

Art and cultural assets news - spring: treasure

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The discovery of the Staffordshire Hoard in July 2009 brought the law relating to the ownership of treasure back into the headlines. Currently in storage at the British Museum, the largest Anglo-Saxon hoard of gold ever found has been valued at £3.25 million. A key concern for landowners is whether they own or have any rights over items found on their land.

Treasure, or 'treasure trove' as it was called prior to the coming into force of the Treasure Act on September 24, 1997, belongs to the Crown. There is a legal obligation for treasure finders to notify the local coroner within 14 days of making a find, or realising a find is treasure. Under the common law, which applied until the Treasure Act came into force, finders of treasure trove who acted properly and lawfully received a reward based on the market value of the find. Since the Act, this system has been formalized and a Treasure Valuation Committee will value the find and determine the reward. The standard recommendation is for the reward to be divided equally between the landowner and the finder, as happened with the Staffordshire Hoard. Where the landowner and finder have agreed a different apportionment of any reward, the agreement will be considered and probably followed. The reward may be abated or withdrawn if either side have shown bad faith, for example if the finder was committing a trespass at the time. Archaeologists are not entitled to a reward, but the landowner would normally be given 50 per cent.

Different rules apply to an item that is not treasure. Items found 'under' the ground are considered part of the property and therefore belong to the landowner. Someone who finds an item 'on' the ground has a right to keep it unless the landowner shows he exercises control and has an intention to keep all items found on the land. If land is fenced and clearly signed to that effect, the landowner could successfully claim possession. The true owner has stronger rights than the finder and the landowner in either case.

The question therefore boils down to whether the item is treasure (or treasure trove if found prior to September 24, 1997).

Treasure under the Act is any object that is 300 years old or more at the date it is found, with 10 per cent or more gold or silver content. Coins must be found as a group to be classed as treasure. Anything found with treasure is included, as is anything 200 years old and designated by the Secretary of State as being of 'outstanding historical, archaeological or cultural importance'. This currently includes pre-historic base-metal assemblages. Treasure trove is any gold and silver object, deliberately hidden with the intention of recovery, where the original owners or heirs are untraceable.

All finds of potential treasure should be reported to your local coroner to avoid committing a criminal offence, punishable by a maximum term of imprisonment of three months or a fine of £5,000. Landowners would be advised to enter into written agreements with archaeologists and metal detector users. This should set out the basis for splitting a reward for treasure as well as expressly stating that all finds that are not covered by the Act remain the property of the landowner.

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