. As mentioned above, the Chair provides written comments when a member is due for possible reappointment, but it would be unnecessarily burdensome to do this every year.

Finally, the Cabinet Office requirement that the roles of Chair and Chief Executive should be held by different individuals is not relevant to the TVC as it does not have a Chief Executive.

Section 4: Communications

The Cabinet Office principle is that the public body is open, transparent, accountable and responsive.

The review notes that the TVC does not have a policy or decision-making function. DCMS remains responsible for treasure policy and the legislative framework. The TVC's function is to provide advice to the Secretary of State on the valuation of treasure finds and, where appropriate, the abatement of rewards, on a case by case basis. This means that it has a responsibility to respect the privacy of individuals who are involved in each case.

Nevertheless, the TVC needs to balance that with the principles of openness, transparency and accountability. As was noted in Part One, it is important, for the treasure regime to be effective, that all stakeholders have trust and confidence in it and that it is seen to be fair, thorough, independent and transparent. The TVC plays an important role in that process. Stage One of this review recommended that Stage Two should consider whether and how the transparency of the TVC might be enhanced.

The review finds that the following Cabinet Office requirements are met with regard to the TVC:

- The TVC has identified its key stakeholders and it has established clear and effective channels of communication with them. The TVC's key stakeholders are treasure finders, landowners, archaeologists, acquiring museums and DCMS. Communication is managed by the secretariat functions currently undertaken by the British Museum and (in cases where the British Museum wishes to acquire the object) DCMS. Communications are clear and effective. In each case, the secretariat copy key pieces of communication to each stakeholder and allows time for stakeholders to respond.
- The TVC is committed to openness in all its activities. The British Museum runs the website www.finds.org.uk which provides full information about the treasure regime, the role and membership of the TVC, the list of independent valuers who are commissioned for provisional valuations and a searchable database of previous treasure finds and contact details for the treasure team at the British Museum, Finds Liaison Officers and coroners across the country. As noted above, however, because it is dealing with cases involving private individuals the TVC needs to balance openness and transparency with the need to protect individuals' privacy and legitimate commercial interests.
- The TVC itself does not undertake any publicity or advertising.

- The terms and conditions of appointment to the TVC ensure that the TVC is not, and is not perceived to be, engaging in political lobbying. Members are not allowed to accept a paid or prominent position in any political party. They are free to engage in political activities provided that they are conscious of their general public responsibilities and exercise a proper discretion. Although there is no formal system in place to police this, members of the TVC do not attend Party Conferences in a professional capacity. This issue is considered further in Section 5 (Conduct and Behaviour) below.

The following Cabinet Office requirements are not met with regard to the TVC:

- The TVC does not monitor and report on its performance in handling correspondence. The British Museum and DCMS do not formally monitor performance in handling correspondence on treasure cases because these cases are consistently handled with efficiency and it would be an unnecessary resource burden to set up and manage a formal reporting system. The British Museum has a single email address for treasure correspondence and this is always cleared at the end of each working day. In fact, because the Treasure process is iterative and involves a number of stakeholders, both DCMS and British Museum officials spent a significant amount of time chasing responses from correspondents. DCMS monitors and reports on its performance in handling general correspondence to Ministers and correspondence about treasure policy is included within these figures.
- The TVC does not publish data about its performance. Data is available on the number of cases that the TVC deals with through the Treasure Act Annual Report, which is laid in Parliament and publicised through a launch event at the British Museum and through the website www.finds.org.uk. The British Museum monitors the progress of each case through the whole treasure process, but data is not collected specifically on the time that is taken for the TVC to make a valuation because this particular part of the process is handled without delay. There is significant concern about the length of time overall that can be required to resolve treasure cases, but the main causes of delay are (i) the fact that coroner verdicts are sometimes delayed and (ii) the fact that it is an iterative process and all stakeholders in each case are allowed time to respond at each step in the process. The Chair of the TVC has raised the first of these as a concern with DCMS, which has also discussed it with the Ministry of Justice. The second of these is perhaps an inevitable consequence of allowing for full consultation with all the stakeholders involved in each case.
- The TVC does not publish their spend data over £500 because they do not make any expenditure. The review understands that the British Museum is considering adopting a scheme for publishing all expenditure over £500. Such a scheme would include expenditure on secretariat support for the TVC.
- The TVC does not engage and consult with the public on issues of public interest or concern. The TVC does not have a policy or decision-making function. Treasure policy issues remain a matter for DCMS and public consultation would be a responsibility of the Department.

- The TVC has not considered holding open board meetings or an annual open meeting. This is for two main reasons: (i) the TVC does not have a policy or decision-making function and (ii) TVC meetings are spent discussing individual cases and it is necessary to respect the right to privacy of the individual stakeholders involved.
- At the moment, the TVC does not proactively publish agendas and minutes of board meetings, although it has agreed in principle to do so. Individual stakeholders are always provided with the minutes for their individual cases, but full minutes are not made available to the general public. There has been concern that publishing the minutes might damage the privacy and/or the commercial interests of the private individuals involved. There is also concern that publishing details of cases which have not been resolved might expose the TVC to undue influence from outside parties. Nevertheless, the review recommends that in the interests of improving transparency, the TVC should proactively publish the minutes of its meetings as soon as all the cases discussed at the meeting have been resolved. The TVC should consider what information should be redacted, such as the names of and other confidential information about interested private parties, detailed information about find locations and information about which particular provisional valuer is used in each case.

Recommendation 4: The TVC should publish the minutes of its meetings, with appropriate redactions, once all the cases have been resolved.

- The TVC does not have rules and restrictions limiting the use of marketing and PR consultants because it does not use them at all or make any other kinds of expenditure of its own.

There has been unease expressed about the relationship between the TVC, the British Museum and provisional valuers. Publication of the minutes of TVC meetings will provide considerable reassurance. The roster of provisional valuers that the British Museum and DCMS commission valuations is published on the website www.finds.org.uk. In 2007, the TVC held a meeting with them all to discuss the role that they play and a range of detailed issues affecting their work. The British Museum should publish a fuller description of the role of provisional valuers on www.finds.org.uk, including the minutes of the meeting in August 2007. The TVC should continue to meet periodically with provisional valuers and the minutes of those meetings should be published.

Recommendation 5: The TVC should publish a fuller description of the role of provisional valuers, including the minutes of its meeting with them in August 2007. The TVC should continue to meet periodically with provisional valuers and the minutes of those meetings should be published.

Complaints

The website www.finds.org.uk currently sets out a complaints procedure for the Portable Antiquities Scheme (also run by the British Museum) and the British Museum's main website

has its own feedback procedure, which says that complaints may ultimately be referred to the Office of the Parliamentary and Health Service Ombudsman. However, there is currently no specific complaints process for the way in which the Treasure Team at the British Museum administers their particular role in the broader treasure process. The review recommends that the British Museum should expand the Portable Antiquities Scheme complaints procedure to include its administration of treasure cases.

Recommendation 6: The British Museum should expand the Portable Antiquities Scheme complaints procedure to include its administration of treasure cases.

Further representations

The Review considered an issue around the distinction between ‘making representation to the TVC’ and ‘making representations to the Secretary of State’. Paragraph 70 of the Treasure Code of Practice says:

“Should an interested party (as defined in paragraph 67) be dissatisfied with the Committee’s recommendation, that party has the right to make representations to the Secretary of State before a decision is made. The Secretary of State will normally allow 28 days after the finder, the occupier, landowner or museum has been notified of the Committee’s recommendation to allow any representation to be made before making the order. The Secretary of State’s decision will be subject to the jurisdiction of the courts by way of judicial review. Any claim of maladministration can be investigated by the Parliamentary Commissioner for Administration.”

At the moment, when the TVC has made a valuation, stakeholders are invited to say if they are dissatisfied with the TVC’s valuation and, if so, to supply new information for the TVC to consider. The review considers that it is sensible and fair to allow stakeholders to see the TVC’s valuation and to go back to them with additional information if they wish. However, this step is not mentioned in the Treasure Code of Practice. This step should continue to be clearly distinguished from the right, set out in the Code, subsequently to make representations to the Secretary of State. The next review of the Treasure Code of Practice should consider how the process for making further representations regarding treasure valuations could be given greater clarity in the Code.

Recommendation 7: The next review of the Treasure Code of Practice should consider how the process making further representations regarding treasure valuations could be given greater clarity in the Code.

Section 5: Conduct and Behaviour

The Cabinet Office principle is that the board and staff of the public body work to the highest personal and professional standards. They promote the values of the public body and of good governance through their conduct and behaviour.

The review finds that the following Cabinet Office requirements are met with regard to the TVC:

- The Cabinet Office booklet *Guidance on Codes of Practice for Board Members of Public Bodies* is provided to new members of the TVC on appointment. The terms and conditions of appointment to the TVC say that members are expected to comply with it.
- Board members show leadership by conducting themselves in accordance with the highest standards of personal and professional behaviour and in line with the principles set out in the Code of Conduct.
- As mentioned in Section 3 (above), the terms and conditions of appointment to the TVC cover political activity. Members of the TVC must inform the Secretary of State if they intend to accept a paid or prominent position in any political party and their appointment may be terminated early if it is felt that the positions are incompatible. If a member of the TVC accepts a nomination for election to the House of Commons, then they must resign from the TVC. Members of the House of Lords are guided in their conduct by the statement in the House of Lords made by Lord Addison on 21 March 1951, as amended by the Second Report from the Select Committee on Procedure of the House, 3 February 1971.

The following Cabinet Office requirements are not met with regard to the TVC:

- The TVC has not adopted a Code of Conduct for staff because it does not employ staff. The issue of a Code of Conduct for British Museum staff is a matter for the British Museum to be considered outside of this review.
- The TVC does not have its own rules for board members on the acceptance of appointments or employment after resignation or retirement. Given the fact that the TVC's functions are relatively straightforward and are exercised on a case by case basis, the review does not consider it is necessary for them to develop a separate policy on this.

The TVC has a Register of Interests for board members, but it is not regularly updated and it is not currently available to the public. It does not keep a Register of Gifts and Hospitality. It is likely that the TVC has not paid a great deal of attention to these issues because it is so rare for members to have a conflict of interest or to receive gifts or hospitality. Nevertheless, it is important for public confidence that the TVC is seen to comply with the highest standards of transparency.

The review recommends that the Register of Interests should be an agenda item for the TVC at least twice a year. Members should be provided with a hard copy of their existing entries and invited to update it or to confirm that it remains up to date. The TVC should either establish and regularly review a separate Register of Gifts and Hospitality or it should include gifts and hospitality in its Register of Interests. The Register(s) should be available to the public on request, and this fact should be publicised, including on the website www.finds.org.uk, with contact details.

Recommendation 8: The TVC should regularly review its Register of Interests and of Gifts and Hospitality. The Register(s) should be available to the public on request, and this should be publicised.

The review found that where members do have a conflict of interest, this is appropriately managed (for example, by asking a member to leave the room during discussion of a particular item) and that this is recorded in the minutes.

Section 6: Conclusion

The TVC has good standards of corporate governance. The Committee does not meet every one of the Cabinet Office requirements, but there are usually good reasons in each case linked to the fact that the TVC is a small advisory body with a straightforward remit and it does not have any policy or decision-making functions.

There is a small number of areas where current practice could be reviewed or improved. The review found no issues that gave rise to concern, but noted that for the treasure regime to be effective it must maintain public confidence. This means that, as one important element in the broader treasure process, the TVC needs to be seen to be fair, thorough, independent and transparent so that all stakeholders have trust and confidence in it. The TVC needs to balance this need to be open and transparent with the fact that it is dealing with private stakeholders. The recommendations here should maintain that balance while strengthening transparency and strengthening public confidence in the valuable work that the TVC does.

Recommendation 1: The question of whether DCMS need to observe meetings of the TVC should be reviewed in the context of the next review of the Treasure Code of Practice.

Recommendation 2: The Memorandum of Understanding between the DCMS and the British Museum should be revised and it should reflect actual practice.

Recommendation 3: The Treasure Act Annual Reports should in future include a list of the membership of the TVC and should set out the functions of the TVC as set out in the Treasure Code of Practice.

Recommendation 4: The TVC should publish the minutes of its meetings, with appropriate redactions, once all the cases have been resolved.

Recommendation 5: The TVC should publish a fuller description of the role of provisional valuers, including the minutes of its meeting with them in August 2007. The TVC should continue to meet periodically with provisional valuers and the minutes of those meetings should be published.

Recommendation 6: The British Museum should expand the Portable Antiquities Scheme complaints procedure to include its administration of treasure cases.

Recommendation 7: The next review of the Treasure Code of Practice should consider how the process making further representations regarding treasure valuations could be given greater clarity in the Code.

Recommendation 8: The TVC should regularly review its Register of Interests and of Gifts and Hospitality. The Register(s) should be available to the public on request, and this should be publicised.



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