



Dear Sebastian,

Thank you for your full reply to HAD's response to the consultation. Just two very brief comments:

1. HAD is aware that the DCMS Guidance working group wished for the document to be viewed as an overarching set of guidelines: what your reply ignores is that many commentators, including several papers delivered at academic conferences and published in peer-reviewed journals, have argued that the Guidance simply cannot and does not apply sensibly to non-overseas remains. As you well know, the Human Remains Subject Specialist Network too has called for the document to be revised to take into account the different status of British human remains. The lack of such a review begins to look like intransigence.
2. As to whether the decision can be viewed as a precedent, it is significant that museums currently considering reburial of British human remains from their collections - sometimes involving large numbers of remains - are embarking on extensive consultations with their communities and ensuring that a choice for reburial is not regarded as a last resort, rather than basing their decision-making on the DCMS Guidance or on the Avebury consultation. This suggests that the adversarial process you undertook is not being regarded as any sort of precedent, but rather a wasted opportunity which did not create any meaningful dialogue.

Many blessings  
Emma

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On 26 May 2010, at 14:47, PAYNE, Sebastian wrote:

Dear Emma,

Many thanks for your comments, and apologies that I have not replied sooner.

**The DCMS Guidance:** You suggest that the DCMS process was inappropriate because devised to deal only with repatriation claims. The DCMS Guidance says, on this point: "This part of the document provides a framework for handling claims for the return of human remains held in museums. It is primarily drafted in terms of claims for the return of human remains of overseas origin, as this is currently where the vast majority of such claims are being made, **but in principle should be viewed as an overarching set of guidelines for claims regardless of their origin.**" (3.1, p.23 - my emphasis). The working group which drafted the guidelines (I was one of them) felt that it was important that we thought in terms of principles that were capable of application to any claim or request as anything else would be both unsatisfactory and potentially discriminatory; the general principles are set out at some length in 1.2.

The consultation specifically asked whether people felt that the process was appropriate; as our report on the consultation (which can be accessed and downloaded through <http://www.english-heritage.org.uk/server/show/nav.19819>) sets out in some detail, many more respondents thought the process appropriate than thought it inappropriate; the commonest criticism wasn't that it was inappropriate, but that that we should find a quicker way of responding to requests with little basis. The consultation pro-forma invited respondents to suggest alternatives. The main response came from a small number of respondents who thought that the decision should be left to skeletal experts and archaeologists. This support, together with the lack of any good alternative, validates our use of the process. This doesn't mean that it cannot be improved – and we tried to do this, for instance, by adding in a public consultation – but it is at the moment the best available option. Several respondents suggested that the DCMS process should be reviewed or revised, and that specific guidance for pre-Christian human remains would be helpful; if we decide to do this, we will of course consult widely, including HAD.

**The Consultation:** The main point of the consultation was to offer other stakeholders a chance to be involved and comment, which I believe it did. As well as asking questions, we gave respondents ample opportunity to comment as they wished on every part of the report; it is a pity if people felt that doing so would diminish the consideration given to their opinions; I can assure you, as the person who read them, that this was not the case.

You criticise the consultation as offering no middle ground. On the central question, it offered reburial with continuing research access as an explicit compromise. But as the report sets out, few respondents were in favour - common reactions were that it was an expensive and

essentially unsatisfactory compromise.

**Value systems:** Science is no less based on a value system than Paganism or Druidry; we don't assume that any one value system or belief system should take priority. When systems conflict, we try to find sensitive compromises, as we have for instance in the case of the human remains at Barton upon Humber. We fully recognise that human remains are the remains of persons, and have made clear in our guidance (e.g.

<http://www.cofe.anglican.org/about/cathandchurchbuild/humanremains/cathandchurchbuild/humanremainsguidance.pdf>) that it is important to treat human remains with dignity and sensitivity; we do not, however, share your view that this necessitates reburial.

Viewed more widely, it is clear that while people in this country avoid disturbing burials without good reason, this doesn't override other things that society values - traditional churchyard burial accepts disturbance of earlier burials as something that is acceptable provided that human bones are treated with respect; planning practice accepts that there are situations in which graveyards should be disturbed to allow development.

These reflect the need to balance harm and benefit rather than assuming that one consideration has automatic priority, which is the basic approach underlying the DCMS process.

Deciding that CoBDO should not be given preferential status does not mean that we dismiss or do not respect and try to understand their values; but it does mean – as it says – that we find no reason to give them greater weight than other beliefs and values.

**Public opinion:** As the press release said, the report on the opinion poll which we commissioned was published on our website together with the rest of the supporting evidence on the day that the decision was announced, and can be found at [http://www.english-heritage.org.uk/upload/pdf/opinion\\_survey\\_report.pdf?1272270487](http://www.english-heritage.org.uk/upload/pdf/opinion_survey_report.pdf?1272270487). I hope you will feel differently about it when you have read it – we were careful to use a well-respected company (bdrc) using standard sampling techniques to ensure that the results are valid, and, through discussion with them and with an independent consultant, to ask questions that were simple, unambiguous and not leading.

The poll does show that people distinguish in their attitudes between recent human remains of known identity and older human remains of unknown identity. But this doesn't mean that we depersonalise the ancient dead.

**Precedent:** We were very aware that the claim, and our decision, have much wider implications; and this was why we thought it justifiable to spend as much time and public resource

as we have on considering the request. As we said, we do not suggest, or think, that our report and decision create a binding precedent in any legal sense – most museums are autonomous, and make their own decisions, and every case is different and must be determined on its merits. We do, however, feel that many of the general considerations given to this case are likely to apply to most prehistoric human remains in this country, and hope that other museums considering such requests in future will benefit from the evidence we have assembled and made accessible.

**Display and public engagement:** The exit survey carried out by the Museum some years ago was broadly supportive and showed no widespread concern. We have, through the consultation, received other comments on the display of human remains at Avebury Museum, and have already undertaken to consider them carefully – the two most specific suggestions are (a) that people should be warned that the displays include human remains before reaching them, and (b) that the use of the name “Charlie” is inappropriate. In your response to the consultation, you opposed display completely; given the level of general support for display, we are unlikely to remove them from display, but we are always willing to consider comments and suggestions.

**The most significant recent display of human remains by English Heritage is at Barton upon Humber;** a representative of their PCC is a member of the panel that considers applications for research access and would, I am sure, tell us very quickly if there were community concerns.

Very best wishes,

Sebastian

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