

# Nighthawks & Nighthawking:

Damage to Archaeological  
Sites in the UK & Crown  
Dependencies caused by  
Illegal Searching &  
Removal of Antiquities



## Strategic Study Final Report



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# Report





**NIGHTHAWKS AND NIGHTHAWKING: DAMAGE TO ARCHAEOLOGICAL SITES  
IN THE UNITED KINGDOM AND CROWN DEPENDENCIES  
CAUSED BY THE ILLEGAL SEARCH FOR AND REMOVAL OF ANTIQUITIES**

**Final Report**

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Special thanks go to all those who helped guide the survey along its periodically rocky path, especially all members of the Project Board and Steering Group.

## Summary

Between 2007 and 2008 Oxford Archaeology, commissioned by English Heritage, conducted a major investigation into the crime of Nighthawking, the illegal search for and removal of antiquities from the ground by criminals using metal detectors.

Nighthawks are thieves, and should not be confused with responsible metal detectorists who follow the Code of Practice for Responsible Metal Detecting in England and Wales and can be valued contributors to heritage understanding.

The survey collected data to clarify the scale of the problem of Nighthawking and to inform strategies to combat it. The survey also looked at the sale of illicitly recovered archaeological material, both online and elsewhere, and prosecutions and convictions of 'heritage crime' whether under relevant heritage legislation or any other law.

The scope of the survey covered all archaeological sites, not just Scheduled Monuments, within the UK and also the Crown Dependencies. While the survey was able to clarify the nature and pattern of Nighthawking across the UK - it is most prevalent in the central and eastern counties, but almost unheard of in the Crown Dependencies - evidence indicates that the reported incidents are only a proportion of those actually taking place. The number of examples reported to this survey is bound to be an underestimation, given that Nighthawking is an illegal activity, whose perpetrators aim for maximum secrecy, covering their tracks wherever possible.

Information was obtained for 240 sites affected by Nighthawking between 1995 and 2008 of which 88 were Scheduled Monuments. While the number of attacks on Scheduled Monuments (in England only) has decreased from 1.3% of the resource to 0.41% since the last survey undertaken in 1995, it has increased in a number of areas. Many non-scheduled sites have also been identified as being targeted (152). Results suggest that between 3-6% of archaeological excavations are also affected, although the number of archaeological units that reported instances of Nighthawking was down from 37 out of 50 in 1995 to 15 out of 54 in 2007 (19 units responded, reporting 35 sites). A targeted mail-shot to a limited number of farmers in the East Midlands suggest up to *c* 17% of farmers are, or have been, afflicted by Nighthawks. Counties where the highest incidences of Nighthawking have been reported on all types of sites are Lincolnshire, Norfolk, Suffolk, Essex, Kent and Oxfordshire and the Yorkshire region.

Regardless of the numbers of sites affected by Nighthawking, the heritage is a finite resource. The real value of heritage is not financial but lies in the information it can provide about our common history and origins. This knowledge belongs to everyone and the most significant consequence of Nighthawking is this loss of knowledge, particularly in the hot spot areas.

Information on arrests and prosecutions for Nighthawking proved difficult to obtain for this survey as a result of heritage crime not being a recordable offence by police, but it is clear that there have not been large numbers of either arrests or prosecutions, which many think encourages a belief that Nighthawking is a low-risk crime. Even when apprehended the punishment imposed on a Nighthawk is less now than it was ten years ago. Some Police forces are actively trying to combat these problems, including those in Kent and Norfolk.

In the course of their monitoring of eBay for potential Treasure finds, the PAS have noted large numbers of metal detected finds offered for sale with little or no provenance attached. It is impossible to know whether these items are being sold legally, and with the permission of the landowner, or are the proceeds of Nighthawking.

Although levels of Nighthawking remain high in some hotspot areas, there is evidence that ongoing education and outreach programmes, such as those initiated by the Portable Antiquities Scheme (PAS), are slowly having an impact by increasing public awareness of

cultural heritage and the damaging effects of heritage crime. The introduction of the Treasure Act (1996) and Code of Practice for Responsible Metal Detecting in England and Wales (2006) and the role of organisations such as the National Council for Metal Detecting have also been cited as helping stop this criminal damage. However it seems improbable that any of these initiatives have had any impact on the hard core criminal Nighthawks.

From the evidence of the investigation, the Nighthawking Survey has made a number of recommendations:

- **Provide clear guidance to the police, Crown Prosecution Service and Magistrates on the impact of Nighthawking, how to combat it, levels of evidence and possible penalties.**
- **Provide more information for landowners on identifying Nighthawking and what to do when they encounter it.**
- **Develop better ways to find out what is going on and establish and promote a central database of reported incidents of Nighthawking.**
- **Publicise the positive effects of responsible metal detecting and the negative effects of Nighthawking**
- **Ensure the PAS is fully funded, so links between archaeologists and metal detectorists are further strengthened.**
- **Integrate metal detecting into the archaeological process, including development control briefs.**
- **Implement changes recently introduced in Europe which increase the obligation on sellers of antiquities to provide provenances and establish legal title, and urge eBay to introduce more stringent monitoring of antiquities with a UK origin offered for sale on their website, as they have done with Germany, Switzerland and Austria.**

# NIGHTHAWKS AND NIGHTHAWKING: DAMAGE TO ARCHAEOLOGICAL SITES IN THE UNITED KINGDOM AND CROWN DEPENDENCIES CAUSED BY THE ILLEGAL SEARCH FOR AND REMOVAL OF ANTIQUITIES

## Final Report

### 1 INTRODUCTION

#### 1.1 The Nighthawking Survey

- 1.1.1 Nighthawking is the illegal search for and removal of antiquities from the ground by criminals using metal detectors, without the permission of the landowners, or on prohibited land such as Scheduled Monuments (SMs). Nighthawking is therefore a form of theft. Such activity can occur at any time of day or night. Nighthawks are not to be confused with responsible<sup>1</sup> metal detectorists. It is clear that many metal detectorists follow good practice guidelines, record and/or report their finds, abide by the Treasure Act (1996) and are valued contributors to archaeological understanding.
- 1.1.2 This report uses the colloquial term 'Nighthawks' to refer to those who illegally metal detect. Its use is intended to emphasise the distinction between illegal metal detectorists and law-abiding metal detectorists. It is not meant to infer either that the activities of Nighthawks are restricted to hours of darkness, or that law-abiding metal detecting can only take place during the day.
- 1.1.3 In November 2006 Oxford Archaeology (OA) was commissioned by English Heritage (EH) to carry out a survey looking into the extent of illegal searching and removal of antiquities from archaeological sites. The brief for this work can be found in Appendix 1. The survey was commissioned in response to a continuing perception across the archaeological community, shared by many landowners and those in authority, that damage to archaeological sites from the actions of Nighthawks represents a significant problem. This perception was based mainly upon largely anecdotal information and this survey was commissioned to collect a body of reliable data to evaluate the actual scale and character of the perceived problem and to inform strategies to address it. The survey also looked at the sale of illicitly recovered archaeological material, both online and elsewhere, and prosecutions and convictions of 'heritage crime' whether under relevant heritage legislation or any other law. Data for the survey was collected between June 2007 and the end of April 2008.
- 1.1.4 The scope of the survey covered all archaeological sites, not just SMs, within the UK and also the Crown Dependencies. The Crown Dependencies are not part of the United Kingdom but are internally self-governing dependencies of the Crown. They comprise the Isle of Man, the Bailiwick of Jersey and the Bailiwick of Guernsey. The Bailiwick of Guernsey principally comprises the Islands of Guernsey, Alderney and Sark.

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<sup>1</sup> The term 'responsible metal detectorist' used here to reflect the agreed terminology in the Code of Practice for Responsible Metal detecting in England and Wales, 2006  
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1.1.5 Funding for the Nighthawking Survey was provided by English Heritage, Cadw, Historic Scotland, The National Museum of Wales and The Portable Antiquities Scheme, with support and help in kind from Guernsey Museums Service, Jersey Heritage Trust, Manx National Heritage, The National Museums Scotland and The Northern Ireland Environment and Heritage Service [now the NI Environment Agency].

## 1.2 Archaeological importance

1.2.1 One of the fundamental precepts underlying the rationale of the survey is that the archaeological resource is finite and irreplaceable. The archaeological value of an object lies not in its monetary value (which is usually minimal), but in the information that it holds by virtue of its date, typology and - crucially- its context.

1.2.2 These concepts have been eloquently stated in recent guidance prepared for farmers by English Heritage:

*'Archaeological sites survive in a number of forms. Some are visible as undulations in the ground, some have been ploughed flat' ..... The quality of the information that a site buried beneath the ploughsoil/topsoil can provide 'depends on the complex inter-relationship of different deposits - layers of building materials, demolition debris, dumped rubbish or evidence of burning - and the wide variety of finds they contain. Our entire understanding of a site can depend on knowing whether a coin or pottery fragment lies under, in, or above a particular thin layer of soil. The uncontrolled removal or mixing of these deposits and finds is like ripping pages from a book: the more pages we lose the harder it is to understand the story. Some types of site, such as settlements or burial grounds, have extremely complex arrangements of finds and deposits and are more vulnerable to disturbance than more extensive remains, such as water-meadow or ridge and furrow earthworks'.*

Farming and the historic environment - an introduction to farm advisors 15, 2005.

1.2.3 It is this removal of archaeological material that can irretrievably distort the archaeological "signature" of a site, or even destroy it altogether. Artefacts retrieved from primary contexts in this way lose much or all of their potential to inform about the past, and may suffer substantial damage. Destruction of archaeological layers and the removal of objects does not just affect the archaeologists' understanding of a site but also destroys that information and knowledge of our shared heritage, which should be available to all. Sites especially at risk are prehistoric activity areas and battlefields which are only (or principally) evident from artefact scatters on the then ground surface and subsequently incorporated within the ploughsoil. Underpinning all of this is the value of knowledge, which is recognised by English Heritage:

*Knowledge is the prerequisite to caring for England's historic environment. From knowledge flows understanding and from understanding flows an appreciation of value, sound and timely decision-making, and informed and intelligent action. Knowledge enriches enjoyment and underpins the processes of change.*

EH Strategy 2005-2010

## 2 AIMS AND OBJECTIVES OF THE SURVEY

### 2.1 Aims

2.1.1 The aims of the survey as defined by the project brief were:

- **[Aim 1-]** *to better inform the political establishment and law enforcement authorities of the extent of such illicit activity in the hope of mitigating criminal activity and protecting archaeological sites from damage. Specific aims can be broken down as follows:*
  - **[Aim 1a -]** *Produce targeted baseline data on the extent of such damage to archaeological sites in the United Kingdom and Crown Dependencies caused by illegal searching and removal of antiquities.*
  - **[Aim 1b -]** *Foster a climate of opinion within all sectors that the illegal search, removal and sale of antiquities is unacceptable and that resources, as appropriate, should be made available to mitigate such activity.*

### 2.2 Objectives

2.2.1 In order to achieve these aims the objectives of the survey at its commencement were:

- **[Obj. 1]** *Identify key stakeholders and interest groups.*
- **[Obj. 2]** *Publicise the aims and objectives of the survey.*
- **[Obj. 3]** *Identify the sources of information/intelligence from which to collate data.*
- **[Obj. 4]** *Collate data on a general scale as to the damage to archaeological sites caused by illegal searching and removal of antiquities, including, but not restricted to:*
  - **[Obj. 4a]** *Protected archaeological sites*
  - **[Obj. 4b]** *Archaeological sites under excavation*
  - **[Obj. 4c]** *Nighthawking on privately or publicly owned land*
  - **[Obj. 4d]** *The sale of illicitly recovered archaeological material online and elsewhere*
  - **[Obj. 4e]** *Prosecutions and convictions of 'heritage crime' whether under relevant heritage legislation or any other law*
- **[Obj. 5]** *Analyse the data collated.*
- **[Obj. 6]** *Produce a report, including key recommendations.*
- **[Obj. 7]** *Identify a mechanism for collating such data in the future and disseminating this.*
- **[Obj. 8]** *Work with English Heritage Corporate Communications and other national heritage agencies and sponsors to publicise the report and its recommendations.*

2.2.2 The full project brief has been included as Appendix 1.

2.2.3 This survey also provides an overview of the position with respect to Nighthawking, which demonstrates what changes have occurred since the last major survey, funded by EH, and carried out by the Council for British Archaeology (CBA) in 1995 (Dobinson & Denison 1995) (see Section 3.3). The ability to make meaningful comparisons between the two surveys has been considered in Sections 3.3 and 7.2.

### 3 BACKGROUND

#### 3.1 Legislation

##### *Treasure Law*

3.1.1 The Treasure Act 1996 came into force in September 1997 in England, Wales and Northern Ireland. It was accompanied by a detailed Code of Practice. The Treasure Act replaced the common law of Treasure Trove. Now all Treasure belongs to the Crown.

3.1.2 The Treasure Act defines Treasure as:

*1 Objects other than coins: any object other than a coin provided that it contains at least 10 per cent of gold or silver and is at least 300 years old when found. (Objects with gold or silver plating normally have less than 10 per cent of precious metal.)*

*2. Coins: all 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 10: there is a list of these coins in the Code of Practice).*

*An object or coin which is part of the same find as another object or coin if it is found in the same place as, or had previously been left together with, the other object. Finds may have become scattered since they were originally deposited in the ground.*

*Only the following groups of coins will normally be regarded as coming from the 'same find': (a) hoards, which have been deliberately hidden; (b) smaller groups of coins such as the contents of purses, which may have been dropped or lost and (c) votive or ritual deposits.*

*Single coins found on their own are not treasure and groups of coins lost one by one over a period of time (for example those found on settlement sites or on fair sites) will not normally be treasure.*

*3. Associated objects: any object, whatever it is made of, that is found in the same place as, or that had previously been together with, another object that is treasure.*

*4. Objects that would have been treasure trove: any object that would previously have been treasure trove, but does not fall within the specific categories given above. These objects have to be made substantially of gold or silver; they have to have been buried with the intention of recovery and their owner or his heirs cannot be traced*

Advice for Finders of Archaeological Objects, including Treasure, PAS, 2006.

3.1.3 In the 2002 revision of the Act (The Treasure (Designation) Order 2002) this list was revised to include all prehistoric base metal objects from the same find, provided two or more were found together.

3.1.4 The Act states that the following are NOT Treasure: objects whose owners can be traced; unworked natural objects, including human and animal remains, even if they are found in association with Treasure; and objects from the foreshore which are not wreck. The Act recommends that if there is any doubt then the artefact should be reported as Treasure.

3.1.5 All objects found defined as Treasure (and those where uncertainty exists) should be reported to the district coroner within 14 days of discovery or realising/being told that it may

be Treasure. The coroner will then direct the finder to take the find to a local museum or archaeological organisation who will need to know where the find was found, although this information can remain confidential. If they decide the find is not Treasure it will be returned to the finder. If it is thought that it may be then the British Museum, National Museum and Galleries of Wales or Ulster Museum will decide if it will be purchased by them or any other museum. If this happens then the coroner will hold an inquest to decide whether it is classed as Treasure. If so it is then valued by the Valuation Committee. The reward will usually be paid to the finder if he sought permission from the landowner prior to detecting, has committed no offence and followed the Code of Practice, or to the landowner where this is not the case. Archaeologists working on an excavation cannot claim a reward. If no museum wishes to purchase the item the find will be disclaimed, and given back to the finder - usually within 28 days unless there is an objection. The draft Coroners Bill proposes that a specific Coroner for Treasure, who may appoint assistants, be appointed to deal with all treasure issues (Ministry of Justice 2008).

- 3.1.6 In Scotland, the Isle of Man and Jersey a law of Treasure Trove still applies, but there is no similar legislation for Guernsey, who rely on the Theft Act (1968), where anyone in possession of unreported Treasure, whether he is the finder or not, may be committing an offence. Treasure Trove is an ancient law which allows the Crown to claim an item of value whose owner cannot be traced. No-one, finder or landowner, has the rights to ownerless objects found in the ground in Scotland, whether they are from an archaeological site or not. Here, finders must report all finds to the Treasure Trove Unit or a Registered Museum (not just precious ones, or finds that are more than 300 years old). Not reporting finds is an offence under the common law of Scotland and under the Civic Government (Scotland) Act 1982. If reported however, the finder invariably receives any Treasure Trove award that is the outcome of proper reporting.
- 3.1.7 In the Isle of Man, the law requires any archaeological finds to be reported within 14 days of discovery to Manx National Heritage (MNH) or a Police Officer. If the discovery or discoveries are of precious metal, Manx National Heritage inform the High Bailiff who decides whether a Treasure Trove inquest needs be held (Treasure Trove Act 1586; Government Circular 66/72). If so the Manx Government, through the agency of MNH, acts on behalf of the Crown on the Isle of Man and the Manx Museum has the pre-emptive right to acquire Treasure Trove. For objects that are not Treasure Trove, ownership rests with the landowner, except where other law overrides this.
- 3.1.8 Jersey's Treasure law is based on ancient customary law (Article XVIII *Grand Coutumier* and Article 211 of the *Coutume Reformée*). Treasure Trove is gold or silver which is found hidden or buried in some place where it has been so long that it has been forgotten. Treasure Trove objects belongs to the Crown. One of the essential elements of Treasure Trove is that it must have been deliberately hidden or buried by the owner. Objects which have been lost or casually abandoned cannot be Treasure Trove though they may be claimed by the Crown as *chose gaives* (things not been appropriated to the use of man which have been found and are not claimed by anyone). Wreck, flotsam and jetsam also belong to the Crown. These are objects on the beach washed up by the tide or are in the sea



so close to shore that they could be 'touched with the tip of a lance by a man on horseback'. The Land Planning and Development (Special Controls) Ordinance (2006) in Jersey requires that any person who finds an object that:

- is of archaeological and historical significance at a protected monument or in its vicinity
- or is made elsewhere and is likely to be material in determining whether any monument, structure, artefact, cave, ruins or remains become a protected monument
- or any site that is designated as a site of special significance

- shall inform the Department in writing, within 28 days of making the find, of the nature of the object and the precise place at which it was found and provide all information required. Failure to report such a find is an offence.

### *Restrictions on detecting*

- 3.1.9 There are legal restrictions on the use of metal detectors in most countries (although England, Wales and Scotland are unusual among European countries in having no general controls on metal detecting (except on SMs)). In England and Wales the use of detectors is prohibited on Scheduled Monuments or within Areas of Archaeological Importance, without specific consent from the Secretary of State. In Scotland and Northern Ireland, Scheduled Monuments are protected from all metal detecting under the Ancient Monuments and Archaeological Areas Act 1979 in the former, and the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 in the latter. Similar restrictions in Manx law prohibit unlicensed metal detecting on ancient monuments, specially protected places and all Manx National Heritage Land. Jersey operates a consent regime for Crown property and common land.
- 3.1.10 In the UK detecting is prohibited on Ministry of Defence Land. Bye-laws exist to restrict detecting in National Parks and on some Local Authority owned land. The Forestry Commission Bye-laws (1982) prohibit the use of metal detectors on their land. However, in Thetford Forest a licensing scheme has been operated by the Norfolk Forestry Commission, but this is currently under review as a result of incidents of Nighthawking. For England and Wales the Countryside Rights of Way Act (2000) does not allow open access to designated areas for persons using or carrying a metal detector. In addition the National Trust across the UK and Jersey operate licensing schemes. The Crown Estates have recently introduced a licensing scheme for all areas of the foreshore that are in their ownership. There have long been restrictions covering many parts of the Thames foreshore, where permits and membership of the Thames Mudlarks are required. On Sites of Special Scientific Interest (SSSIs), where actions resulting from metal detecting (e.g. digging or vegetation disturbance) are listed as 'operations likely to damage the special interest' of an SSSI, written notice has to be given to English Nature and metal detecting can only proceed once written consent has been received.

3.1.11 The Countryside Stewardship Scheme (CSS) is operated by the Department for Environment, Food, and Rural Affairs (Defra). It is a scheme whereby farmers and land managers enter into 10-year land-management agreements to achieve specific environmental objectives. In Countryside Stewardship agreements, two conditions specifically relate to the use of metal detectors.

- On agreement land metal detecting is not permitted on sites of archaeological interest without the written consent of Defra and where SMs are concerned, English Heritage.
- The agreement holder is required to protect and maintain archaeological sites and other landscape features on the farm, including on land that is not under the land management agreement.

3.1.12 In 2005 for CSS land Defra agreed a joint 'best practice' note with metal detector organisations, EH and ALGAO for facilitating metal detecting on land under the Scheme and which explains the agreed procedure and requirements.

3.1.13 The Environmental Stewardship Scheme, introduced in 2005, is a two-tier system comprising entry and higher levels. Land under Entry Level Stewardship (ELS) agreements covers *c* 52% of the country, Higher Level Stewardship (HLS) agreements cover only 2.6% (M Baylis, Defra pers. comm.). The ELS states that:

*As you are required to protect and maintain archaeological sites and other environmental features (i.e. all your FER features) over the entire area under agreement, you must ensure that no damage is caused to these features wherever metal detecting takes place (authorised or otherwise).*

3.1.14 The agreements also state that metal detectorists must also obtain a licence for detecting on Scheduled Monuments and SSSIs. In addition a further restriction applies at the higher tier:

*Do not carry out or permit metal detecting on the archaeological sites on your holding identified in your Farm Environment Plan, unless agreed with your RDS adviser in writing. Detecting without such a licence is an offence (Natural England, Feb 2005b).*

3.1.15 The handbooks for both schemes have recently been updated. The new ELS 2<sup>nd</sup> edition handbook, para 1.5.5 (Natural England, Oct 2008) states that:

*With the exception of Scheduled Monuments (SMs), Sites of Special Scientific Interest (SSSIs) and known archaeological sites under grassland, metal detecting is allowed on land within an ELS agreement, provided that it is undertaken in accordance with the principles of best practice laid down in the most up-to-date Code of Practice for Responsible Metal Detecting in England and Wales and that you agree that all finds are reported to the Portable Antiquities Scheme. For details of this code, please see: [www.finds.org.uk/documents/CofP1.pdf](http://www.finds.org.uk/documents/CofP1.pdf).*

*By 'sites under grassland' we mean land that is covered by the definition of grassland given for the grassland options (see section 3K): 'land which is used to grow grasses or other herbaceous forage naturally or through cultivation and which has not been subject to cultivation for at least 5 years'. By 'known archaeological sites' we mean archaeological sites identified in your FER and any additional sites of which you are subsequently advised in writing by Natural England.*

*As part of your ELS agreement you are required to protect and retain archaeological sites and other environmental features (ie the features identified in your FER) over the entire area under agreement. You must ensure that no damage is caused to these features, and any additional features of which you are subsequently advised in writing by Natural England, wherever metal detecting takes place.*

*Details of large scale metal detecting events, including metal detecting rallies, on any ELS agreement land must be notified to Natural England at least 12 weeks in advance of the event. You should provide all available details including the date, location, a map showing the fields to be searched (marked with any areas excluded), and the expected number of participants. This will enable us to provide you with additional advice to ensure that the event does not conflict with the requirements and objectives of the ELS agreement (Natural England, 2008).*

3.1.16 The advice in the handbook only applies to agreements that are entered into or renewed from 1 Oct 2008 and will not apply to all schemes until October 2013.

3.1.17 In Scotland those in receipt of a Less Favoured Area subsidy, or are participating in a Rural Stewardship Scheme, Countryside Premium Scheme or Environmentally Sensitive Area Scheme, are not allowed to permit metal detecting on any ancient monument, scheduled or not. Anyone participating in the Scotland Rural Development Programme 2007 - 2013 has to adhere to the 'The Standard of Good Farming Practice' which states that:

*Do not allow the use of metal detectors on ancient monuments or remove any archaeological finds. Report any finds or new features to Historic Scotland, the local authority archaeologist or the local museum (<http://www.scotland.gov.uk/Topics/Rural/SRDp>)*

3.1.18 General requirements for farmers within agri-environment schemes in Northern Ireland state that farmers should retain and not damage any habitat, landscape or heritage feature on their land, although there is no specific mention of metal detecting on archaeological sites. There are, however, no restrictions associated with agri-environment schemes in the Isle of Man, Guernsey and Jersey. The relevant agri-environment scheme in Wales, Tir Gofal, does not mention metal detecting in its advice booklet to farmers, it does however, state that historical or archaeological features should be retained and safeguarded.

*Other applicable laws*

3.1.19 All countries have a Theft Act, which although does not specifically mention metal detecting can be used to prosecute those who remove items without consent. England, Wales, Northern Ireland and Guernsey all have a Civil Law of Trespass, under which detectorists could be prosecuted for a criminal offence where damage has been done.

3.1.20 In the UK the site of crashed military aircraft and shipwrecks are protected by the Protection of Military Remains Act 1986, which also applies to a 'British controlled ship' elsewhere. Guernsey has its own version of the legislation, Protection of Military Remains Act (Guernsey) 1987.

### *Export regulations*

- 3.1.21 Dealing in Cultural Objects (Offences) Act 2003 makes it illegal to knowingly sell, buy or deal in tainted cultural objects, which are defined as those of historical, archaeological or architectural interest illegally excavated or removed from anywhere in the world since 30th December 2003. This law applies to England, Wales and Northern Ireland, but not Scotland. Under the Treasure Trove regulations in Scotland it is necessary to obtain a licence/ written consent of Queen's and Lord's Remembrancer to take any archaeological material out of Scotland.
- 3.1.22 The Export Licensing Regulations<sup>2</sup> prevent the export of cultural objects at or over a specified value or over a defined age and type from being taken out of the UK without a licence and is managed by the MLA. Such items include archaeological objects more than 100 years old which are the products of:
- Excavations and finds on land or under water
  - Archaeological sites
  - Archaeological collections
- 3.1.23 The Regulations apply to the whole of the UK and the Isle of Man. The Manx Museum and National Trust Act (1959 to 1986) requires a license for the export or sale of archaeological objects. A similar restriction is imposed by the Import and Export Control (Jersey) Order 2006 and items such as antiques require an individual licence for export from Guernsey.

### *Sale of antiquities*

- 3.1.24 The Museums, Libraries and Archives Council publish advice, including 'Buying with Confidence' for those who buy and sell antiquities, to help ensure that the sales are legal (Appendix 2). Those who are unable to prove that they had taken reasonable steps to check the provenance of items (ie to act with 'due diligence') are at risk of prosecution for dealing in cultural objects or receiving stolen property. The PAS have also produced 'Advice for People Buying Archaeological Objects Found in the UK' (Appendix 11).
- 3.1.25 The introduction of on-line auction houses such as eBay has provided another mechanism by which unreported Treasure items and archaeological material removed without the owner's consent can be sold. The PAS has agreed a Memorandum of Understanding with eBay under the terms of which the PAS monitors items offered for sale on eBay and contacts sellers when the provenance of items appears unsafe (Section 8), the aim of this being to help ban illegal sale of Treasure. On this the PAS works closely with the Art and Antiquities Unit of the Metropolitan Police. eBay has developed guidance on the issue and the 'Antiquities Buying Guide' is published on the eBay website (Appendix 3).
- 3.1.26 In Germany recently, an agreement has been reached with eBay Germany to ensure that archaeological material is only offered for sale if its legal provenance can be proved. The basic principle agreed states that:

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<sup>2</sup> There are two licensing regimes in place: one under UK legislation (The Export of Objects of Cultural Interest (Control) Order 2003 made under the 2002 Act - the 2003 Order) and the other under EU legislation (Council Regulation (EEC) No 3911/92 on the export of cultural goods (as amended) - the EU Regulation). Export Control Act 2002

*It is forbidden to offer archaeological finds on eBay, unless the seller is in possession of documents which comply with the regulations of the governing bodies shown here, <link to administrative information>. The documents must be displayed in the offer and be easily legible.*

*The decision whether offers are in accordance with this basic principle lies entirely with eBay*

(European Heritage Heads Forum Copenhagen 2008)

3.1.27 Similar agreements exist in Switzerland and Austria. Copies of the German and Swiss agreements are given in Appendix 14.

## **3.2 Brief history of metal detecting**

3.2.1 Metal detectors are based on electromagnetic induction, a phenomenon first identified in the early 19th century. The principle was used by Professors Dove in Germany and Rowland in the USA to develop induction balances, which were further developed by Alexander Graham Bell and Daniel Hughes in the 1870s. The former used such a device to locate the bullet used to assassinate President Garfield in 1881.

3.2.2 The potential of induction balances to identify the presence of buried metal objects, including metal-bearing ores, was soon investigated, with a move away from balances to comparing the strength of the induced current. In 1924 Chilson developed the 'radio' detector, which was used mainly in treasure hunting of submerged hulks. The first portable metal detector was developed in the late 1920s by Gerhard Fischler and this proved successful in metal prospecting and detection of buried cables etc, as well as for treasure hunting. Refinement of design continued and by World War II the technology was good enough for effective mine detection (Roberts 1999).

3.2.3 After the war ended a significant number of cheap metal detectors were available from army surplus stores, which were bought by those interested in treasure hunting and provided the foundations of metal detecting as a hobby.

3.2.4 Since World War II advances in electronics and battery technology have made metal detectors much more portable. All types rely on the conversion of radio waves into sounds, which mirror changes in the electromagnetic field produced by the machine caused by metal in the soil. There are three classes of metal detectors available: phase demodulators, phase shift machines and induction balance devices, with the last the most popular (HowStuffWorks.com, 2008).

3.2.5 In the induction balance type, two coils are employed and the current in each is balanced to produce a steady signal. When the associated magnetic fields encounter metal in the ground an induced current is produced which alters the balance and the associated signal. Different metals produce particular phase changes and machines can be designed to ignore signals associated with unwanted metals, such as tin from drinks cans or scrap iron. There is always a need to balance this selectivity with possible associated losses in sensitivity or depth range, but technology continues to improve. It is also now possible to compensate automatically for the presence of minerals in the soil itself, usually requiring the machine to be kept in motion. Modern machines usually operate at very low frequencies, typically 5-15

Hertz (Green 2004).

- 3.2.6 Phase shift machines send a high voltage spike into the ground, which decays at a known rate. If there is metal in the ground the rate of decay is increased. These machines are less good at discriminating between metals, but do have good depth penetration. Phase demodulators compare the phase shifts in the signal with typical values for particular metals. It is possible to set them to consider only particular ranges.
- 3.2.7 The typical hobby metal detector operates to depths of 20-30 cm, usually within a ploughsoil which is easy to dig, although pasture and other land types are also detected. Some metal detectors can operate to depths of 0.70 m. Results depend on the type of metal, the size and shape of the target, the surrounding soil and the presence of other things in the ground e.g. power cables. When metal has been buried for a long time it creates a halo effect, changing the conductivity of the surrounding soil.
- 3.2.8 Hobby metal detecting, taking place with the landowner's consent except where prohibited by law or other regulations as discussed in Section 3.1, became increasingly popular in the 1960s and 1970s reflecting the development of portable and cheaper machines, although most of the archaeological establishment was initially very much opposed to it. The hobby's popularity was (and is still) reflected in the publication of two magazines devoted to the pastime, *Treasure Hunting* (first published in 1977) and *The Searcher* (first published in 1985). Formation of metal detecting clubs began in the 1960s and by 1978 *Treasure Hunting* magazine listed 62 clubs. In the 1960s the British Amateur Treasure Hunters Association operated and issued a *Code for Thoughtful Treasure Hunters*. Numbers of detectorists and clubs continued to rise, possibly reaching a peak of 400 clubs and 180,000 detectorists in the late 1970s (Dobinson & Denison 1995, 6). During the course of this survey 230 clubs were identified. Estimates of the number of currently active metal detectorists (whether members of clubs or not) vary considerably. The NCMD have suggested a figure of around 30,000, broadly in line with their estimate in 1995. The PAS from their experience suggests that the total is under 10,000. They base this figure on a survey undertaken by the FLOs on all detecting clubs and independent detectorists in the summer of 2008<sup>3</sup>.
- 3.2.9 The formation of representative bodies for metal detectorists began as a response to the opposition to the hobby in the late 1970s. The Detectorists Information Group (DIG) was founded in 1979, specifically as a campaigning group, and, since it preferred to continue in that role, it worked with the Central Council for Physical Recreation in the creation of the National Council for Metal Detecting (NCMD) in 1981. The NCMD issued its first 'Code of Conduct' in 1983. The NCMD is considered to be the principal body representing metal detectorists in the UK, except for Northern Ireland, where the Northern Ireland Council for Metal Detecting has been formed. Other representative bodies include the Federation of Independent Detectorists (FID), which has individual as well as club membership.

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<sup>3</sup> This is based on a figure of 6,387 members of detecting clubs and 1,320 independent detectorists with whom FLOs are in contact. Assuming perhaps the same number again of independent detectorists not known to FLOs, the total would be about 9,000 (PAS).

- 3.2.10 During the 1970s strongly polarised opinions developed over the issue of metal detecting, with the archaeological community becoming increasingly concerned over what they regarded as the theft of heritage and knowledge of the past for the sake of financial or personal gain, i.e. treasure hunting. Detectorists were resentful of attempts to interfere with their hobby and feared restrictions from blanket bans or licensing schemes. In 1979 a group of organisations led by the CBA launched the 'STOP' campaign to publicise the "inherent dangers of this 'hobby' " - i.e. treasure hunting (STOP leaflet). It was also in 1979 that Parliament passed the Ancient Monuments and Archaeological Areas Act, which included, in Section 42, an offence of using a metal detector on a protected place. DIG played a major role in the opposition campaign, leaking information to the press about the STOP campaign 24 hours before its launch. The DIG campaigners organised a rally in Parliament Square followed by a march to Downing Street to hand in a petition and also petitioned successfully against a clause in the County of Kent Bill, which would have banned metal detecting in the county. Representatives from DIG also attended meetings with the Council of Europe and the Duchy of Cornwall to debate the issue of metal detecting and archaeology. Although the STOP campaign failed in its attempts to outlaw the hobby of 'treasure hunting', the reverberations are still felt today, in particular the climate of mutual distrust that is still evident in some quarters. The extreme views held by both sides are still regularly aired via 'discussions' on various popular internet forums and periodically rehearsed in both archaeological and detecting magazines.
- 3.2.11 Shortly after the STOP campaign, in 1983-4 a particularly high-profile site was being looted. 'The Battle of Wanborough Temple' - as it became known - has been cited as a turning point in the relationships between archaeologists and amateur metal detector users, as it demonstrated the need for co-operation, and has been credited with contributing to the change in the 'ancient treasure trove law' (Thomas, 2006, 2 - quoting Gilchrist 2003). Thomas (ibid) describes both the 'Battle' and its context in her paper on Treasure Trove Law (ibid).
- 3.2.12 Metal detecting was debated at a European level in 1981 (leading to a Council of Europe Report on Metal detectors), in the 1990s (including being mentioned in the 1992 Council of Europe Valetta Convention), and in a number of academic papers produced on the issue, including dissertations by Hall (1992) and Rodwell (1993). Some archaeologists began to look for ways in which the two sides could be encouraged to work together, recognising that metal detectorists could contribute significantly to archaeological knowledge. Among these was Tony Gregory, County Archaeologist at Norfolk County Council, who also helped draw up - in conjunction with Norfolk Constabulary - advice for landowners on combating Nighthawking. The approaches used in Norfolk are quoted as an early example of best practice, along with the actions of the Milton Keynes Development Corporation, the fruits of which are clearly visible in the quantity and quality of material recorded in the Historic Environment Record (HER). Other areas also produced guidelines and codes of practice in the late 80s/early 90s, including Hertfordshire and Suffolk.

- 3.2.13 Despite the good work, suspicion and mistrust continued on both sides of the debate and the issue of Nighthawking became more of a worry, particularly following high profile incidents such as the theft of Roman bronzes from Icklingham, Suffolk, which surfaced in the USA. In 1995 EH commissioned a wide-ranging survey to look at many aspects of metal detecting. This included an assessment of the extent of Nighthawking in England and the amount of material recorded by museums which had been found using metal detectors (Dobinson and Denison, 1995). In 1996 the law in England, Wales and Northern Ireland was changed with the introduction of the Treasure Act, as discussed in Section 3.1. Although this extended the classes of object for which reporting was a legal requirement, it still only brings within its scope a small proportion of the total number of archaeological objects being found.
- 3.2.14 The then Department of National Heritage (DNH), now the Department of Culture, Media and Sport (DCMS), was concerned to find a way of encouraging reporting of non-treasure material, publishing *Portable Antiquities. A discussion document* (DNH 1996). This led to the funding by the DNH of pilot schemes in six areas from September 1997 to appoint a person specifically to act as a conduit between finders and the museums service (Finds Liaison Officers - FLOs). The pilot areas were Kent, Norfolk, the West Midlands, North Lincolnshire, the North West and Yorkshire. A survey database was launched in 1999 and a Heritage Lottery Fund (HLF) bid obtained funding for a further five FLOs in Dorset & Somerset, Hampshire, Northumberland, Northamptonshire, Suffolk and Wales. An Outreach Officer and Co-ordinator were based at the British Museum (BM). Further HLF funding was soon obtained to extend the Portable Antiquities Scheme (PAS) across the whole of England and Wales from April 2003 until March 2006. Although the PAS is based at the BM, it is currently funded through grants to the Museums and Libraries & Archives Council (MLA). After a period of uncertainty regarding its future funding the MLA have agreed funding till 2010/11, sufficient to maintain the scheme at its current levels.
- 3.2.15 There is now a network of 36 FLOs linked to museums across England and Wales, supported by expert Finds Advisers and a central co-ordinating team based at the British Museum. The FLO's main role is to provide a point of contact for finders. They record details of objects, help with identification and provide advice. Finds are returned after recording. Where these finds are Treasure the FLOs will pass information to the relevant coroner, if the finder so desires, although the legal obligation for this lies with the finder. It is important for the FLO to build up a good relationship with detectorists in their area and most are proactive in this respect, attending club nights, rallies and detecting days and carrying out outreach activities to publicise the scheme and archaeological knowledge generally.
- 3.2.16 The impact of the Treasure Act and PAS, has been enormous. Relationships between metal detectorists and archaeologists have greatly improved. The NCMD, FID, CBA, the PAS, National Heritage bodies and landowner organisations combined in 2006 to publish *A Code of Practice for Responsible Metal Detecting in England and Wales* (Appendix 4). The Code of Practice recommends that all finds are recorded with the PAS. Recording finds with the PAS ensures that the information is available to all, for both general interest and research, and that it is passed onto the local Historic Environment Record, both for educational and development control purposes. Those following the Code of Practice, which is voluntary,



tend to be known as 'Responsible Metal Detectorists' and it is this group that makes the most valuable contribution to historical and archaeological research, while others who do not follow this Code cause the loss of both archaeological remains and knowledge.

- 3.2.17 The PAS database has records for 340,155 objects (correct at July 2008). The number of finds recorded each year has risen steadily, from 47,099 during the first year of full national coverage, 2003-4, to 77,606 in 2007. During the pilot phases of the scheme in 1997 to 2003 more than 150,000 objects were recorded. Of the 77,606 finds recorded in 2007, 84.44% (where the method of discovery is known) were found by detectorists.
- 3.2.18 For reasons of confidentiality, to ensure that once a find is recovered publicity about its location does not attract Nighthawks, only a 4-figure grid reference is published online on the PAS online database ([www.finds.org.uk](http://www.finds.org.uk)). While full grid references are passed to the HERs and made available to researchers, it is only on condition that they do not publish the findspot to more than a 4 figure reference.
- 3.2.19 The benefits of the PAS do not stop at the compilation of its database. Over the years the pattern of finds recorded has led to the identification of many new archaeological sites. Team members, particularly FLOs, take part in a range of outreach activities, including writing articles for the main metal detecting magazines and attending finds identification days. These are often tied to events such as National Archaeology Week, and are also held regularly on a local level. The information in the database and other aspects of the PAS's work have been used by individual researchers for degrees and publications. A number of larger scale research projects have been established based on the PAS information; in conjunction with University College, London; the Leverhulme Trust; at Kings College, London, and the Vasle project at York University on the Viking period.
- 3.2.20 There have been criticisms of the scope and accessibility of the PAS database from some metal detectorists. Some believe that the PAS database and the information that is passed to the HERs is used to further restrict the land available for detecting, others believe (erroneously) that the PAS does not record post-medieval finds<sup>4</sup>. The UK Detector Finds Database (UKDFD) was therefore set up by detectorists as an alternative to the PAS with a remit that includes: [bringing] 'about an increase in the number of detectorists recording their finds, and the overall number of items that are recorded; [and making] 'available a facility and encourage the recording of post c.1650 finds, many of which are not eligible for inclusion on the Portable Antiquities Scheme (PAS) database' (extracts from UKDFD website - accessed 9.4.2009). On the UKDFD database detectorists can add data themselves to the database, which is reviewed by the management team. They are also able to build up personal galleries and record information about equipment used to help others. It is possible on both the PAS and UKDFD databases for finders to only record the location of finds to a minimum of parish level. However, unlike the PAS, UKDFD does not (as at 9.4.2009) pass information onto HERs and therefore the data, at whatever level of locational accuracy, is of limited value to archaeological research and management<sup>5</sup>

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<sup>4</sup> PAS records all objects made before about 1700 and are selective in recording more modern finds. PAS has c 5,000 post-1700 objects on the database.

<sup>5</sup> This situation may change as UKDFD have recently circulated a document 'UKDFD Records and the HER - A proposal

3.2.21 There are now many websites carrying information on metal detecting and many act as facilitators for communication between metal detectorists. A recent development is the increase in the number of Metal Detecting Rallies, and the publicity given to them. A general invitation is issued to detectorists who pay a fee to detect selected fields over a day or period of a few days. The size of these rallies varies; some are organised by a particular metal detecting club and others, usually larger events, as commercial propositions. The proceeds from many rallies are given to charity, (for example, the Water Newton Rally in August 2007 supported the Air Ambulance Service, a charity relevant to the local farmers). Rotary Clubs and other local charitable organisations are quite often involved in smaller rallies, seeing them as fund-raising opportunities. Advice on the prevention of damage to archaeological sites and the proper recording of finds during such events is offered by Natural England.

### 3.3 1995 CBA survey

3.3.1 There have been very few systematic surveys which have looked at Nighthawking in any detail. The most comprehensive was that undertaken by the CBA (Dobinson and Denison 1995), commissioned by EH, which only covered England. The survey comprised a wide-ranging review of all aspects of metal detecting in England, not just illegal activities. Relevant here are the sections looking at the level of damage to archaeological sites and excavations from Nighthawks and that looking at the numbers of prosecutions and convictions for Nighthawking. In 1995 the survey was also interested in trying to determine the number of archaeological finds which had been recorded as a result of metal detecting.

3.3.2 In 1995 the five principal sources of information consulted in the 1995 survey were EH's Field Monument Wardens (now Historic Environment Field Advisors (HEFAs)), archaeological units, metal detecting clubs, museums and local authority archaeological services. The current survey has also contacted these groups, allowing direct comparisons to be made.

3.3.3 Information in 1995 was sought from:

- 64 museums, from national to county level
- all 46 local authority Sites and Monuments Records (SMRs)
- 50 professional field units
- 24 EH Field Monuments Wardens, National Park archaeologists and some National Trust archaeologists
- 231 metal detecting clubs, using questionnaires designed for club and for individual detectorists (of these 69 replied)
- identified individuals who were considered to have relevant experience
- published sources
- the NCMD, who felt unable to assist and who produced a statement expressing concerns about the survey

3.3.4 The survey revealed that 188 Scheduled Monuments had been subject to Nighthawking since 1988. It was argued that actual damage was probably much greater given the nature of the crime and the practical difficulties in recognising evidence of Nighthawking on a site.

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for discussion'

- 3.3.5 The survey was only concerned with Scheduled sites, which made up only *c* 2-4% of the archaeological resource and therefore did not collect data on the incidence of Nighthawking on non-scheduled sites. On two Scheduled sites (Corbridge and Gestingthorpe), which were carefully monitored at short regular intervals, 124 raids were recorded during the survey period, and at another (Caistor-by-Norwich) raids were recorded as occurring once a week (ibid 55).
- 3.3.6 Dobinson and Denison (ibid) also collated data from 50 archaeological units on Nighthawking on archaeological sites under excavation. A total of 37 units confirmed that they had suffered Nighthawking on sites that were being excavated, although overall they concluded that the number of raids on excavations was generally small. This was further illustrated by examining statistics from the Museum of London which showed that only 15 cases of Nighthawking were recorded from 1,056 projects, less than 2% (Dobinson and Denison 1995, 56). The majority of these sites would have been in urban areas.

*Burtonwood Survey 1996*

- 3.3.7 In 1996 Gary Burtonwood, a postgraduate student, was asked by EH to carry out some follow-up work to the CBA survey of 1995, in order to provide an assessment of the extent of damage to SMs from Nighthawking. Burtonwood selected SMs from Cambridgeshire, Norfolk, Suffolk and West Sussex, concentrating on sites dating to the Iron Age and/or the Romano-British periods.
- 3.3.8 After identifying the relevant SMs Burtonwood checked the EH site files for those recorded as having experienced Nighthawking. Lists were also compiled of those SMs identified as Nighthawked in the CBA survey, and local authority archaeologists were asked for a list of incidents they had on record. The EH records suggested that 28 out of a possible 183 SMs had experienced Nighthawking, but the total from all three sources was 39, 21.3% of the total.
- 3.3.9 This survey showed that generally Romano-British sites were targeted by Nighthawks more than Iron Age sites. Romano-British settlements and villas were most commonly targeted, followed by sites known from aerial photographs. Clusters of activity were identified in the East Anglian counties, but the reasons for these were not explored.
- 3.3.10 The incidence of Nighthawking in West Sussex was described as 'surprisingly' low. The local authority had no additional information to add to the EH record and the CBA survey had not named the sites identified. One possible explanation offered for the lower level of activity was a difference in recording approach by the West Sussex FMW.
- 3.3.11 The report concluded that the level of Nighthawking was high, from 25 to 50% of all sites considered based on reported incidents. It was suggested that the level was in fact higher as not all incidents would have been reported. A change to the Ancient Monuments Record Form (A107) to include a specific section on Nighthawking was suggested.

### 3.4 Nighthawking and law enforcement

- 3.4.1 As described in Section 3.1, there are a number of pieces of legislation under which prosecutions might be brought for heritage crime. However, such offences are not a distinct class of offence and if recorded by the police, records do not state whether the incident was related to cultural heritage. Heritage crime is not a recordable offence, therefore statistics for prosecutions for either Nighthawking or the illegal sale of antiquities are difficult to obtain. There is also a perception held by heritage professionals, some landowners, and some connected with law enforcement, that heritage crime is not taken seriously enough. Without data it is difficult to assess whether this view is correct (Sections 6.2 and 9.8 discuss this further).
- 3.4.2 Within a police force the responsibility for heritage crime will typically be given to one officer. The PAS has been working closely with the lead on Rural Affairs at the Association of Chief Police Officers to develop police policy on heritage crime and advice for police officers. A draft of this guidance produced by the PAS is in Appendix 5.
- 3.4.3 Some police forces are more proactive than others in addressing this type of crime. Kent police are developing a number of initiatives and can be highlighted as an example of 'effective practice':
- Partnership training involving: Police Officers, Police Community Support Officers, Kent County Council Wardens, Crown Prosecution Service in heritage related crime. First in UK. Supported by English Heritage.
  - Nominated Single Point of Contact within Kent Police
  - Nominated Point of Contact within English Heritage
  - Regular engagement between Police and PAS officer
  - Heritage expert working with Kent Police as a Police Support Volunteer - Dr Andrew Richardson (formerly PAS, now Canterbury Archaeological Trust). First in UK
  - Dedicated Crown Prosecutor trained in Heritage and Treasure Act Legislation. First in UK
  - Engagement with Archaeological groups and societies
  - Engagement with metal detector clubs
  - Identification of 'high-risk' heritage and archaeological sites allowing an appropriate crime prevention strategy to be developed
- 3.4.4 The District Commander for Canterbury, Mark Harrison, has worked as an advisor to this survey and has provided us with the details of these initiatives. The Canterbury District contains two World Heritage Sites. They have also developed very strong links with the NFU and their rural Neighbourhood Watch (called Country Eye) and use a web-based communication tool called Kent Community Messaging, which allows emails, texts and images to be exchanged. The Art and Antiquities Unit (of the Metropolitan Police) is London-centred and more concerned with fine art. However, they are interested in heritage crime generally and have tried to run sessions for Due Diligence officers from other forces, but these have failed because local police forces could not afford to pay for officers to attend.

## 4 METHODOLOGY

### 4.1 Background

#### *Project Board and Steering Group*

- 4.1.1 Overseeing the work, having approved the Project Design produced by OA, was the Project Board. Represented on this were English Heritage, the Council for British Archaeology, the Association of Local Government Archaeological Officers, the Society of Museum Archaeologists, the National Museum Scotland, the National Council for Metal Detecting (sitting as observers) and representatives of the Portable Antiquities Scheme. It was supplemented by representatives from Cadw, Historic Scotland, National Museums Wales, the Northern Ireland Environment and Heritage Service (now NI Env Agency), Guernsey Museum Service, Jersey Heritage Trust and Manx National Heritage.
- 4.1.2 The full Project Board met on three occasions, once at the survey's inception in December 2006 to discuss the detailed methodology of the survey and again in September and December 2008 to discuss the final report. During the course of the survey individual Project Board members were approached for advice. Regular progress reports were issued to keep all members informed of progress. The Steering Group meeting held on 4th October 2007 was also open to members of the Project Board.
- 4.1.3 Given the large size of this body, a smaller Steering Group was established to provide support to the OA survey team. This body met at around three-monthly intervals and comprised representatives from EH, CBA, PAS, Cadw and Historic Scotland. The NCMD were also included as observers (see below). The role of the Steering Group was to guide the progress of the survey and discuss suitable ways in which it could be taken further.

#### *Involvement of metal detecting organisations*

- 4.1.4 The original project proposal was considered by the CBA Portable Antiquities Working Group. Once the project was established the NCMD were invited to join the Project Board as members but declined as they had not been involved in the project development. However, as observers, their opinions formed a valuable contribution to the development of the online questionnaire and in the wording of various articles and press releases. The nature of relations between the metal detecting and archaeological sectors, as discussed above, led to some conflict between the NCMD membership and the perceived aims of the survey. Many metal detectorists feared a similar outcome to that following the CBA survey - ie the introduction of new legislation. The NCMD were not initially invited to be members of the Steering Group, details of which had not been circulated. This led to a perception within their membership that they were not being treated as full partners and a subsequent withdrawal of their full co-operation and adoption of the status of observer to the project. Following an OA presentation to their Council Meeting in November 2007 and following an invitation to join the Steering Group, the NCMD released the following statement:

*That the NCMD maintains its current status as an observer and offers support and advice to Oxford Archaeology where it is felt appropriate to do so. This resolution is to be reviewed at the next OGM on the 17th February 2008.*

*Participation in the data gathering exercise currently being undertaken by Oxford Archaeology with the use of online questionnaires, Finds Liaison Officer presentations at clubs and follow up interviews, is a voluntary exercise. However the NCMD seeks to remind its members that any information given must be factual and not based on anecdotal and hearsay information. As a matter of courtesy any information given to this survey concerning actual locations which include private/institutional/public property should have the permission of the relevant landowner/tenant/occupier to do so.*

- 4.1.5 Following this statement representatives attended Steering Group meetings as observers. The NCMD also commented on the final survey report and outputs.
- 4.1.6 As has already been discussed, the survey met with suspicion and resistance from metal detectorists. Following the NCMD Council meeting, a briefing was issued by the Council which encouraged members to support the survey (see above). The number of reports of Nighthawking made by metal detectorists before that event was 13, compared to seven after November 2007. Of these, three were contacted directly by OA, following recommendations from archaeological sources and two had been advised by their FLO to contact the survey. It is recognised however, that most data passed to us by the FLOs did originate from metal detectorists.
- 4.1.7 This trend suggests that most metal detectorists chose not to respond to the survey even after they were made aware of it by the NCMD. It may be that there were others who would have liked to provide information but were prevented from doing so by the landowners concerned. The low number of reports from metal detectorists of evidence of Nighthawks is possibly surprising given the hostility professed by the former to the latter. The statement from this metal detectorist from the Cotswolds is typical; *"I see evidence of Nighthawks all the time when I go out. I find their holes scattered around and I fill them in, otherwise the farmer will think it is me doing it"* (Wilts and Glos. Standard, 27/1/08). The newspaper report goes on to say that *'he believes the actions of the nighthawks, who do not bother to leave fields as they were found, are responsible for metal detectorists being portrayed in a bad light'*.
- 4.1.8 A number of metal detectorists spoken to by the survey denied knowing any Nighthawks, then - off the record - proceeded to discuss those that they knew or suspected were Nighthawks. A concern raised by some metal detectorists was that the survey would actually serve to encourage Nighthawking; if not enough information was collated to make the law enforcement bodies take more action, it would give encouragement to Nighthawks to carry on their activities with minimal fear of arrest.
- 4.1.9 Further attempts were made to engage the metal detecting community more positively in order to reassure them about the survey and encourage their participation. To this end a letter was sent to UKDN (United Kingdom Detector Net), FID (Federation of Independent

Detectorists) and the UKDFD (UK Detector Finds Database). The response to these requests, while supportive of the survey, was largely negative in results. In addition 230 metal detecting clubs were sent a poster and a specially written open letter explaining the aims of the survey (Appendix 9) and see Section 4.8.

#### *Police advice*

- 4.1.10 At the initial meeting of the Project Board it was agreed that it would be useful to establish communications with the police, to seek their advice on:
- the type of data which would be most useful for them,
  - to ask their advice on how the survey might collect this data,
  - whether they could provide useful information, and
  - to check the legal position over issues such as confidentiality of information.
- 4.1.11 Consequently a meeting was arranged with officers of the Kent Police, who are involved in initiatives to develop community involvement in crime prevention and the Rural, Wildlife and Environmental Crime Unit which deals with heritage crime. The meeting was also attended by representatives of the PAS. In addition to providing a different perspective on the survey and its objectives, Kent Police supplied advice both on the wording of the questionnaire to cover OA's legal obligations and to fit in with National Intelligence Model, and on where crime statistics might be obtained. Kent Police also commented on, and contributed to, the final report and provided summaries of the initiatives being developed in Kent.
- 4.1.12 The Project Board expressed concerns over the security of those involved with the survey. Following discussions with the Project Board and Kent Police, a separate, anonymous email address was created.
- 4.1.13 The purpose of this survey was not to investigate individuals or organisations suspected of illegal activity. However, where names were given and where these cropped up repeatedly the information was passed to the police to ensure that OA was complying with the relevant legislation.
- 4.1.14 Attempts to obtain data on heritage crime from police records were not successful. There is currently no mechanism or requirement to record whether a crime has any heritage link, so a prosecution under the Theft Act - for example - would be indistinguishable from other instances of theft.
- 4.1.15 A senior member of the PAS is a Special Constable in the Metropolitan Police's Art and Antiquities Unit. Representatives of the Metropolitan Police were also supportive of the survey, supplying OA with contact details for officers with some interest in heritage crime in other forces. Unfortunately plans for a cross-force seminar for Due Diligence officers, at which OA had been invited to speak, did not come to fruition.
- 4.1.16 Police awareness of, and concern about, heritage crime appears to depend on individual officers who take an interest. One such was one of the Rural Beat and Rural Wildlife Crime Officers in the South Cotswold area, who approached OA after hearing about the survey at a metal detecting rally and who subsequently ensured that publicity on the survey was loaded onto their web site and made available at police stations throughout the South Cotswold

Region.

- 4.1.17 During the course of this survey the PAS continued to develop a close working relationship with ACPO to devise ways to raise police awareness of the issue including the production of draft guidance on heritage crime. Copies of some of these draft, working documents from these initiatives are included as Appendix 5. The PAS also encouraged ACPO to carry out a survey of local forces and other organisations such as the National Farmers Union (NFU) to explore their understanding of heritage crime and legislation (this has not yet taken place).

#### *Portable Antiquities Scheme*

- 4.1.18 The PAS has been discussed in detail in Section 3.2. This survey owes a great debt to the PAS and the FLOs in particular for supplying information and encouraging others to respond to the survey. Their close relationships with detectorists and farmers have been invaluable. The PAS staff based at the British Museum have also been very supportive, sharing their experience and providing opportunities for OA to contact the FLOs directly.

## **4.2 Data collection methodology**

- 4.2.1 There were two main strands to the data collection methodology. The first centred around an online questionnaire, and an extensive publicity campaign was carried out to encourage people to complete this. In addition, particular groups and individuals were targeted where it was expected that they would have information to contribute. This was done both to encourage participation and to collect specific types of data. The methodology was iterative which led to leads being followed that were not addressed in OA's initial project design. These initiatives are discussed in Section 5.

## **4.3 Questionnaire**

- 4.3.1 The key part of the survey was the collection of data relating to specific incidents of Nighthawking through the development of an on-line questionnaire in consultation with the Project Board and representatives of the Kent Police. It was accessible through the OA website. Respondents were asked to identify whether they were submitting information about Nighthawking, illegal sale of antiquities or prosecutions for either type of offence, which then took them automatically to the relevant set of questions. For reporting of Nighthawking, different sets of questions were prepared for members of the public, members of the archaeological profession and landowners/farmers, to which respondents were directed by an introductory question.
- 4.3.2 The legislation on both metal detecting and Treasure finds varies considerably between the different parts of the UK and Crown Dependencies. A suite of appropriate questionnaires was prepared, reflecting this differing legislation and guidance. The appropriate questionnaire could be selected through an interactive map, showing the various countries and Crown Dependencies in different colours. In addition to the questionnaire, the website also provided a summary of the legislation for each of the regions and links to other relevant sites where more detail could be accessed.

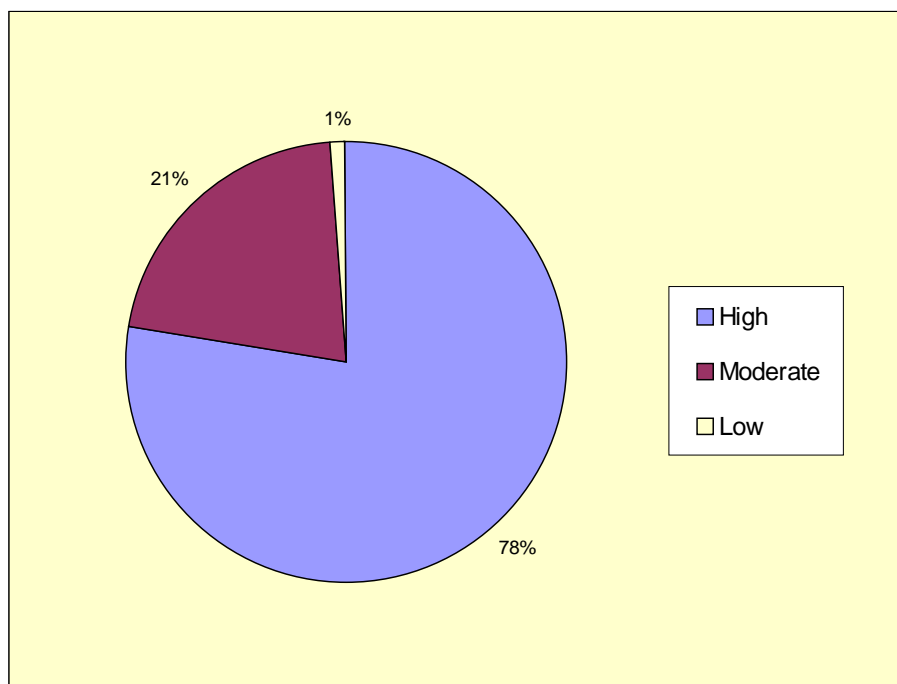


4.3.3 Although there was extensive consultation before the questionnaire was launched, it was subsequently amended to include the option to report an absence of Nighthawking and to add the question 'Where did you hear about the survey?'. A copy of one version of the questionnaire, that for England and Wales, is included as Appendix 6.

#### 4.4 Verification of data received

4.4.1 This survey is concerned with illegal activity and therefore some of the information, by the nature of the subject, is incomplete or impossible to verify from independent sources. During the design phase concern was expressed over the risk of malicious or fictitious reports, but in the event only a tiny number of frivolous results, which were easily identified, emerged and almost all came at the time of the launch, when people may have been experimenting with the site. As described below the reliability of each report was assessed, but other approaches were also adopted to try to also validate individual sites or patterns of activity (Section 5).

4.4.2 Where multiple reports were received about the same incident, there are grounds for believing the information to be reliable. A total of 22 sites were reported by more than one person.



**Figure 1: Reliability of reports of Nighthawking**

4.4.3 The on-line questionnaire asked for a name and invited respondents to supply contact details if they were willing to talk to a member of the survey team. Whenever these were provided attempts were made to contact them either by letter, email or telephone to validate results and obtain further details. Only two out of the 48 sources previously unknown to OA that provided these details were uncontactable. The majority of responses came from members of the archaeological profession previously known to OA and therefore trusted

sources. Only seven of the respondents to the questionnaire said they did not wish to be contacted further, and these included named members of the archaeological profession.

- 4.4.4 In order to address concerns about the reliability of reporting, through use of hearsay evidence or perhaps through malicious reporting, each site was assigned an assessment of its reliability. This assessment was based on the type of evidence supplied, type of respondent, number of reports for the same site etc. The evidence for 187 sites was regarded as of high reliability and 51 of moderate reliability. Both of these groups were used in the data analysis. The latter group principally consisted of reports made by respected sources, such as FLOs, but with limited amounts of evidence to support the report. For the three sites given a 'low' score, it was the limited supporting evidence provided by sources which was key, although there were no grounds for disregarding the reports altogether. In the event, very few anonymous reports were received. Where names of offenders were mentioned they were in relation to the problem of illegal activity generally, not specific incidents. The spread of reliability scores is given in Figure 1.
- 4.4.5 The approaches taken to validate the inclusivity of the developing data set were carried out within the variation work and described in Section 5.
- 4.4.6 Although the number of reports of illegal sales of antiquities is small, their level of reliability has been assessed. For prosecutions, the reports are often linked to recorded incidents of Nighthawking so no separate assessment of reliability has been made.
- 4.4.7 The reports for illegal sales are far less reliable than those for Nighthawking. The level of detail recorded in responses was very patchy. The only totally reliable reports were one where the precise information about place of sale, price etc. were quoted and another where the incident had involved the Coroner. For seven incidents the information contained less detail, some referring to sightings on eBay and at local sales. Two reports were extremely vague and of little use.
- 4.4.8 A number of sources, including members of the archaeological profession, a landowner and metal detectorists, were able to supply information on Nighthawking at several sites. These individuals demonstrated a high degree of interest in the survey aims and were prepared to take the time to collect and collate information together ready to pass on. The information from these sources related to Essex, Norfolk, Yorkshire, and the Thames Valley in particular. In the first three areas there were many reports received from other sources as well, and these multiple reports are in line with general trends. The figures for Oxfordshire are strongly influenced by the exceptional monitoring efforts of one particularly keen individual and may not be representative of the general pattern of distribution.
- 4.4.9 In the CBA survey in 1995, by far the largest number of recorded incidents of Nighthawking were in Yorkshire. The CBA offices are based in York, but there is no evidence to suggest that this had an influence on the results. In fact the results for Yorkshire still show that this Region is still relatively badly affected by Nighthawks.

4.4.10 The CBA survey pointed to variations in data as a result of discontinuities in records associated with changes in personnel among Field Monument Wardens. This problem was also noted by OA during this survey, for FLOs as well as HEFAs. It was also clear that the most effective way to enlist support for, or participation in, the survey among heritage related professional bodies was initially through email, followed up by telephone calls.

#### 4.5 Database

4.5.1 The information collected came through the online questionnaire and from targeting individuals. All the relevant data from both sources was collated in a master database, which was interrogated to provide statistics and to answer specific queries.

4.5.2 Separate tables were designed for the different categories:

- Nighthawking
- illegal sales of antiquities
- arrests and prosecutions
- reports of the absence of Nighthawking.

#### 4.6 Launch and initial publicity

4.6.1 Given the wide target audience, it was thought that sending press releases and prepared statements to selected national newspapers and journals, newsletters and forums associated with relevant interest groups, intended for release to coincide with the launch of the online questionnaire would be a useful approach. In the event, there was a disappointing lack of take-up of material, although Radio Jersey did broadcast an interview with OA. The anti-metal detecting slant of one article in a national newspaper (Sunday Telegraph 7/7/07) generated a hostile response from the metal detecting community to the survey.

4.6.2 A postcard was produced giving information about the survey and contact details. Packs of postcards were sent out with press releases and information packs to a wide variety of organisations for distribution (Appendix 9 for post card and Appendix 8 for organisations contacted). OA were given the opportunity to address the quarterly meeting of FLOs on the day after the launch, when packs of postcards were given to all those present, with mailings to those not at the meeting. Similarly OA introduced the survey and handed out postcards at the Institute of Field Archaeologists (IFA) annual conference in April 2007 and The Society of Museum Archaeologists annual conference in Glasgow.

#### 4.7 Further publicity

4.7.1 During the course of the survey further press releases and articles were produced - both general and targeted at particular interest groups. These included articles for *The Archaeologist* No. 65, *The Searcher* No. 267, *Treasure Hunting* (Dec 07), *British Archaeology* No. 95, *RESCUE News* No. 103 and *City and County*, published by Northumberland and Newcastle Society; in addition details were also publicised on a variety of websites (Appendix 7).

- 4.7.2 While a number of attempts were made to publicise the survey through the Farming Press, these were not taken up. However, both the NFU and CLA both publicised the survey on their websites and through their magazines. The NFU also, after discussion with the PAS and ACPO, started up a publicity campaign and broadcast a request for information to farmers who had suffered from heritage crime. Those who responded to this call for information were asked if they would also contact OA. Contact was also made with farmers through a brief questionnaire sent out as part of the COSMIC survey in the East Midlands (questionnaire included as Appendix 10 and see Section 5.3) and an open letter and poster for farmers was produced and distributed where appropriate. Various Farmwatch and Crimewatch organisations were also approached as were County Farm Estates (Section 5.6).
- 4.7.3 In an attempt to allay some of the fears expressed by the metal detecting community after initial poor publicity, an open letter was written, targeted at metal detectorists, and sent to 230 metal detecting clubs. As FLOs were forming a major channel for information about the survey a pack of information was produced for them, including a PowerPoint presentation and simplified survey report forms, suitable for them to use during visits to clubs or events. Articles were also written for *The Searcher* and *Treasure Hunting* (November and December 2007).
- 4.7.4 Material about the survey continued to appear sporadically on websites and in journals over the course of the data collection phase, helping to maintain awareness of the survey. However, further major press releases were avoided to prevent the mis-reporting of the survey. A sample of publicity and press releases can be found in Appendix 9. Publicity in terms of articles published and talks given can be found in Appendix 7.
- 4.7.5 All the publicity for the survey has raised the profile of the problem of Nighthawking across a wide constituency. Even if not all the targeting and publicity has produced reportable evidence for the survey, the broadcast information has helped publicise and raise awareness of the Nighthawking problem among a much wider audience than hitherto possible.

#### **4.8 Targeting of individuals/organisations**

- 4.8.1 All the Historic Environment Field Advisors (HEFAs) and the Ancient Monuments Inspectors from English Heritage were informed of the survey. Initial approaches were made by sending copies of the Press Release, publicity postcard and an especially tailored letter to the regional offices. This produced a low level of response and further approaches were made directly to named individuals, using lists of individuals supplied by EH. The HEFAs (previously the Field Monument Wardens) were seen as key contacts for the survey as they had provided large amounts of data for the 1995 survey. The HEFAs were asked to respond citing negative evidence, as well as if they had instances of Nighthawking to report. The Natural England Historic Environment Advisors, English Heritage's survey and field teams and the English Heritage/Local Authority Historic Environment Countryside Advisors were also approached.

- 4.8.2 Similar mailings were sent to Historic Scotland, Cadw and the Heritage Service of the Northern Ireland Department of the Environment (now part of the Northern Ireland Environment Agency), initially though the relevant members of the Project Board. In October 2007 OA was invited to address a meeting of the Cadw Field Monuments Wardens to publicise the survey. Project Board members from Guernsey, Jersey and the Isle of Man were the representatives of the national authorities for their particular area and disseminated information.
- 4.8.3 Project Board members from the Crown Dependencies were also asked for contact information for local authority curatorial services within their areas. In the UK local authority archaeologists are members of ALGAO and the publicity about the survey was circulated to them through the ALGAO mailing system. ALGAO includes within its remit the National Park archaeologists. Subsequently, a mailing was sent to all the named Local Authority and National Park Archaeologists directly.
- 4.8.4 A list of all National Trust Archaeologists was obtained through the Solent Thames regional office, which had advised direct contact. Copies of the Press Release, publicity postcard and an especially tailored letter were sent to all those on the list and a subsequent reminder about the survey was also sent in 2008.
- 4.8.5 FLOs were seen as an important source of information, given their very close contact with metal detectorists, as described in Section 3.2. OA attended their quarterly meeting in June 2007 and an update on the survey was provided for their next meeting in October. They were also supplied with their own information pack and publicity material as discussed above. All those FLOs who had not already responded to the survey were contacted personally before Christmas 2007.
- 4.8.6 Another important source of information for the survey was archaeological contractors. These were contacted for the 1995 survey and obtaining comparable, up-to-date data on the scale of Nighthawking on archaeological excavations was one of the survey objectives (Obj.4b). A list of archaeological contractors was drawn up from the Institute of Field Archaeologists (IFA) list of Registered Archaeological Organisations. Initially all those with over 10 employees were contacted. For Northern Ireland additional information on companies was obtained via the internet. All were sent copies of the press release, explanatory letter and publicity postcard. The archaeological profession was further targeted through the IFA, and all Registered Archaeological Organisations (RAOs) were contacted by email and through a letter circulated by the IFA in spring 2008, requesting information. OA also gave a short presentation in advance of the launch at the IFA Conference in April 2007. The survey was only able to look at excavations carried out by the commercial units although information about the survey was also sent to a number of independent professionals operating in the cultural heritage field who were known to OA.
- 4.8.7 The CBA website retains a list of regional and local archaeological and historical societies. Copies of the press release, explanatory letter and publicity postcard were sent to the 67 societies for which an email address could be obtained. The CBA list does not include

Northern Ireland, but a list of relevant societies was obtained from the internet and a package of publicity material sent to 26 of these. Once identified by the relevant members of the Project Board information was also sent to local societies in the Crown Dependencies.

- 4.8.8 Of the 40 universities that run archaeological courses, 29 of the largest were sent the press release, explanatory letter and publicity postcard.
- 4.8.9 An estimate of the amount of work carried out by archaeological contractors was made using the most recent data recorded by the Archaeological Investigations Project at Bournemouth University. This information was collected so that a comparison could be made between the numbers of archaeological excavations undertaken and the number of sites reported to have been Nighthawked.
- 4.8.10 The Society of Museum Archaeologists publishes a newsletter for members; information about the survey was included in this, and also posted on their website. Postcards and flyers were distributed by OA to the Society's Annual Conference in Glasgow in autumn 2007. An article was also produced for the *Museums Journal*.
- 4.8.11 Initial attempts to publicise the survey to metal detectorists were made through their various organisations, particularly the NCMD (see Section 4.1). Information was also sent to the metal detecting magazines and forums. There was a high level of suspicion of the survey among metal detectorists and to try to overcome this OA (in conjunction with the NCMD) produced an open letter and poster addressed specifically for them. Copies of these were circulated to 230 metal detecting clubs. The press release, open letter and poster were also published in both *The Treasure Hunting* and *The Searcher*, the two most popular hobby magazines. At the meeting of the NCMD Management Team on 17th November OA handed out a great number of post cards, posters and open letters for circulation to members at the OGM the next day. OA also visited the Water Newton Rally in August 2007 and the Oxford Blues MDC in November 2007, on both occasions by kind invitation.
- 4.8.12 Landowners and farmers were more difficult to target. As discussed in Section 4.7.2 articles were sent to the farming press, with no success, although the publicity given to the survey by the NFU and CLA was very useful. The Historic Environment Countryside Advisors (HECAs), employed by some local authorities, were contacted for information and to publicise the survey. A package of materials was sent to the co-ordinator for each of the 56 local authorities that still own a number of County Farms (County-owned smallholdings established in the first half of the 20th century). Other large landowners were approached including the Crown Estates, Church of England, Duchy of Cornwall and MoD. The last includes bases used by US forces within its remit. Farmwatch and Countryside Watch schemes were also contacted and those who promoted the study reached a wide audience (Section 5).
- 4.8.13 Throughout the survey care was taken to include the Crown Dependencies, as well as all parts of the UK, whenever possible. The Project Board members from these countries were of great assistance in providing contact deals for relevant organisations and individuals. It was possible to target the press, local authority archaeologists and National bodies, local societies and local individuals in all areas. There are no archaeological contractors based in

the Crown Dependencies and no metal detecting clubs in Guernsey. None of the Crown Dependencies has a university, but the Centre for Manx Studies was provided with information to circulate.

4.8.14 Other individuals were contacted as a result of information received during the course of the survey. All organisations contacted are listed in Appendix 8.

#### 4.9 Documentary sources

4.9.1 There were three strands to the documentary research. In order to compare levels of reported Nighthawking pre-1995 and post-1995, relevant and contemporary publications, magazines and periodicals were reviewed so that the totals for the two periods could be compared. A comparison of the results of this exercise can be found in Section 7.9.

4.9.2 The titles looked at were: *Current Archaeology*, *Popular Archaeology*, *Archaeology Today*, *British Archaeology*, *Yesterday's World*, *Past*, and *RESCUE News*. Any articles identifying a site which had experienced Nighthawking was copied, together with articles relevant to the issue generally.

4.9.3 In addition a selection of periodicals produced by local archaeological and historical societies was consulted and similar articles collected. These were selected to represent a geographical spread across England: Berkshire, Bristol and Glos., Bucks, Devon, East Anglia, East Midlands, Essex, Hertfordshire, Isle of Wight, Kent, Lancashire, Lincolnshire, London, Middlesex, Loughborough, Northumberland, Suffolk, Surrey, Sussex, Wiltshire, Worcestershire and Yorkshire. The main sources of information on Nighthawking were publications from Kent and Surrey.

4.9.4 The second strand of research was the identification of academic papers, books and studies on the topic of metal detecting and archaeology, to provide context and a background to this work. This included a search of British and Irish Archaeological Bibliography (BIAB online) which produced only very limited results. The most useful of the documents located are listed in the Bibliography.

4.9.5 A member of the OA team visited the CBA offices in York to inspect their archives relating to the 1995 survey and the collection of press cuttings relating to Nighthawking. The aim of the visit was to collect any additional data on illicit activity and prosecutions post-1995 and to gather any relevant background material. The visit was intended to ensure that the methodologies employed in the current survey were sufficiently compatible with those used in 1995 so that meaningful comparisons could be made. Information on new sites and prosecutions since 1995 held by the CBA was limited, but information about levels of penalties imposed in the past was collected for comparison with more recent figures. The background information, particularly in relation to the history of the relationship between the metal detecting and archaeological communities, was very useful.

## **4.10 Monitoring**

- 4.10.1 During the course of the survey a watch was maintained on news reports and articles in magazines, in particular *Treasure Hunting* and *The Searcher*, the two principal publications for metal detectorists. A number of 'Google Alerts' were set up, which provided daily lists of internet items featuring selected key words, such as 'Nighthawk' and 'Treasure'.
- 4.10.2 In addition a watch was maintained on a number of online discussion forums where metal detecting and archaeology feature as topics for comment and discussion. The main sites were those supported by UKDN, BAJR, Britarch and UKDFD.

## **4.11 Criminal justice and heritage crime**

- 4.11.1 The online questionnaire contained sets of questions relating to both illegal sale of antiquities and arrests or prosecutions for either Nighthawking or illegal sales. Six responses were received in relation to illegal sales and three in relation to the criminal justice system.
- 4.11.2 It had been hoped that records of arrests and prosecutions for heritage crime would be available through police and court records. There is at present no mechanism within these records to identify heritage related crimes and this avenue of research was not developed beyond collecting information from the sources already discussed in this section (other initiatives involving the police, mainly led by the PAS, are described in Section 3).
- 4.11.3 Although names were suggested for contacts in the antiquities trade, no contact could be established. As has already been discussed in Section 2, the PAS already operates a monitoring programme for eBay and a report on this was kindly produced by the PAS for inclusion within this report (Section 8). Data on export licences was supplied by the MLA, and analysed for general trends and patterns. Apart from this, data gathering was restricted to collation of information received through the broad range of sources discussed.



## 5 AMENDMENTS TO THE METHODOLOGY AND COMPARATIVE DATA FOR VALIDATION

### 5.1 Background

- 5.1.1 Although the aims and objectives of the survey remained the same, various changes to the methodology were introduced during the course of the work. These were made with approval from the Project Board and on an iterative basis, with further refinements as the survey progressed.
- 5.1.2 In late 2007 the level and type of data assembled to date was reviewed by the Steering Group. In addition to strategies for sending reminders to those already contacted, the group developed a number of new approaches, intended both to help validate existing data and to target new sources. The main purpose of these exercises was to test whether the methodology adopted for the survey had been effective in accessing information on illegal activities or whether the survey had been missing large amounts of data.
- 5.1.3 The intention was always to collect data from as many different sources as possible, and at the end of this process target a number of detailed sources not already examined, to test the validity of the results from the wider trawl. This would allow comparisons between data received from the wider data collection and that from the targeted data collection to see how representative the former is against the later. These initiatives are discussed below.
- 5.1.4 During the early stages of this survey the scale of difficulty in accessing data on prosecutions and convictions was soon apparent. Information on the sale of illicit antiquities also proved difficult to obtain. The Portable Antiquities Scheme had already set up a survey to monitor objects advertised on eBay and duplication of this effort was felt to be undesirable. [Obj. 4d] and [Obj. 4e] were therefore not made a significant focus for the survey although the results of relevant PAS initiatives have been written up and included in Section 8.

### 5.2 Press reports

- 5.2.1 Local newspaper archives were targeted for articles on Nighthawks or prosecutions. A total of 70 newspapers or newspaper groups were identified of which *c* 40 maintain online archives, including papers in the high risk areas. From the *c* 30 online archives searched only three produced any information on Nighthawking. Where internet access to archives was not immediately apparent the newspaper was contacted by email. Four referred OA to local libraries and two carried out searches themselves, Staffordshire Sentinel and Norfolk Eastern Daily Press.

5.2.2 The Buckinghamshire Local Studies Library was visited and microfilm copies of the *Bucks Herald* inspected. In the course of a day only three years worth of films were viewed (1995, 2000, 2005), producing no incidents of Nighthawking. Assessment of the efficiency of this approach, linked to the low level of reports, resulted in a decision not to pursue paper/microfilm, un-indexed, newspaper archives further.

5.2.3 From the 30 odd archives searched the results obtained are summarised below:

- Shropshire 1 site (football pitch)
- Lancashire 2 sites (football pitch)
- Wiltshire 2 sites (1 already known from other sources)
- Norfolk 7 sites (all new - not otherwise reported to this survey as Nighthawk cases) plus one illegal export case

5.2.4 The results of these searches indicate that in general the survey methodology has not missed large numbers of Nighthawked sites that are reported in the press but have been otherwise unreported to us. The exception is Norfolk, a county with a high incidence of Nighthawking, but it should be noted that the most recent press-reported site of the seven was dated to 2002.

### 5.3 COSMIC

5.3.1 In 2006 OA were involved in a project to investigate the damage being done to archaeological sites from arable cultivation using a newly developed system of risk assessment. The *Conservation of Scheduled Monuments in Cultivation* (COSMIC) project was piloted in English Heritage's East Midlands region, covering the counties of Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire. As part of the COSMIC project a package of information, including information on protecting archaeological sites in arable land and information on the specific archaeological sites they owned/farmed was collated and sent to farmers in spring 2008 to thank them for their participation. A very basic questionnaire asking whether they had suffered Nighthawking and a request as to whether they would mind being contacted to discuss it was also included within this package. The questionnaire stressed that a negative answer would be just as useful as a positive one, and it also asked if they had heard about the Nighthawking Survey previously. A copy of the questionnaire can be found in Appendix 10. This provided an excellent opportunity to make contact with a group of landowners from a particular geographic region, all with an identified archaeological site on their land.

5.3.2 From the 95 letters sent, 40 replies were received, of which seven said that their farm had been targeted by Nighthawks, and 33 said that they had not. Although all seven farms contained SMSs, in two cases the Nighthawking had been on unscheduled areas. Several of the replies were sent anonymously, so that the location could not be identified, but all the positive responses did give the location. The positive replies included five from Lincolnshire, one from Nottinghamshire and one from Northamptonshire (an instance already reported to the survey). The survey as a whole showed a significant amount of Nighthawking was taking place in Lincolnshire, less in Northamptonshire and only two reported incidents in each of the remaining counties, which correlates with the general distributions of the Nighthawk

Survey. The fact that only one of the COSMIC sites correlates with data already received, suggests that the Nighthawk Survey is not being informed of all sites being Nighthawked, and that landowners are a key source for this missing information. While this is a very localised sample in an area where Nighthawking is known to be common, it shows that out of the 40 farmers who responded, 17.5% are suffering from Nighthawking. The under reporting and reliability of the main data set is further discussed in Section 9.10.

- 5.3.3 The final question asked whether landowners had been aware of the survey before they received the COSMIC package of material, to see how effective the publicity for this survey had been. Only two positive responses came back out of the 40 received, but another said that he had received information through 'Farmwatch' the day after sending us back the questionnaire.
- 5.3.4 Before the COSMIC data had been sent out in March 2008, the survey had been contacted by 13 landowners. After that date 44 replies were received, 40 of them through COSMIC. The others were the result of publicity through 'Farmwatch' schemes as discussed below. Further analysis of this data can be found in Section 7.8.

#### **5.4 Scheduled Monuments at Risk (SM@R)**

- 5.4.1 As a follow-up to the Monuments at Risk Survey (MARS) published in 1998 and COSMIC, EH launched a further study to investigate the condition and levels of risk of SMs. The East Midlands region was chosen for a pilot study for which some results have been published (EH 2006). This document does not mention metal detecting specifically. Further regional summaries were published in 2008. The published document itself was not useful for this survey as it contains only broad conclusions. EH's work has now been extended across the country and the raw data, held in a database, is currently being analysed. EH supplied extracts from this data for this survey in advance of its full analysis and publication.
- 5.4.2 For this survey EH supplied a list of monuments from the SM@R database for which Nighthawking was listed as the principal vulnerability or where Nighthawking was discussed in the comment section. This process identified 62 sites, < 0.5 % of the total number of SMs. However, in this case vulnerability could mean that the site had been Nighthawked or it could mean that the site was at a perceived risk of Nighthawking, either from its location or type etc. After reading the descriptive fields only 25 out of these 62 sites have actually been Nighthawked, and the references in another four were uncertain, referring to activity in the area. This lowers the percentage of SMs definitely being Nighthawked in the country to 0.14%, using the results of this survey.
- 5.4.3 The survey also does not give any dates for the illicit activity, sometimes stating that it had occurred in the past, thus possibly pre-dating 1995. In addition two descriptions stated that there had not been Nighthawking on those sites. The levels of uncertainty associated with the data led to a decision not to include the data within the OA Nighthawk database or to use it for direct comparisons. The only sites from the SM@R list included in the survey statistics are those for which information has been obtained from other sources. This amounts to 3 sites; it is possible that others sites from SM@R had already been identified, but some of the

replies to the Nighthawking Survey gave only vague location details (e.g. the nearest town) and possible use of different names or descriptions make the matching process extremely difficult. To reiterate, for the reasons discussed above, this dataset cannot be used for direct comparative purposes, although the total number of sites actually being Nighthawked (25), as opposed to just being at risk, identified by the SM@R study appears quite low in comparison to OA's data (75 in England only).

## **5.5 OA/Wessex Archaeology survey**

- 5.5.1 Although 54 archaeological units were directly approached for this survey, not all of them replied despite several attempts to establish contact. Of the 19 that did reply, 15 reported that they had had excavations (35 sites identified) targeted by Nighthawks. It is not possible to assume that all of those which did not reply were unaffected. In order to obtain a more reliable figure for the proportion of excavations targeted, more detailed investigations on sites excavated by Wessex Archaeology (WA) and Oxford Archaeology were undertaken. OA has offices in both the north and south of the country and WA has offices in the west and London. Both organisations work countrywide.
- 5.5.2 Each organisation compiled a list of all excavations (not evaluations) carried out within the previous three years over a specified size, and identified the project manager responsible for each. These project managers were asked whether any Nighthawking had taken place on the site. For those sites that had been Nighthawked further information was collected to ensure that the site could be added to the survey database. For those sites not targeted a further set of questions were asked to establish why they had not.
- 5.5.3 Full details of the results of this work can be found in Section 7.3, but overall the number of archaeological excavations affected, as defined by the criteria above, was between 3.5% and 6%. If compared with the very small numbers of sites reported by archaeological units (35) for excavations targeted since 1995, it suggests that there is a certain amount of under-reporting through the wider methodology. This is discussed further in Section 9.10.

## **5.6 Farmwatch groups**

- 5.6.1 Two respondents to the online questionnaire, both from Norfolk, had said that they had heard about the Nighthawking Survey through 'Farmwatch'. On investigation this was shown to be an initiative in Norfolk, set up by a commercial group to help farmers share information about a range of illegal activities which affect farmers and ways to prevent crime. The organisation has a firm link to the Norfolk Constabulary. A subsequent enquiry to 'Farmwatch' found that they had found out about the survey through the Forestry Commission and decided it was worth publicising.
- 5.6.2 Research showed that similar 'Farmwatch' or 'Countryside Watch' groups had been established in different parts of the country, mainly operating through the local police force. In all 21 groups were contacted, including the Norfolk group. The level of response from organisers was very varied and the number of replies from farmers themselves was low, as shown below in Figure 2. The lack of response from farmers parallels that from other methods tried for contacting this group. However, the new sites identified by the method

were from Norfolk, already identified as an area of high activity. The 'no Nighthawking' replies from West Mercia and Lancashire are in line with other information which suggests that these were not high risk areas. Where the Farmwatch groups did publicise the survey, details would have reached a large number of farmers (eg the 1000 contacted in Lincolnshire).

Farmwatch Group Contacted	Responses obtained
West Mercia	Two replies from farmers saying that they had not had any Nighthawking.
Suffolk	Nothing
Tynedale	Nothing
Leics	Nothing
Alston & Cybermoor	Nothing
Norfolk	Three replies from farmers who had been Nighthawked..
Durham	Nothing
Lincs	Emailed to >1000 members; no replies
Dyfed Powys	Automatic acknowledgement of receipt
South Yorks	Contact details failed
Surrey	Nothing
Sussex	Contact details failed
Cumbria	Distributed. Asked for feedback on responses. Owners of three farms said they had not had any Nighthawking.
Cleveland	Nothing
Bedfordshire	Nothing
Hartlepool	Nothing
N Yorks - Scarborough	Posted on website; no replies
Northants	Nothing
Southam/Stockton, Warks	Nothing
North Shropshire	Nothing
Cambridgeshire	Said they would circulate; no replies.

**Figure 2: Results of 'Farmwatch' approaches to landowners**

## 5.7 NFU heritage link

5.7.1 As discussed in Section 4.7 the PAS also encouraged the NFU to explore their understanding of heritage crime and legislation. The NFU launched an on-line survey to collect data on this issue. Those farmers who responded to this survey specifically on Nighthawking were encouraged to also report it to us. They received 8 reports of Nighthawking. Only one then went on to report it to OA. Again this shows a reluctance of farmers to report this problem, not only to us but also to other perhaps more familiar bodies.

## 5.8 Contact with landowners

- 5.8.1 Before the COSMIC results were sent out in March 2008, the survey had been contacted by 13 landowners. From March onwards contact was made with a further 44. Figure 3 shows how these landowners had heard about the Nighthawking Survey. The COSMIC survey produced by far the best level of response, demonstrating that personal approaches are more successful, as was found with other groups.
- 5.8.2 Despite widespread advertising of the survey through other sources eg 1000 people emailed in Lincolnshire alone by Farmwatch, a low response from farmers was received. This mirrors the response to the NFU survey, details of which would have also have had a wide audience. The results of the COSMIC survey do show that potentially large numbers of farmers are suffering from the problem but that farmers are not reporting this either to us, or other concerned parties (eg the police via Farmwatch or the NFU). In this respect the OA survey is representative of reporting levels by farmers but not necessarily actual numbers affected.

Source of information	Before March 08	March 08 onwards
COSMIC	0	40
Press	1	0
Farmwatch	3	4
PAS	3	0
Direct contact	2	0
Website	3	0
Forum	1	0

**Figure 3: Landowners' sources of information about the Nighthawking Survey**

## 6 RESULTS AND STATISTICS

### 6.1 Data collection

6.1.1 The bulk of the data for the survey was collected between the launch of the questionnaire in June 2007 and the end of April 2008, after which only a small number of reports were received and these from people who had previously promised information, but taken time to assemble it. The original survey design had envisaged a data collection period lasting from early 2007 to October 2007, but the launch was postponed in order to ensure that there was sufficient time for consultation with the Project Board on the design of the online questionnaire and for the publicity materials to accompany its launch to be agreed by all. The launch date was finally set at June 21st 2007 with the questionnaire to be open until the end of 2007. A further extension to the end of April 2008 was made at the suggestion of the NCMD and Steering Group to encompass the results of the additional validation tasks and targeting of particular groups and to allow any reports of Nighthawking after the 2007 harvest and cultivation to be incorporated. This extension also allowed for any outcomes resulting from the NCMD meeting in November.

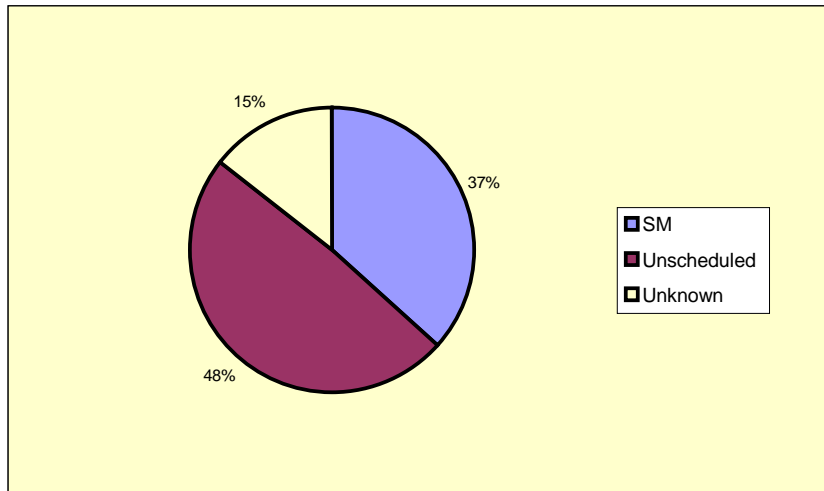
### 6.2 Data statistics

6.2.1 Information was requested on incidents of Nighthawking, illegal sale of antiquities or prosecutions for either type of offence from 1995 onwards (post-dating the CBA survey).

6.2.2 Information was obtained for 240 sites affected by Nighthawking. This information came from 127 different sources, including press reports. In fact the total number of actual responses was 264, as multiple reports were received for 22 sites. An additional 59 sites judged to be at risk from Nighthawking were identified from the EH SM@R project (out of the 62 at risk), but these have not been included in the statistics for the reasons discussed in Section 5.4.

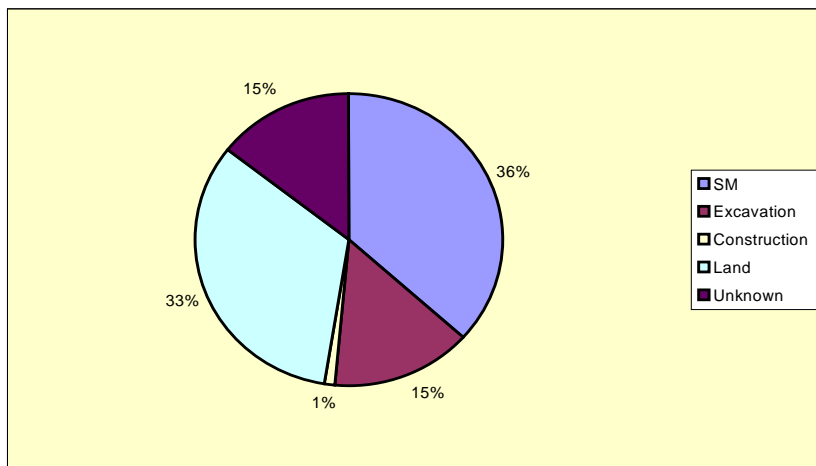
#### *Type of sites*

6.2.3 Of the 240 sites identified as having experienced Nighthawking in the 2007-8 survey, 88 were SMs, 117 unscheduled sites and 35 of unknown status, as shown in Figure 4. Not all those who supplied information gave sufficient details of the site to determine whether they were scheduled or not, even after follow-up discussion.



**Figure 4: Scheduled (SM) and unscheduled sites identified as Nighthawked**

6.2.4 Figure 5 gives more details of the type of the sites identified. Apart from the 88 SMs there were 35 archaeological excavation sites, 3 construction sites and 79 on unscheduled land (labelled 'land' below), mainly farmland. As already discussed no details could be obtained for the remaining 35.



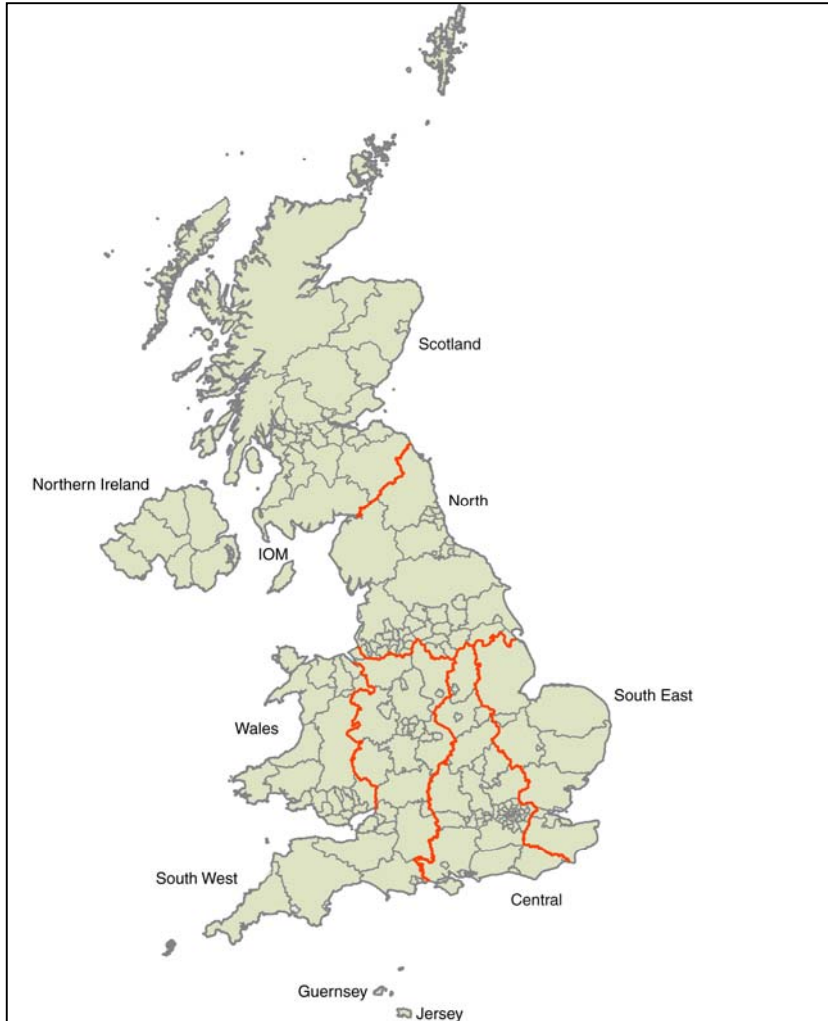
**Figure 5: Types of sites identified as Nighthawked**

6.2.5 Reports of Nighthawking were supplied by 15 of the 54 archaeological contractors contacted directly for the Nighthawking Survey (27%). This compares with 37 out of 50 archaeological contractors who supplied information for the 1995 survey (74%). The 15 contractors who supplied information provided information for Nighthawking on 35 excavation sites. This is discussed further in Section 7.3 and 7.4.



### *Distribution of sites*

6.2.6 The distribution of Nighthawk activity is uneven across the UK. To enable some comparisons to be made between the regions and with the CBA survey (see Section 7.2), OA has divided the country, shown in Figure 6. These regions have been devised to represent broadly different topographies or arable landscapes. They are not the same as the Government regions used by EH. A map showing these has been included as Figure 6a.



**Figure 6: OA Regions**

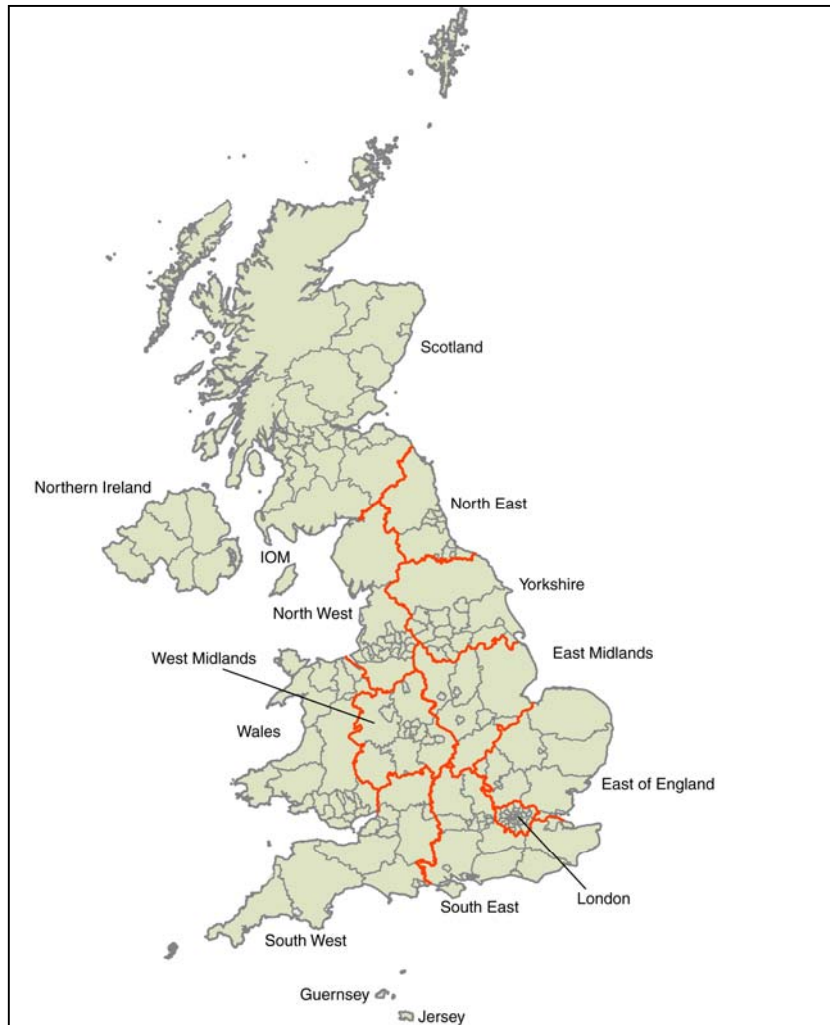


Figure 6a English Heritage Regions

6.2.7 The OA south-east region contains large areas of arable landscape and its topography is generally fairly flat. In the north, although there are still some flat arable areas in Yorkshire, the topography is generally much more rugged with a considerable amount of high ground. The south-west region has some good arable but pasture is also common, although the topography is rarely flat and there are areas of high ground. Across the central region there are no particular extremes of either low lying or high ground.

6.2.8 The OA south-east region produced the highest number of Nighthawked sites (76), closely followed by the central region with 73 sites. The north region produced a total of 47 sites and the south-west 30. There were 9 reports of Nighthawking from Wales, 4 from Scotland and 1 possible one from Northern Ireland.

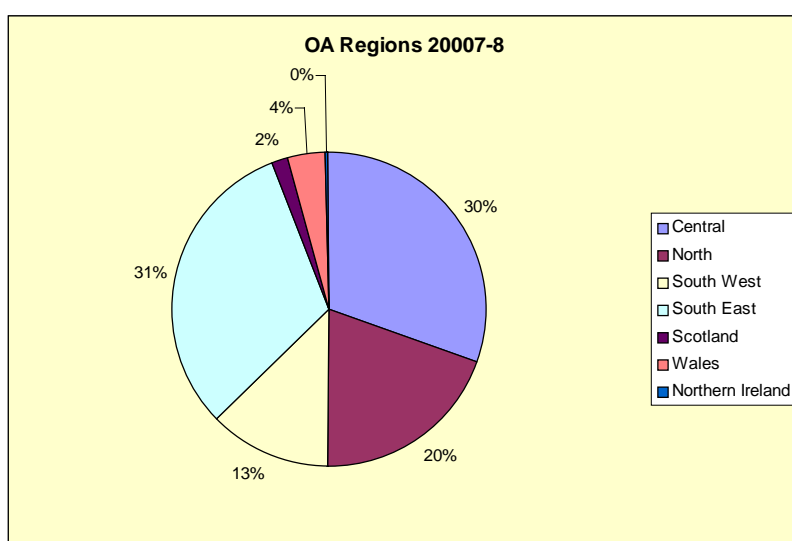


Figure 7: OA Regions: distribution of all sites identified as Nighthawked

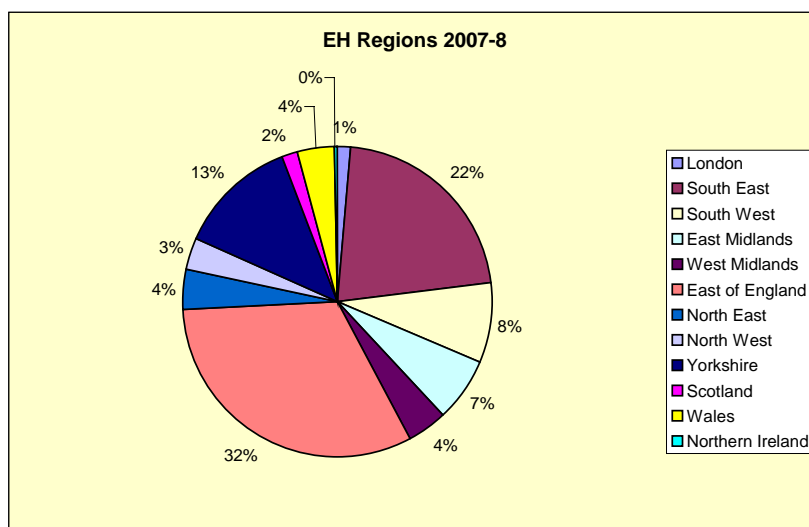


Figure 7a EH Regions: distribution of all sites identified as Nighthawked

- 6.2.9 Figure 7a has been included for comparative purposes and to help EH prioritise the problem within its regions.
- 6.2.10 During the course of this survey discussions with a range of people, including police, responsible metal detectorists and heritage professionals have identified a range of factors which might make a site attractive for Nighthawks. Although Nighthawks do operate in woodland and pasture, land under arable cultivation is easier to work with and regular ploughing constantly replenishes the upper ploughsoil with artefacts. Flat ground also has practical advantages.
- 6.2.11 If the known archaeology of an area suggests that there is a high potential for metal finds, for example Romano-British sites or Anglo-Saxon cemeteries, the area will obviously be attractive. Both of these periods are associated with the use of coins and metalwork and/or the deposition of material as casual losses or deliberately placed hoards or grave goods.
- 6.2.12 Access to an area is another factor. Good transport links, particularly major road networks, make an area particularly attractive to Nighthawks. There were also suggestions that Nighthawks travelling on major roads (the M11 was given as a particular example) could spot archaeological excavations underway nearby, or the presence of responsible detectorists, and then return for raids at night.
- 6.2.13 The pattern of Nighthawking across the regions supports these suggestions. The south-east region includes the flat, arable landscape of Norfolk, Essex and Suffolk, an area provided with a good network of motorways and major A roads, and known to contain large numbers of sites where high status metalwork has been found. In contrast the south-west has fewer major roads, large areas of upland pasture and a relatively low level of settlement activity during the significant archaeological periods. These trends are illustrated more clearly when the number of incidents of Nighthawking are analysed by county (see below and Figure 8).
- 6.2.14 The region which has experienced the highest level of Nighthawking is Yorkshire, which is crossed by the M1 and A1M, with large areas of flat arable land in the east. The Roman army established a number of important sites in the county, particularly around Catterick, and there have also been a significant number of early medieval coin hoards and cemeteries identified.
- 6.2.15 The comparatively high number of sites in Oxfordshire and Buckinghamshire are in part a reflection of the enthusiasm for the survey shown by the area's HEFA, although the archaeology of those counties does include important sites from the key archaeological periods.
- 6.2.16 Within England it can be concluded therefore that while there is a general background level of Nighthawking across the country, there are a number of counties for which Nighthawking is more of a problem (Figure 8). These include Suffolk, Oxfordshire, Norfolk, Lincolnshire, Kent, Essex and the Yorkshire region with problems also seen in Wiltshire, Surrey, Northumberland, Northamptonshire, Hertfordshire, Hampshire, Cambridgeshire and Buckinghamshire. No reports of Nighthawking were reported for several individual counties in the south-west and the general incidence level in this region was low.

- 6.2.17 The level of Nighthawking outside England is very low, with no incidents at all reported from any of the Crown Dependencies. It is likely that their island nature and small size deter Nighthawking, which would be difficult to conceal effectively. The incidents in Scotland were associated with Roman Forts, one on the Antonine Wall, and a Battlefield. All the Nighthawked sites in Wales were SMs, eight in Mid and South Wales and one in Snowdonia. Two were medieval in date, two Iron Age, one Roman, one Bronze Age and three unspecified prehistoric. Scotland and Wales both have areas with large amounts of high ground, limited road networks and, in the case of Wales limited numbers of known archaeological sites from the Roman and Anglo-Saxon periods. The only incident reported for Northern Ireland was on a SM following archaeological survey work, although the contractor concerned was not sure that it was in fact illegal activity, in that it could have been caused by animals. It is not therefore possible to draw conclusions from this single incident.
- 6.2.18 The lack of Nighthawked sites outside England, with the exception of Scotland, may have a number of explanations. Given the clear preference for Romano-British and early medieval sites shown by the survey results, the pattern is not a surprise because of the low level of activity and occupation by incomers outside England, apart from Vikings, during these periods. In Scotland, while Anglo-Saxon sites are rare, Roman sites are present and lack of evidence here could be more to do with lack of reporting. It appears (anecdotally) that foreign tourists, sometimes in groups, target Scotland (Historic Scotland).
- 6.2.19 There is the possibility that the attitude of the local population to their heritage may play a part in deterring Nighthawking. Although Eire is outside the UK it is geographically part of the British Isles. The legal position for metal detecting in Eire was changed in 1994, prior to which there had been severe problems relating to Nighthawking. Although finders were required to report archaeological finds, very low fines for offending, coupled with poor offers of rewards to finders led to a high rate of offending. Before that date there was no offence of possessing unreported antiquities so dealers were immune from prosecution. All cultural heritage finds are now regarded as the property of the State and metal detecting without a licence is illegal (Kelly 1994). Eamonn Kelly of the National Museum in Dublin said that the new legislation had been introduced with all party support and strong backing from the general public, who have a well-developed sense of communal ownership of heritage. Although there are still isolated incidents, these often involve visitors to the country and farmers are ready to involve the police (pers. comm.).
- 6.2.20 The legal position in Wales and Northern Ireland in relation to Treasure is the same as for England, but the PAS does not operate in the Northern Ireland. No similar body to the PAS is in place in Scotland or the Crown Dependencies. The legal position across all the countries differ, as discussed in Section 3.1, but not in ways that would automatically render all metal detecting illegal. Whether the differences in legislation influence the apparent absence of Nighthawking outside England is unclear.
- 6.2.21 Generally therefore the data from outside England is too small to make any firm conclusions as to whether the lack of reported Nighthawking outside England is due to different legislation or law enforcement, lack of honeypot sites, different attitudes to the law and/or culture, or just under-reporting.

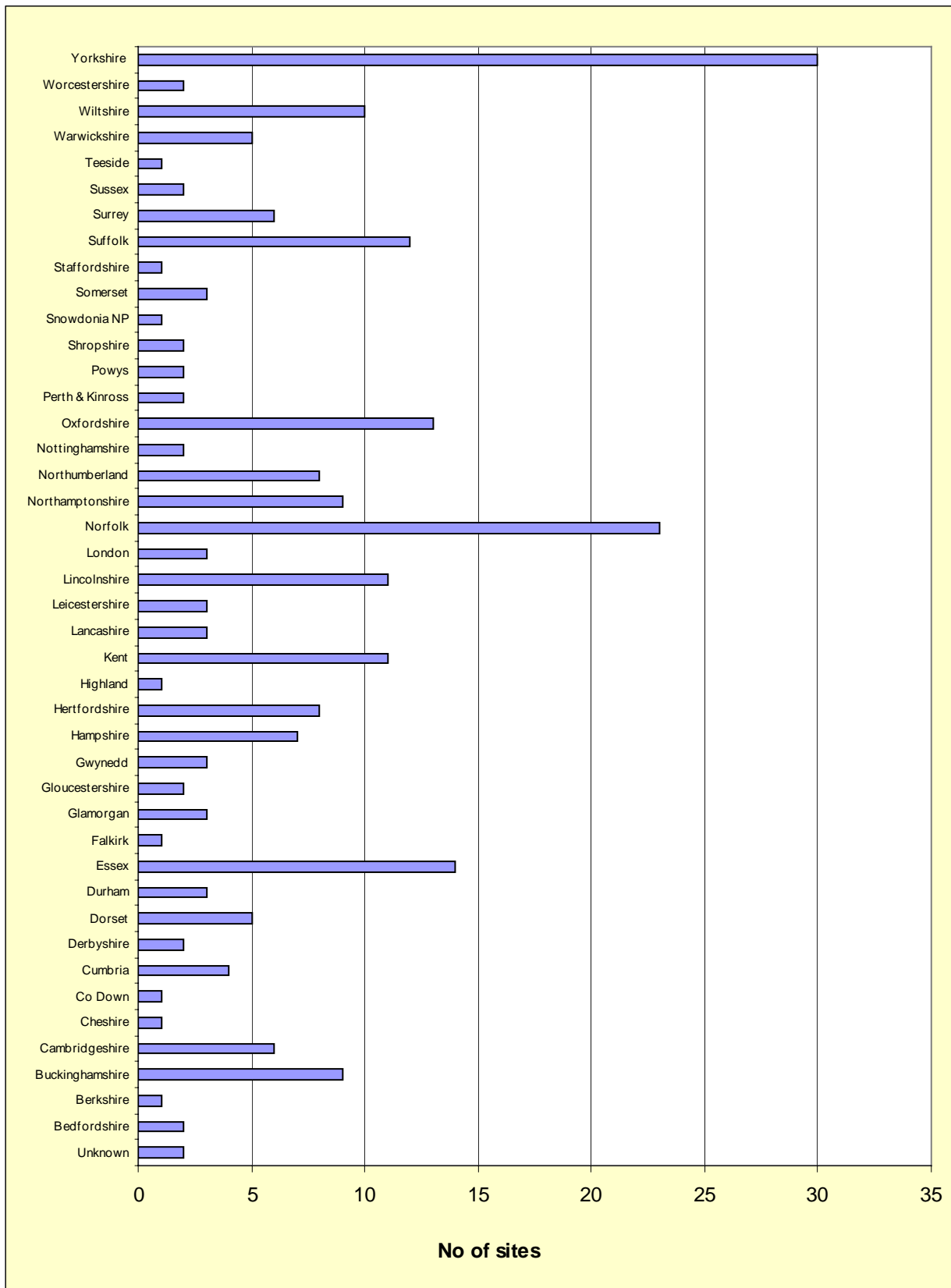
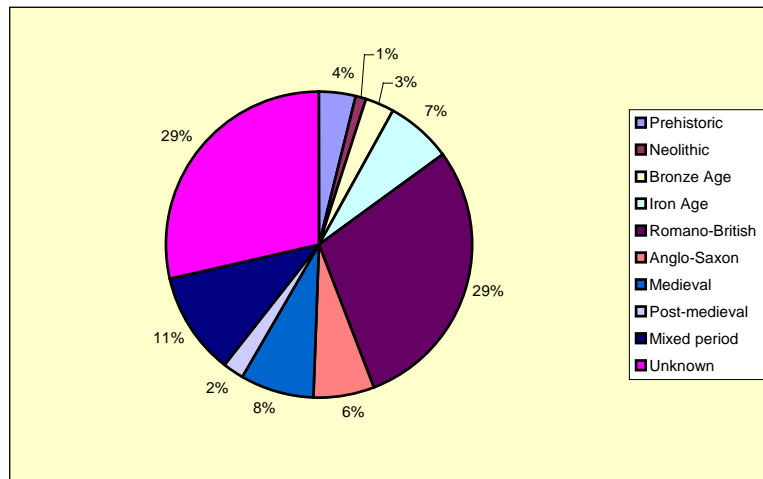


Figure 8: Distribution of all Nighthawked sites by county<sup>7</sup>

<sup>7</sup> Yorkshire local authorities included as one Region for comparative purposes with Denison and Dobinson 1995 (see Section 7.2). Breakdown of Nighthawking in the Yorkshire counties can be found in Figure 24.

### *Date of sites*

6.2.22 Not all responses to the survey allocated the site to a particular chronological period, either because only limited data was supplied or because the site had not been investigated so the date of any below-ground archaeology was 'unknown'. The available results demonstrated a clear bias towards Romano-British sites, particularly as many of the multi-period sites included that period. This survey found that 29% of the sites targeted by Nighthawks were of Romano-British date. The period distribution for this survey is shown in Figure 9.

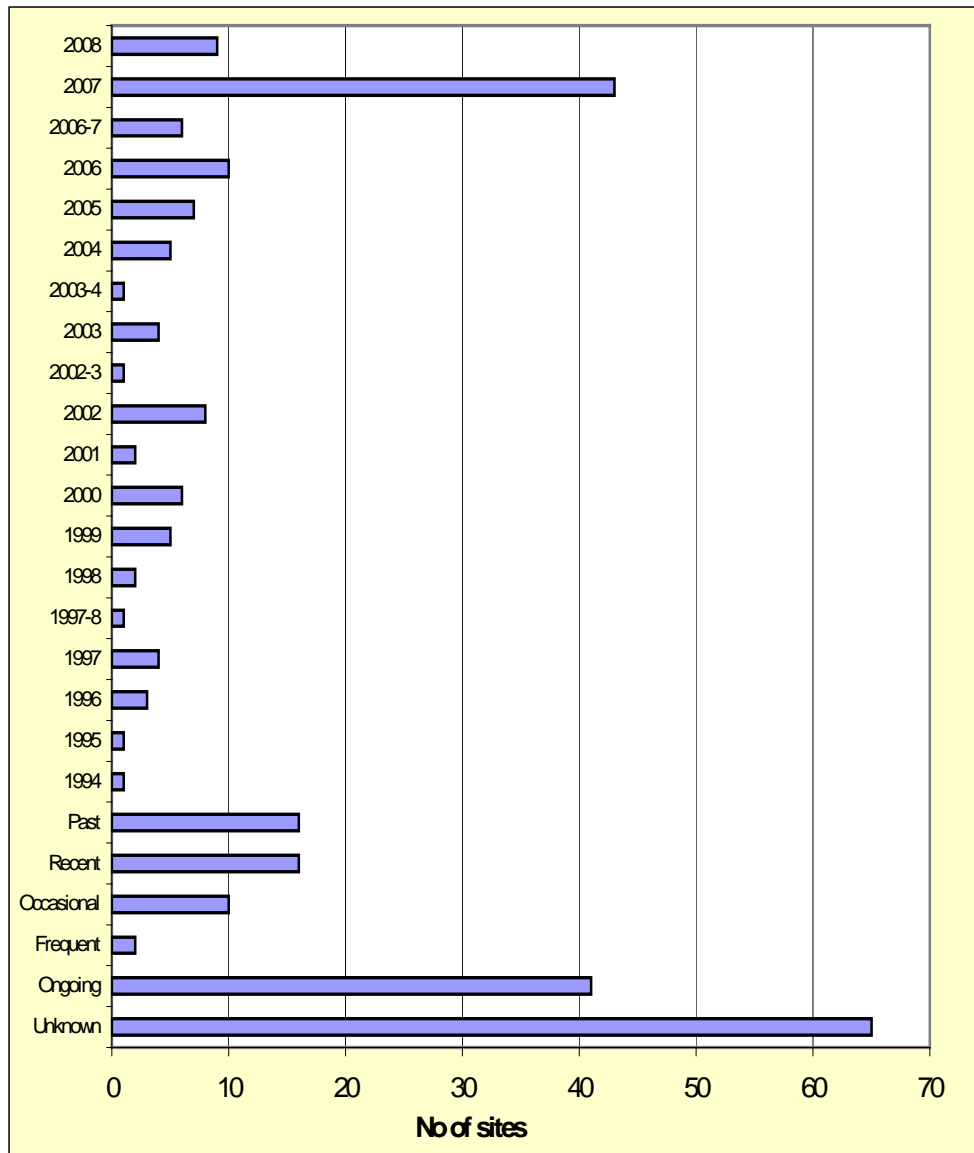


**Figure 9: Date of sites identified as Nighthawked**

6.2.23 The preponderance of Romano-British sites targeted is probably the result of two factors; the level of metalwork found in sites from this period and the fact that Romano-British sites are very common. Although the Anglo Saxon period sites also produce large amounts of metalwork, sites from this period are much more difficult to identify in the field without excavation. Sites from the medieval period are more numerous, but are also more likely to have continued in use and be still occupied, therefore making access by Nighthawks more difficult.

### *Patterns of activity over time*

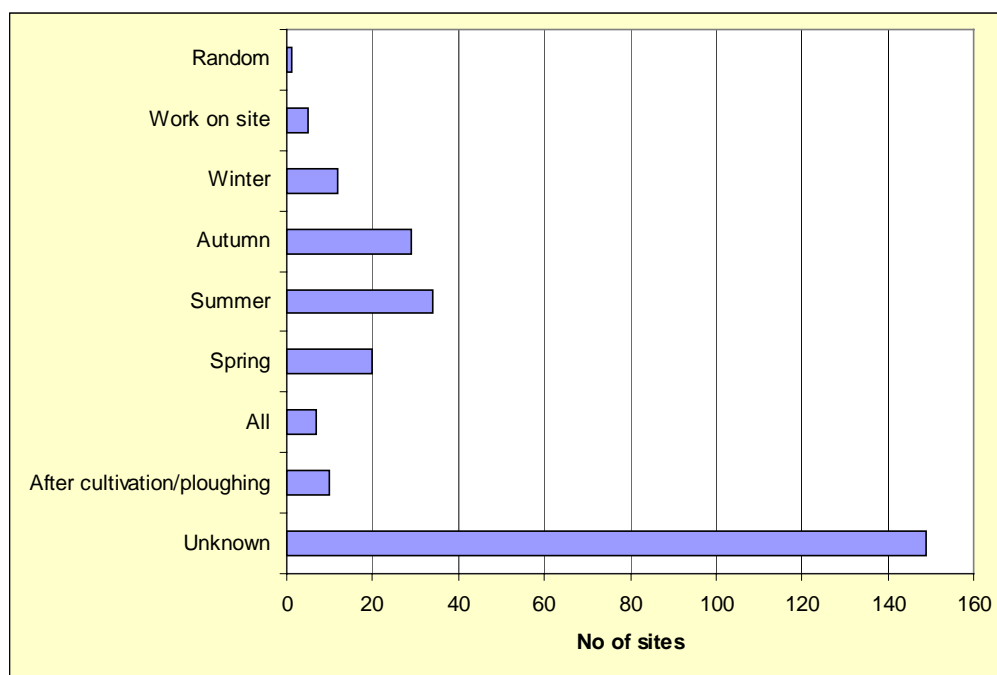
6.2.24 Ascertaining the year(s) during which Nighthawking had taken place will provide some indication of whether the level of activity is increasing or decreasing (Figure 10). No information was obtained for 65 sites about the year(s) in which Nighthawking had taken place (only that they were post-1995). For 53 sites the activity was an ongoing problem, with different degrees of severity. From the results shown on Figure 10 the pattern of activity by year might suggest that the incidence of Nighthawking has increased slowly since 1995, but the small increase in numbers to 2006 is more likely to be due to better memories for more recent periods, suggesting a degree of under-reporting for the early years. The sharp rise in reports for 2007 coincides with the data collection period for this survey, and is likely to be directly related to the existence of the survey.



**Figure 10: Pattern of Nighthawking activity by year**

6.2.25 Information about the time of year at which Nighthawking activity took place was available for *c* 100 sites. The breakdown of the available data is given in Figure 11. Identifying the likely time for Nighthawks to commonly strike may help in developing approaches to deter such activity, such as planned patrols. The summer seems to be the most popular time for Nighthawking with winter the least popular time of year. The results in Figure 11 suggests that activity increases following ploughing or cultivation, which usually takes place during late summer and autumn. One site in East Anglia has been persistently targeted by Nighthawks since the 1980s. According to the farmer this tends to happen for about two weeks after each ploughing, despite nearly 50 prosecutions over the years and the employment of a range of deterrents (see Section 6.3). Moonless nights are often chosen, for obvious reasons.



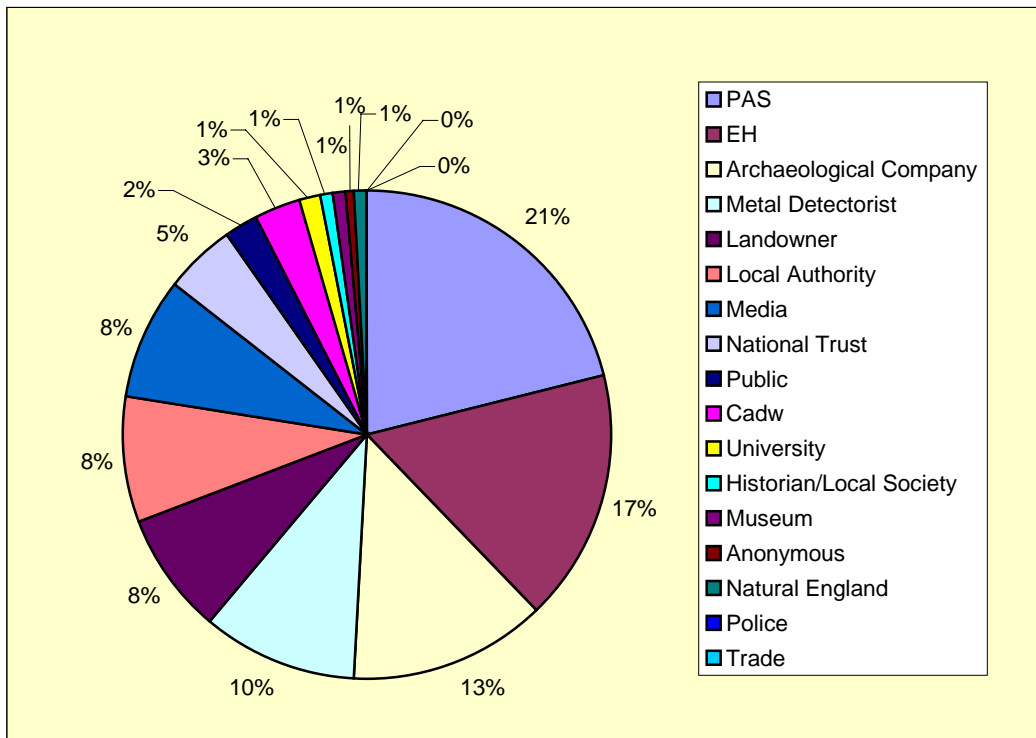


**Figure 11: Pattern of Nighthawking activity by season**

6.2.26 As for excavations, Nighthawking activity occurs when the excavation is ongoing, in the evenings or at weekends, where the ground has already been disturbed. Research excavations take place in summer and one university site is reported as being regularly targeted by Nighthawks. By providing camping close to the excavations, organisers hope to deter attacks (see Section 6.3), although perhaps a metal detector survey undertaken as part of the survey may have the same effect.

*Reporting of activity*

6.2.27 The categories of people and organisations targeted for this survey have been discussed in Section 4. For each report of Nighthawking received the type of source was recorded. This was partly to check whether the methodology used to publicise the survey was proving effective for the different groups, but also to help in validating the reliability of the data. The information about who is reporting incidents may also reflect levels of awareness and concern across the various groups. Figure 12 shows the numbers of sites subject to Nighthawking reported by the various groups. 22 sites were reported by two or more people and the total number of responses received was therefore 264, more than the 240 recorded sites. The online questionnaire produced 73 responses.

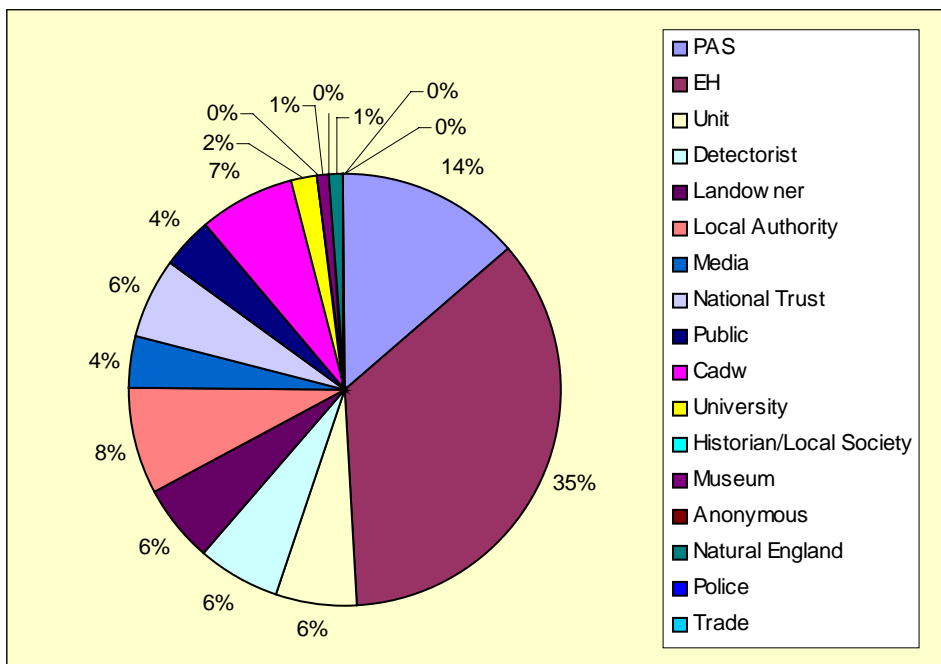


**Figure 12: Sources of information on Nighthawking - all sites**

6.2.28 The PAS, and in particular the FLOs, proved the most useful source of data on Nighthawking, which, given their close contact with responsible metal detectorists might have been expected. English Heritage has responsibility for SMs in England as does Cadw for Wales and therefore these bodies might be expected to have a good knowledge of the level of illegal activity on these sites. Unfortunately information on Nighthawking is not currently being collated and recorded by English Heritage therefore there is no data accessible on this. Although Cadw only reported a small percentage of the total sites, they were responsible for the information on all but one of the Nighthawked sites identified in Wales.

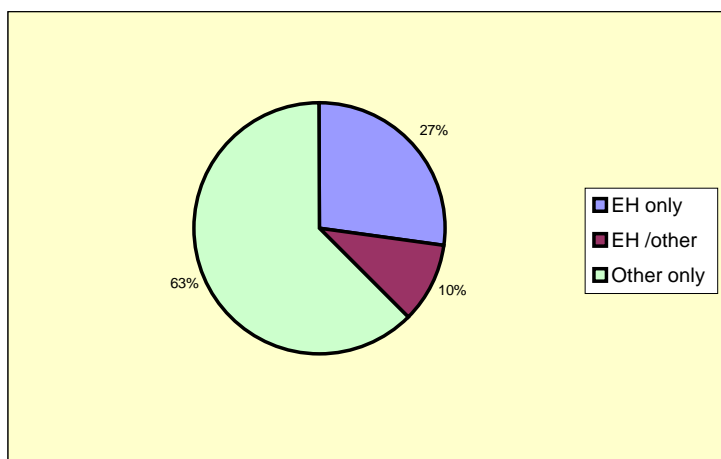
6.2.29 Archaeological companies were inevitably the main reporters of Nighthawking on archaeological excavations and metal detectorists reported 6% of incidents. No reports were received from the antiquities trade or the police, which was not unexpected given the reasons already discussed.

6.2.30 If the reports of Nighthawking are considered only for SMs, the picture is slightly different, as shown in Figure 13. The percentage reported by EH is more than double than for all sites and that for the PAS reduced by about one third.



**Figure 13: Sources of information for SMs identified as Nighthawked**

6.2.31 Figure 14 takes into account the number of SMs which have been reported by more than one person. Of all the incidents of Nighthawking on SMs reported, 63% were reported by non-EH personnel. Of the 37% reported by EH, 10% were also reported by someone else. These figures give some indication of how effective EH is in monitoring the condition of SMs.



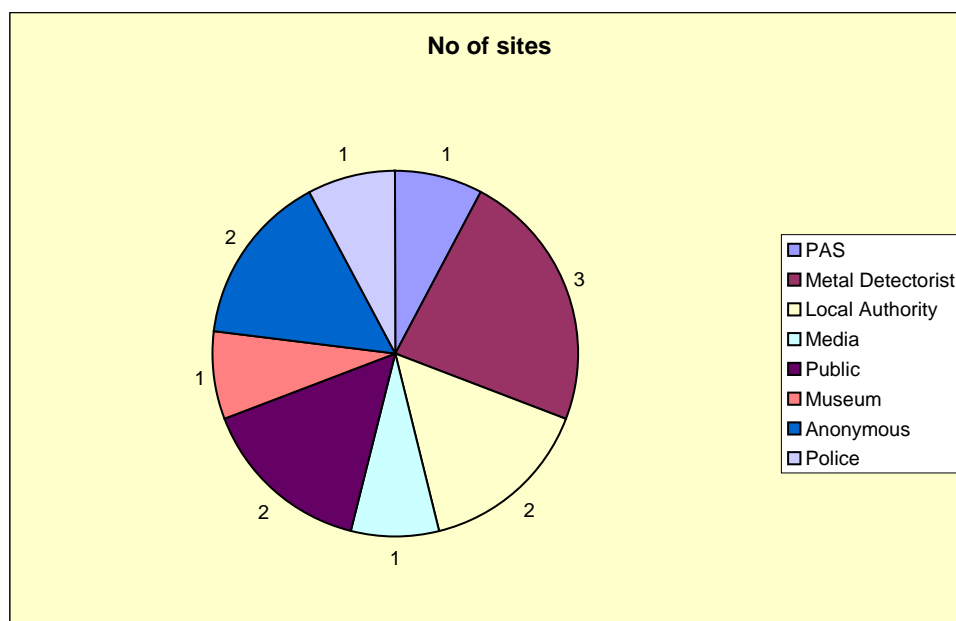
**Figure 14: EH role in reporting of activity on SMs identified as Nighthawked**

*Illegal sales of antiquities*

6.2.32 Nighthawks often steal artefacts for financial reward and the extent of the market for illegal antiquities formed one line of research. Only 11 reports of illegal sales of antiquities were recorded and this shows that the survey was not an effective method for accessing information on this topic. Three of the 11 were related to sales through the internet, three to professional dealers and three to car boot sales and the like. Of the other two, one was

actually concerned with non-reporting of finds by metal detecting clubs and the other was too vague to be of value. Some names of dealers were supplied and these were passed to the police. Two of the eleven cases concerned material which was identifiable as of Norfolk origin and some of this later found its way (by means unknown) to the Castle Museum in Norwich.

6.2.33 A breakdown of sources of information for reports of illegal sales of antiquities can be seen in Figure 15. Some incidents were reported by more than one person. The type of source will give an indication of the reliability of the information (eg less weight should be placed on the anonymous respondent) and could indicate who is likely to become aware of instances where surreptitious selling may take place. Metal detectorists were the group who reported most incidents, but these reports were very general, although this does not necessarily mean that the evidence was not reliable. It was interesting to find that some members of the public had noticed material at local venues and were sufficiently aware of the issues surrounding illegal antiquity selling to report it.



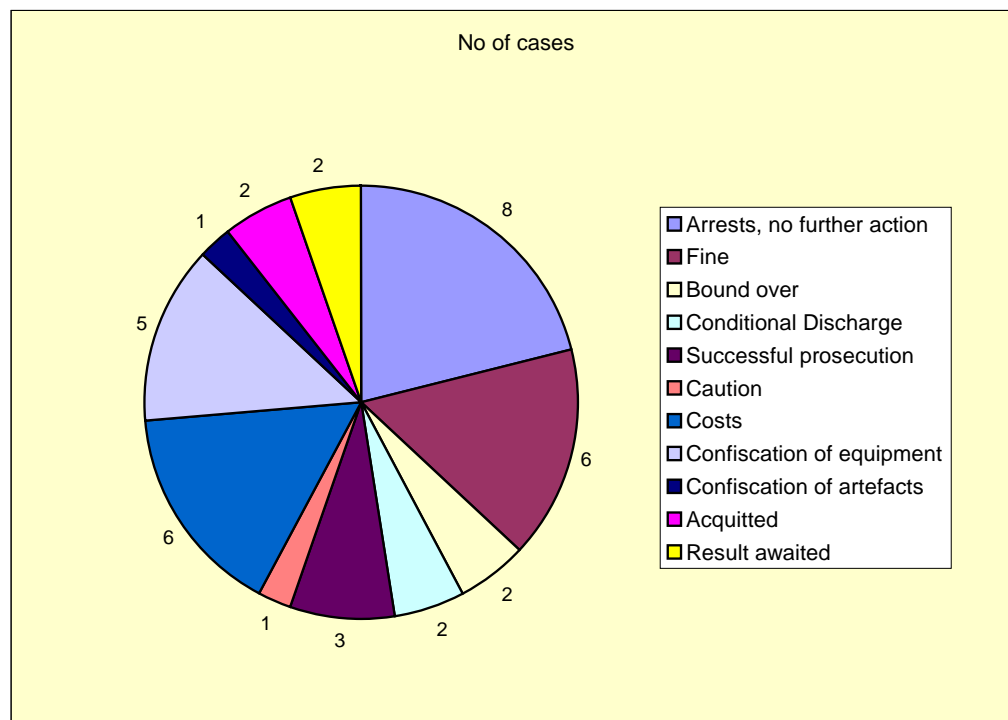
**Figure 15: Reports of illegal sale of antiquities**

*Prosecutions and arrests with comparisons with the CBA survey*

6.2.34 Information was collected on arrests and prosecutions, whether successful or not, for both Nighthawking and the illegal sale of antiquities. This was done to assess the effectiveness of the various laws and the use of them in providing a deterrent to heritage crime (see Section 3.1). A total of 26 cases were identified which resulted in one or more penalties. All were for Nighthawking, none were for illegal sale of antiquities. Of the 26 cases, 9 were not taken to court, for reasons discussed below, although in one case cautions were issued. Of the 17 cases prosecuted 13 were successful, two resulted in Not Guilty verdicts and two are still in progress. The legislation employed was not always stated, but 15 cases involved the Theft Act and three the Ancient Monuments and Archaeological Areas Act (1979). This compares

to 9 successful prosecutions identified in the 1995 survey, 8 of which were for Nighthawking on Scheduled Monuments.

6.2.35 Figure 16 shows the various outcomes of arrests, with some prosecutions leading to more than one action. Out of the 13 cases leading to convictions the equipment used for the offence was confiscated in only five cases and in one case only were the artefacts confiscated (but not the equipment). Costs were awarded in six cases.



**Figure 16: Outcomes of arrests for heritage crime**

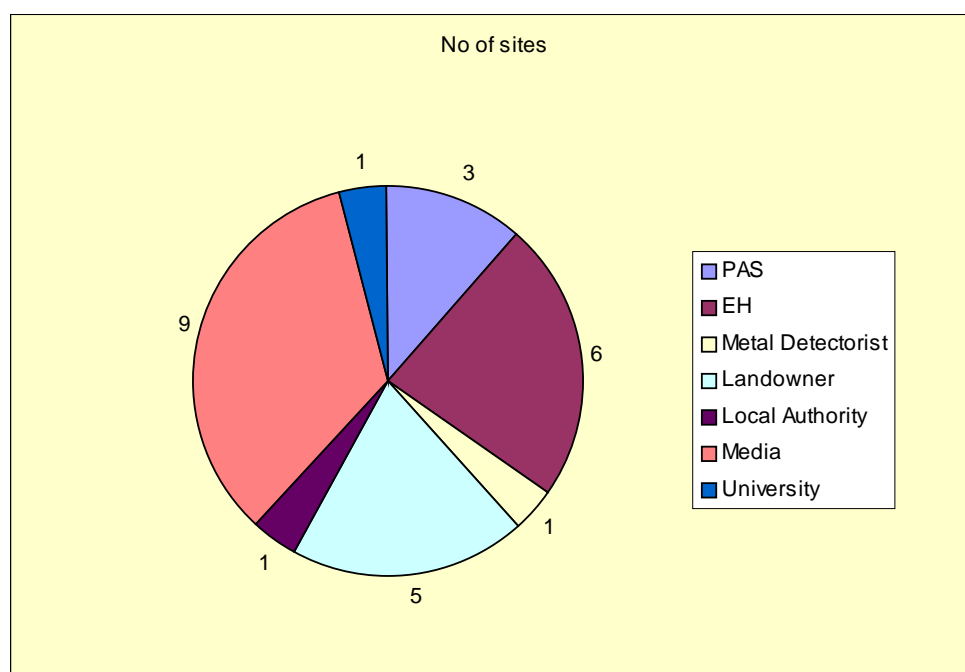
6.2.36 Expert evidence was supplied by a local authority archaeologist and a university archaeologist in two cases, allowing the issue of intellectual value and loss of knowledge to be raised. The local authority archaeologist felt that the magistrates were generally only concerned with the monetary loss. In two cases police helicopters had enabled arrests to be made. In Humberside the helicopters operate from an airfield next to a Nighthawked SM and the perpetrators were filmed in action. Although the offenders were successfully prosecuted they received 'risible' fines and had their metal detectors returned (see Section 6.3).

6.2.37 The majority of reports of prosecutions came from media reports (9 cases), which showed that those arrested are often arrested several times for the same offence. The five cases reported by landowners were all from the same source and more prosecutions have been carried out since, but details were not readily available.

6.2.38 A limited amount of information has been obtained relating to the level of penalty imposed by the courts, both in terms of the value of fines and of costs imposed. Some additional information was obtained from the CBA archives relating to cases in the 1980s. There seems to be a wide variation in the size of fines, ranging from £25 in a recent case, exact date unspecified, to £1,000 in 1986. Similarly the level of costs ranges from £38 to £600,

both extremes having been awarded in 2001. A single case of imprisonment was recorded in 1987, but in that instance the perpetrators went on to assault the arresting police officer.

6.2.39 Despite the small size of the sample and the variation, the figures do give an impression that penalties are decreasing over time, and not even keeping pace with inflation. The average fine in 1986 was £281, which in today's figures would be £593 rather than the £375 seen in the single example known for 2008. In cases from both 1986 and 2008 £250 costs were awarded. When statistics for crime as a whole are considered, the trends appear to show that the amount of fines over this period had actually increased for other offences. Figures from the Ministry of Justice show that the average fine imposed by a Crown Court for all offences increased by 63% from 1996 to 2005, although they then fell by 12% between 2005 and 2006. In Magistrates Courts there were increases for both periods, 15% for 1996-2005 and 5% for 2005-6. While limited, this evidence suggests that Nighthawking is not regarded as a serious issue by the courts. However, when the penalties for theft, a common route to prosecution for Nighthawks, are studied the average fine for all courts was £107 in 1996 and £108 in 2006, showing a drop to a lowest value of £87 in 2001 (Ministry of Justice 2006). These figures would not suggest that Nighthawking is regarded any more leniently than other types of theft over time. The picture is further complicated by the variable basis for setting fines such as the offender's weekly income, by the income threshold for first time offenders and reductions in a fine for a guilty plea.



**Figure 17: Sources of information on arrests and prosecutions for heritage crime**

6.2.40 A few examples have been included to illustrate these issues. In July 2002, the Eastern Daily Press reported the case of three men from Essex caught on land in Norfolk using metal detectors without permission. They were convicted for conspiracy to steal and given two-year conditional discharges and ordered to pay £600 in costs. Although the artefacts found,

including an axe head, were confiscated the judge refused to confiscate their metal detectors. He said that a further offence could result in a custodial sentence. In another case the metal detector was confiscated and a custodial sentence was initially imposed on a Nighthawk caught by police helicopters on a site in Leicestershire, according to the Leicester Mercury in November 2004. On appeal the sentence was reduced to a £250 fine. In these and other newspaper reports the potential deterrent value of the publicity about convictions was raised.

#### *Actions associated with illegal activity*

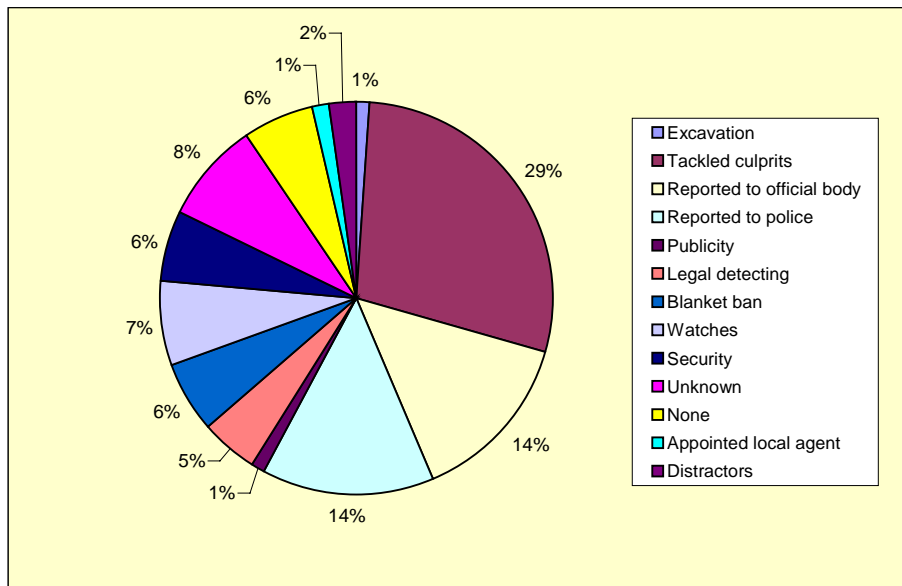
- 6.2.41 At the beginning of the survey there was some discussion of the violence and threats that Nighthawks had been known to make and the survey tried to discover whether these were a common occurrence.
- 6.2.42 In 13 cases, Nighthawks are known to have threatened farmers or others who tackled them, although the nature of the threat was unspecified in six cases. Four cases involved threats of physical violence, one involving the use of a gun. Verbal abuse was reported in three cases, in one of which telephone calls were made to the landowner. The evidence suggests that it tends to be landowner or his employees who receive the threats.

#### *Responses to Nighthawking*

- 6.2.43 A number of individuals and groups are in a position to tackle issues relating to Nighthawking and information has been collected on the steps that have been taken by these people. This will help to identify the most effective deterrents and inform future strategies to reduce Nighthawking. This section also provides some indication of how seriously the problem is regarded by the different groups and how well informed they are about heritage law.

#### *Landowners*

- 6.2.44 The people that are most likely to encounter Nighthawking are the landowners and their employees. In 24 instances where they have reported Nighthawking they tackled the perpetrators directly. Landowners in 12 cases reported the incidence to the police and another 12 reported it to another organisation, usually a heritage body such as EH. In four instances the landowner responded by inviting metal detectorists onto the land, but in five cases landowners responded by imposing a blanket ban on any metal detecting.



**Figure 18: Action taken by landowners in response to Nighthawking on their land<sup>8</sup>**

6.2.45 Some landowners have had to become increasingly vigilant, with six organising surveillance of some kind. In one case the farmer monitors a local car park for strange vehicles. Physical security measures, such as chain link fences, have been used. It is clear therefore that for some farmers this issue is a big concern.

6.2.46 Some respondents mentioned the difficulty of monitoring remote fields. One absentee landlord was forced to appoint a local agent to monitor his fields because police cannot intervene on private land unless asked by the owner or his representative.

### *Police*

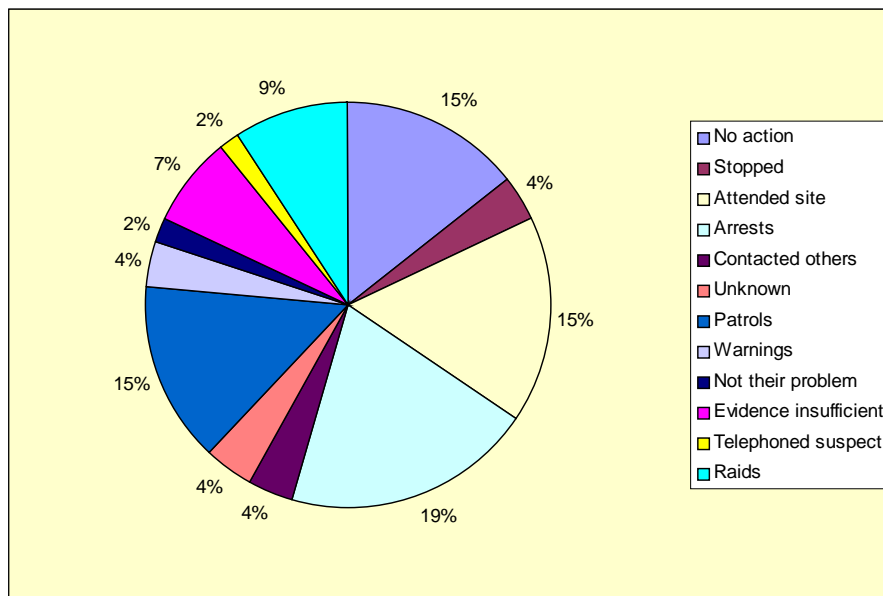
6.2.47 The survey tried to find out whether heritage crime is regarded as of sufficient importance to merit action, given that there are many demands on police resources, some of which would clearly be regarded as more serious than the theft of artefacts. By looking at the responses of the police it shows some indication of how aware they are of the relevant legislation and the steps available to them to combat the crime.

6.2.48 Of the 55 cases where the police were contacted eight reported that no action was taken by the police and in another the police decided there was insufficient evidence to pursue the matter. In another case the police claimed that it was not their responsibility and suggested the landowner contact his solicitor. One policeman contacted the FLO to ask what action they should take and another force contacted Cadw and the Army (admittedly after unexploded ordnance had been uncovered). The police generally visit sites when notified (9 cases) and will make additional patrols (8 cases). In one case the police telephoned the suspect to ask if he had done it, which he denied. There have been 5 instances when police have searched a suspect's home and in three cases the illegal activity was actually spotted

<sup>8</sup> Distractors are small pieces of scrap metal deliberately sown to produce misleading metal detector signals.



by the police and in two cases this led to prosecutions. In the other case the police were there to deal with a traffic issue and not aware of the illegal nature of the detecting at the time. The full breakdown of actions is given in Figure 19.

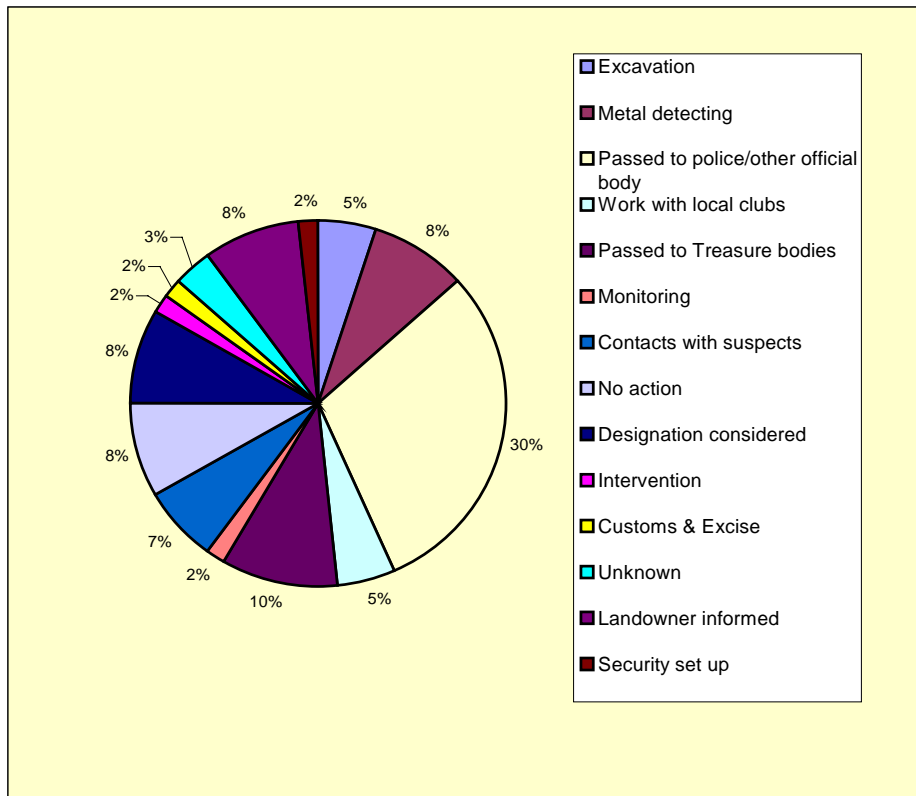


**Figure 19: Action taken by police in response to reports of Nighthawking**

### *Heritage Professionals*

6.2.49 The survey collected information on the actions taken by groups other than the landowners and police to address Nighthawking (Figure 20). This information shows the bodies actively involved in combating the problem and the types of approach they have employed. The national heritage agencies, EH, Cadw and Historic Scotland, were mentioned as being contacted in 27 cases. EH considered scheduling or suggested that the site be entered into a Countryside Stewardship Scheme in five instances. The local authority representatives were informed in 12 cases and museums another four. Apart from heritage groups some contact was recorded with DCMS, an MP, the Army and English Nature. Not all the groups contacted were able to take action.

6.2.50 The most common actions recorded were for those contacted to pass information to other relevant groups or to the police (18 examples). Apart from designation (ie scheduling) the most common action taken was to carry out a programme of monitored metal detecting, often involving local clubs (8 cases). Customs and Excise became involved when a group of tourists were found to be exporting artefacts without a licence (Museum Archaeologists News, 2006).



**Figure 20: Action taken by other bodies in response to reports of Nighthawking**

*Deterrents*

6.2.51 Those involved in combating Nighthawking have employed a wide range of strategies to prevent its recurrence and information gathered for the survey helps identify which are most commonplace and effective. Some steps are known to have been taken at a total of 50 sites, some employing more than one approach. In 20 cases this involved organised metal detecting which was seen as one of the more effective ways of stopping Nighthawking. Excavation by archaeologists to remove remaining metal artefacts was employed in six cases. Changes in the planting regime or removal from arable cultivation was employed for three sites and again this seemed to have proved an effective deterrent.

6.2.52 Round-the-clock surveillance and physical security barriers were employed in four and six cases respectively. Such approaches are expensive and are generally associated with development sites where security measures are part of the working requirements. One area of land in the East Midlands where there had been a rich discovery in the past continued to be targeted by Nighthawks and among many approaches to stopping the activity, electronic surveillance was installed by the police and PAS in partnership. Three more sites were fitted with surveillance cameras, two of them for the duration of excavation work.

6.2.53 Less successful methods include seeding the site with scrap metal distracters in two instances and the use of signs providing information on the illegalities of metal detecting on SMs. There is debate over the latter approach as while it can prevent mistakes it can act as a location beacon for Nighthawks wanting a potentially rich site to steal from. The range of approaches used to deter Nighthawks is given in Figure 21.

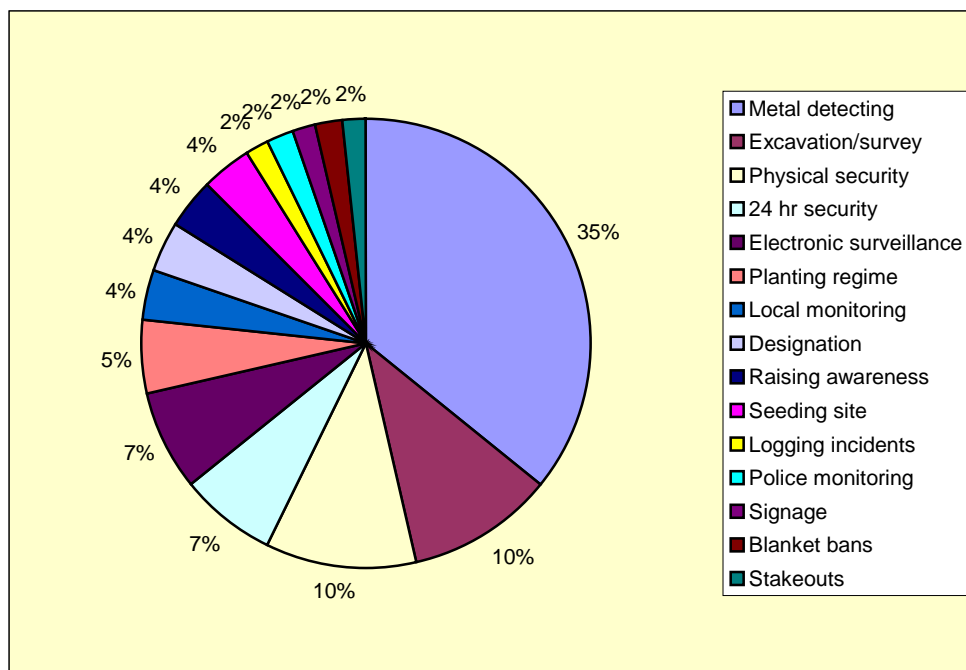


Figure 21: Methods used to prevent recurrence of Nighthawking

6.2.54 Ways in which commercial archaeological units deter Nighthawks are discussed in Section 7.3.

*Negative reports*

6.2.55 A number of individuals and organisations contacted OA to say that they were unaware of any Nighthawking being carried out in their area. In addition to 33 replies from landowners through the COSMIC project (Section 5.3), there were 23 of these. Two were from local authorities in Scotland and one was from the Isle of Wight, which agreed with the opinions of the FLO. Metal detectorists and a local society reported that no illegal activity took place in their specific, localised areas of Sussex, Norfolk and Yorkshire and four farmers from Cumbria and Worcestershire also reported no problems. These reports and those from the MoD, Crown Estates and the EH inspector for Dorset would all seem to be accurate, even if in some cases they referred to quite a small geographical area. Two respondents reported the positive impact of responsible detecting on specific sites.

6.2.56 Four negative reports came from archaeological units. The units concerned operate mainly in the Cotswolds, the north-east and the London area, all areas from which this survey has received some reports of Nighthawking. The other three negative responses, from EH, a metal detectorist and the Church of England, are not entirely supported by the survey results. That from the EH Inspector in the West Midlands stated that only a few incidents had

been reported in the last eight years, although the survey recorded ten incidents from that region, seven of which were on SMs.

### 6.3 Case studies

6.3.1 In order to provide further detailed understanding of how a site can be affected by Nighthawking and some of the efforts which go into preventing it, a number of case studies have been included here.

#### *Icklingham, Suffolk*

6.3.2 Although the problems with Nighthawks on this site started in the 1980s, despite desperate attempts by the farmer to stop it, it is still ongoing. In 1982 a hoard of Roman bronzes were removed from a farmer's field at Icklingham in Suffolk. Although the farmer had been aware of Nighthawks on the land, it was not until photographs of the bronzes began to appear and some examples were being offered for sale by galleries and museums in the USA that the true scale of the theft emerged. In 1989 the farmer began an 18 month long campaign to recover objects which did not appear to receive official support from the UK authorities (Rescue News 53 1991). Although suspects for the original theft were identified, the strength of the evidence was not felt sufficient for a prosecution to proceed. The outcome of the court case will result in some artefacts eventually being given to the British Museum.

6.3.3 The site had been scheduled in the 1970s and Nighthawking raids have been a constant problem since, occurring every couple of weeks at certain times of the year. Various approaches, including night patrols, thermal imaging, distracters, seismic detectors and image intensifiers have all been employed in attempts to stop the activity. The police are regularly involved in incidents and crime numbers are obtained for every incident reported.

- 6.3.3 During one raid in 2007 over 200 holes were dug. This happened immediately after planting, causing substantial damage to the crop in the field.



**Plate 1: Damage to new planting from Nighthawks at Icklingham, Suffolk © Mr J Browning**

- 6.3.4 Some 45-50 individuals have been prosecuted over the years, a recent case reaching its conclusion in February 2008, when three individuals were fined £250 - £500 and ordered to pay £250 in costs each (East Anglian Daily News 26/02/08). Not all prosecutions have resulted in the same level of penalty. In one instance the offender, caught on site, was bound over with £38 costs, although his equipment was confiscated. The metal detectors were also confiscated from another pair caught on site in 2006. Their fines were £150 for theft and £150 for illegal metal detecting with £55 costs.
- 6.3.5 Following harvest in 2008 a number of raids occurred, during one of which four offenders were caught and given fines of £80 for theft. There was no confiscation of equipment.
- 6.3.6 The Icklingham case highlights a number of issues:
- the vulnerability of Romano-British sites
  - the difficulty of stopping the determined Nighthawks
  - the ineffectiveness of the legal system to act as a deterrent
  - the role of dealers in promoting Nighthawks

#### *Marcham/Frillford, Oxfordshire*

- 6.3.7 Since 2001 the University of Oxford Department of Continuing Education has been carrying out a research and training excavation at the Iron Age/Romano-British site at Marcham/Frillford, Oxfordshire. The site was first identified in the 19th century and in the 1930s a Romano-British temple, now scheduled, and Iron Age features were excavated, with further work taking place in the 1960s. In 1976 the farmer spotted a circular crop mark while

crop spraying which test pitting suggested might be an amphitheatre (Big Roman Dig website).

6.3.8 Over the years, well before the recent excavations began, Nighthawking has been an ongoing problem on the site. The farmer, who is very interested in the archaeology, has tried seeding the site with washers and cartridge cases as distracters, and has tackled Nighthawks himself. On one occasion he was threatened with a spade. Despite this he does not feel it is worth involving the police to deal with the problem, partly because of the difficulty in proving that finds did come from a particular site. The excavation programme has been well publicised, featuring in the Time Team 'Big Roman Dig' in 2005 and including an annual open day as part of National Archaeology Week. Every year around the time of the excavations Nighthawking takes place and in 2008 the camp site has been moved closer to the site in the hope that this would deter unwanted visitors. This appears to have been successful.



**Plate 2: Excavations at Marcham/Frilford 2008 showing position of Camp Site © OUDCE**

6.3.9 A member of the public reported being given coins from Marcham/Frilford in 2003 and a finds specialist at Oxford University believes that she has been asked to identify Nighthawked artefacts from the site in the past. There was also Nighthawking activity on the farm while a water pipeline was being constructed, with the Nighthawks following topsoil stripping along the route. This happened not only during the evenings, but also in broad daylight.

6.3.10 This case study illustrates several of the issues which have emerged from the Nighthawking Survey:

- the vulnerability of Romano-British sites
- the lack of confidence in the police and legal system
- publicity attracting more Nighthawks
- the difficulty of stopping the determined Nighthawk
- the attraction of pipelines to Nighthawks



Plate 3: Archaeological horizons at Marcham/Frilford © OUDCE

*Llyswen, Powys*

6.3.11 The SM at Llyswen is a round barrow (possibly a medieval motte) in the corner of a field, with a large tree on it. Although metal detectorists did operate illegally on this site there is good reason to suppose that it was through genuine ignorance. The farmer had granted permission for detecting on his land but it appears that the detectorists were not aware of the SM. The consequences of this were potentially severe - the detectorists uncovered a metal plate relating to bombs and stopped work.



Plate 4: Metal Plate found during Nighthawking at Llyswen © Mr I Halfpenny, CADW



Plate 5: Buried Phosphorus grenades found by Nighthawks at Llyswen © Mr I Halfpenny, CADW

6.3.12 The find was reported to the police who notified Cadw and the army. As a result an excavation was carried out by the army Bomb Disposal Squad under careful archaeological supervision, which recovered 43 phosphorus grenades and 17 molotov cocktails from a Home Guard dump.

6.3.13 This case raises the question of how and whether the extent of SMs should be publicised or delineated, balancing a need to make the innocent aware of their presence against the danger of advertising the potential for a site with good finds. The possible use of information panels is often raised as a way of preventing ignorance of status being used as a defence.

### *Kirmington, Humberside*

6.3.14 The Roman town at Kirmington, a SM, is located on the north side of Humberside Airport, separated from it by the perimeter road. As a Roman site it attracts Nighthawks, but some of them were unaware of its added security feature, namely the use of the airport by Humberside police helicopters. In 2006-7 a group were caught on site after being picked out in the lights of the helicopter which filmed them and their arrest. Despite being caught "in the act," the fines imposed were described by a PAS adviser as 'risible' and their metal detectors were returned.

6.3.15 In 2007 another group of individuals were stopped on the site by police, although it was not clear whether they were on the scheduled part of the site. No arrests were made at the time but coins and other metal work were confiscated and it was reported to EH and PAS.



**Plate 6: Aerial view of Humberside airfield and Kirmington Roman site**

© [atschool.eduweb.co.uk](http://atschool.eduweb.co.uk)



6.3.16 This case highlights a number of issues:

- the vulnerability of Romano-British sites
- the ineffectiveness of legal system to act as a deterrent
- the importance of informed police who are in liaison with heritage bodies

*Lindum Heritage Excavations, Lincolnshire*

6.3.17 Since 2005 Lindum Heritage has carried out a summer training excavation at Sudbrooke Villa, Lincolnshire, reports of which are maintained on their website. The organisation's aim is to facilitate public participation in heritage and it has close links with Bishop Grosseteste University College. In 2007 participants arrived on site at the beginning of the season only to discover evidence of Nighthawking. The Nighthawk had scanned all the open trenches and some 20 holes had been dug into archaeological features.



***Plate 7: Footprint left by Nighthawk at Lindum © Mr A Daubney***



***Plate 7: Holes made by Nighthawks at Lindum © Mr A Daubney***

6.3.18 The dig website, which initially reported the incident, summed it up by saying:

*The loss of the objects - probably of little value as metal does not survive well on the site - is not the most disappointing aspect of this crime; it is the damage that has been done to the archaeological record that is most significant. These objects when recorded in their proper contexts are likely to have provided much valuable evidence about the dating and function of the site - this information is now lost forever. As the finds themselves had been pre-donated to the Lincolnshire archaeological collection and would have been publicly available the theft was actually committed against us all. Even worse the loss of the educational value of the objects is a crime not only against the present generation but against future generations. This is the crime of a particularly immoral and selfish person.*

*In order to prevent further damage we have reluctantly resorted to carefully scanning the trench ourselves and removing all further metal objects from the site. (This is obviously not ideal but sufficient recording has been carried out to link the removed objects back to their position in the stratigraphic sequence). The police have also been informed, have visited the site, gathered evidence and will be keeping an extra-vigilant eye on the site from now on.*

<http://www.lindumheritage.co.uk/dig-diary-2007.htm>

6.3.19 The local police also agreed to increase the level of surveillance of the site and CCTV cameras were loaned, although no further offences were recorded.

6.3.20 This case highlights a number of issues:

- the vulnerability of Romano-British sites
- the real damage caused by Nighthawks, not quantifiable by monetary value
- publicity on excavations attracting Nighthawks

#### *Catterick, North Yorkshire*

6.3.21 Near Catterick, North Yorkshire there are two Scheduled Roman sites, a roadside settlement at Bainesse and the Roman town, Cataractonium itself. In common with other Roman sites these have both been targeted by Nighthawks on numerous occasions.

6.3.22 The problem became particularly severe at Bainesse in 1996 when the farmer had to chase Nighthawks off his land at night. Rumours in the area suggested that statuettes had been among items stolen. With the landowner's support, local metal detectorists approached North Yorkshire County Heritage Unit and EH, the latter agreeing to fund a programme of archaeological investigations. Three seasons of work, 1997-9, were carried out combining systematic metal detecting surveys by the local detectorists with finds location by Northern Archaeological Associates.

6.3.23 This work reinforced the significance of the Bainesse site, supplementing evaluation excavations undertaken in 1993 in advance of the proposed A1 (M) motorway and provided additional support for the case for protecting the site through scheduling. The situation at Catterick has improved since the 1990s, but Nighthawking still goes on.

6.3.24 This case highlights a number of issues:

- the attractiveness of Roman sites
- the potential value of scheduling as a deterrent
- the value of co-operation with responsible metal detectorists to minimise further Nighthawk activity

*Coggeshall, Essex*

6.3.25 CAMARC, now OA East, carried out an excavation at Coggeshall on a pipeline route. The three trenches were badly hit by Nighthawking and the 18 holes identified were plotted onto the site plan. Quite a number coincided with the archaeological features.

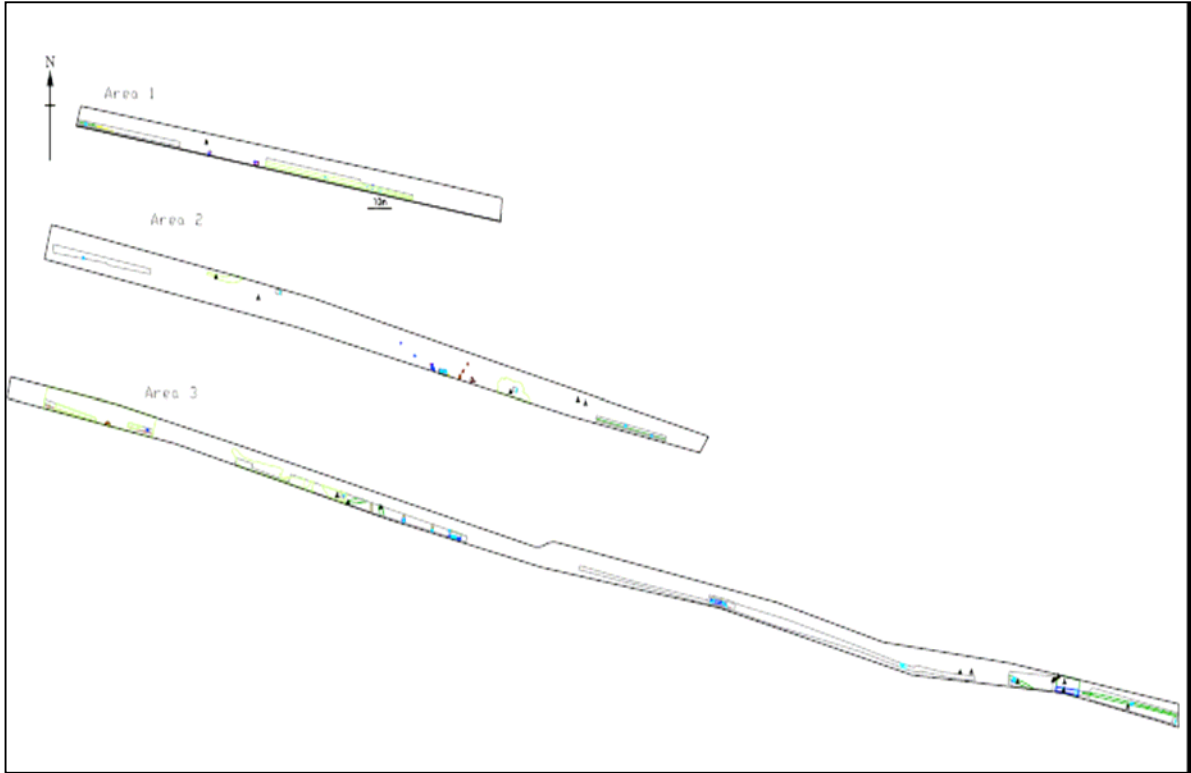


Plate 9: Plots of pipeline corridor showing Nighthawk holes at Coggeshall<sup>9</sup>  
© CAM ARC

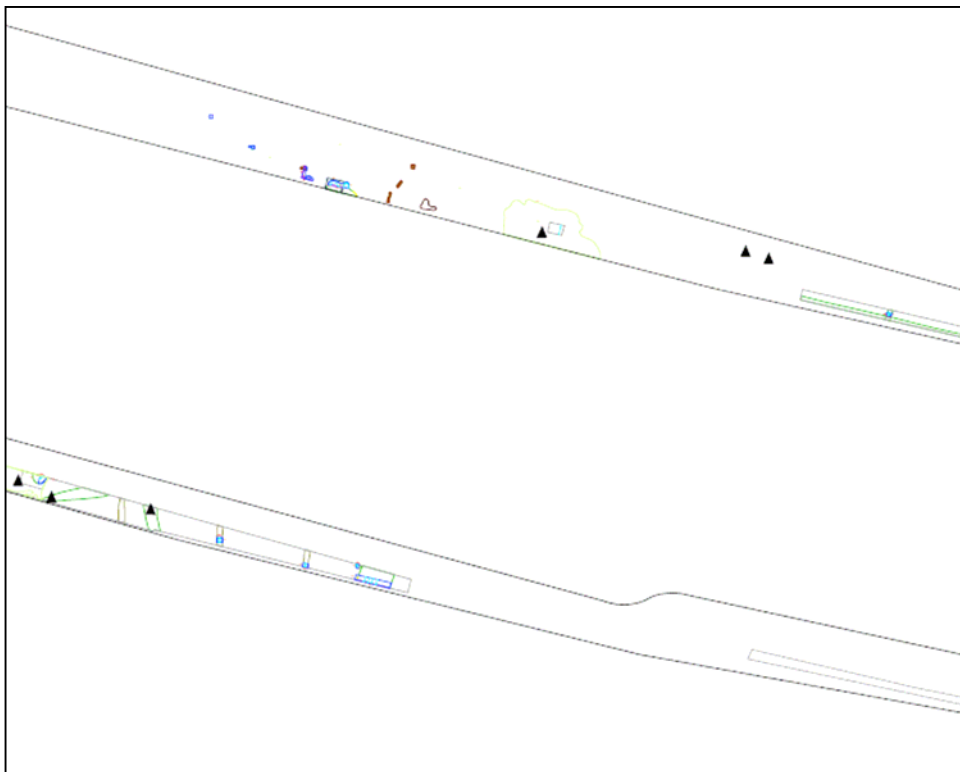


Plate 10: Close up of pipeline corridor showing Nighthawk holes at Coggeshall  
© CAM ARC

<sup>9</sup> The triangle symbol represents Nighthawked holes

6.3.26 This case illustrates

- the attraction of pipeline routes
- the potential for loss of information from archaeological features

*Excavations around Milton Keynes, Buckinghamshire*

6.3.27 In 2007-8 three archaeological units have been carrying out excavations in the Milton Keynes area. The first in the series was at Willen where Archaeological Services Co (ASC) were working on a gravel extraction site, close to the M1, where a Roman cremation cemetery associated with a rural settlement was uncovered during machining. Previous archaeological evaluation had not found the site and the cremations were initially found by the non-archaeological contractors prior to the watching brief. Despite the site being protected within a compound it was Nighthawked causing a severe level of damage. Based on the excavation and evidence from similar sites of this date and type of site, a large number of valuable metal objects such as fibulæ would have been expected. However, only one such object remained after the Nighthawking incident.

6.3.28 CAM ARC were warned about these incidents when they began work at nearby Broughton Manor Farm. Here the site was raided within a day or two of the work commencing. It is estimated that c 50 items were removed from their contexts, causing loss of information caused by the damage to the archaeological sequence of deposits. However, many of the looted artefacts were discarded on site due to their lack of financial value, as many proved to be iron objects used in construction. Once local detectorists were involved in detecting the site on a routine basis as part of the archaeological process, this targeting declined to a sporadic level thought to be the result of information being traded to other nighthawks who wanted to try their luck. One individual was caught, but no prosecution resulted.

6.3.29 The Roman cremation cemetery at Brooklands was excavated by OA in 2007-8. Initially there were no problems on the site, but in October 2007 an overnight raid took place destroying a cremation. Following this local metal detectorists were again employed as partners to prevent a reoccurrence.

6.3.30 The cases in the Milton Keynes area illustrate a series of issues:

- the attraction of cremations, particularly on Roman sites
- the vulnerability of sites by main road network
- the difficulty of securing sites against determined offenders
- the destruction caused by Nighthawks to the non-artefactual archaeological record
- and associated loss of information
- the value of partnerships with responsible detectorists
- the possibility of insider knowledge informing Nighthawks

*Wickham Court Farm, Greater London*

6.3.31 Wickham Court Farm, an Iron Age/Romano British Scheduled Monument was identified following trial excavations by West Kent Border Archaeological Group. It is partly under grass and partly under cultivation. The landowner does not permit any metal detecting on his land. There have been episodes of Nighthawking over the years following ploughing apparently including people from a nearby housing estate. The farmer monitors cars in the

nearby church car park, drives to the site at night without lights and is keen to involve the police. As a result of this activity there have been six prosecutions since 1986, although no details are available. Entry into a Countryside Stewardship Scheme is under consideration to see whether this might help.

6.3.32 In a recent incident, September 2008, around 150 holes were dug after two people had been observed on the land at dusk. The police were called.

6.3.33 This case highlights a number of issues:

- the attractiveness of Roman sites
- the difficulty of catching offenders in the act.



Plate 11: Holes left by Nighthawk at Wickham

© Ms E Whitbourn

#### *Illegal export and HM Customs*

6.3.34 It is common for overseas metal detectorists to arrange holidays in the UK in order to pursue their hobby. Most of these trips provide for legal activity and the requirement for export licences is explained to participants by organisers who will assist in the process. However, not all participants are prepared to follow the correct procedures and there have been a number of cases where tip-offs to HM Customs have prevented the loss of historic artefacts from the UK without record.

6.3.35 In 1999, a treasure hunter was stopped at a major UK airport with several thousand items in his luggage. These included coins, dress fittings and buttons which were of medieval to modern date and were passed into the custody of Norfolk Museums Service. No prosecution resulted. It is a criminal offence to export artefacts without a licence.

6.3.36 A similar swoop was carried out in 2005 by customs officials at a busy UK port. On that occasion a group of tourists were attempting to remove nearly 2,000 undeclared finds, which were confiscated. Again there were no prosecutions. Following this incident, discussions

between HM Customs, PAS, DCMS, MLA and SMA were held with a view to developing improved awareness of the issue and possible strategies to identify possible Nighthawks.

6.3.37 In both instances, although the objects themselves were recovered, all information about their context was totally lost.

#### *East Leicestershire Hoard*

6.3.38 In 2002 a hoard of Iron Age coins and other metal objects was discovered. The artefacts were subsequently excavated archaeologically and the site featured in the BBC2 programme 'Hidden Treasure' (2003). As a result the field was subject to episodes of Nighthawking. Leicestershire Police were alerted to the problem and increased the level of surveillance of the site. After a report from a passer-by, patrols with sniffer dogs and a helicopter were used to catch a man from the North of England, but not the two other people who had been with him. The man referred to above was arrested and admitted going equipped to steal. The initial sentence was a month in prison and confiscation of his metal detector (Leicester Mercury 26/11/2004). However, on appeal the sentence was reduced to a £250 fine.

6.3.39 The case caused much debate and for a while a map showing the location of the site was available on eBay although they had it removed after contact from the PAS. Electronic surveillance cameras, jointly funded by Leicestershire Police and the PAS, were installed on the site, a move that seems to have deterred further incidents.

#### *Dealing in illegal finds*

6.3.40 Once archaeological objects have been removed from the ground many are sold and/or exported from the country. Even if the initial discovery of objects by metal detectorists is legal, the ensuing sales may not be. eBay provides a seller with a wide client base without the need to reveal much about themselves and presents particular challenges for those who are trying to stop illegal sales.

6.3.41 One example which illustrates the difficulties involved in prosecution concerned a collection of material from Buckinghamshire. In 2005 a hoard of 15 Late Bronze Age, bronze items, including axes, was purchased by a man in the Netherlands. This transaction was reported to the Buckinghamshire FLO as the material was seen to be a significant find. It had apparently been found in 2004 and would therefore come under the Treasure Act. The coroner did pronounce the items Treasure and initiated a police investigation. The sellers were acting on behalf of the finders, who had moved to France. They could not be traced and the exact location of the find spot has not been identified. The purchaser allowed the material to be donated to Buckinghamshire County Museum (PAS records).

#### *Prosecution time scale*

6.3.42 A late Bronze Age hoard was uncovered in Kent in 2005. The finder, who admitted metal detecting without permission, reported most of the items to the FLO within a few days. However, the origin of the material was unclear - it was thought that it had come from an

ongoing archaeological excavation. Consequently, a search warrant issued under the terms of the Theft Act was executed at the finder's home address. Police were accompanied by the FLO and discovered a number of undeclared items, but the search happened before the 14 day deadline for declaration of Treasure had elapsed. An inquest was held in January 2006 and the coroner declared the material Treasure. This occurred more than six months after the activity had been committed and therefore no prosecution was possible. However, acting on the advice of the heritage -lead for the Crown Prosecution Service, the finder received a formal police caution for criminal damage to the archaeological excavation. The Treasure Valuation Committee abated any finders fee. The landowner, Kent County Council waived its right to a reward and the material was donated to a local museum.

6.3.43 These cases highlight a number of issues:

- the need for provenance to be established for all sales
- the difficulty of monitoring eBay, even with their co-operation
- the scale of removal of objects out of the country without an export licence
- the problems of publicity attracting Nighthawks
- the difficulty of prosecuting non-nationals
- the difficulty of keeping locations secret
- the problems over the appropriate scale of penalties
- the restricted time-scales which exist in which to identify offences
- the risk from tourists who have many routes out of the country
- the difficulty of identifying offenders without a tip-off

#### *Evidential Difficulties*

6.3.44 There are considerable issues surrounding the amount of evidence required to bring a successful criminal prosecution for various Nighthawking offences. Unless the suspect is caught red-handed (i.e. "in the act") of removing artefacts from a SM for example, it has been difficult to prove that finds of archaeological or historical interest originated from a particular site. Such evidential problems tend to have two consequences: first, the police may be unable to persuade the Crown Prosecution Service to bring a prosecution in the first instance if they are not satisfied that the evidential test in the Code for Crown Prosecutors has been met (i.e. that there is enough evidence to provide a "realistic prospect of conviction"). Second, if a prosecution is brought having passed this test and the public interest test (see Section 9.8.12), it may fail due to the requirement to establish "beyond all reasonable doubt" that the suspect was guilty of the alleged misconduct.

6.3.45 These cases highlight a number of issues:

- the vulnerability of Romano-British sites
- the difficulty in obtaining sufficient evidence to lead to a successful prosecution
- the difficulty of catching offenders in the act."



## 7 COMPARISON WITH OTHER SURVEYS

### 7.1 Introduction

7.1.1 Very few surveys have been carried out on the extent of levels of damage and levels of risk from Nighthawks on archaeological sites. As discussed in Section 3.3 the CBA carried out a survey, commissioned by EH, which included looking at the scale of Nighthawking in England in 1995 (Dobinson and Denison 1995), concentrating on Scheduled Monuments and archaeological excavations. Studies have been undertaken on other risks to SMs. In 1995 the *Monuments at Risk Survey of England 1995 (MARS)* was completed (Darvill & Fulton 1998), which looked at all risks to Scheduled Monuments. More recently further information on the condition of, and perceived threats to, Scheduled Monuments is contained in the *Scheduled Monuments at Risk (SM@R)* survey carried out by EH (2008), the results of which have yet to be published, although some of the data was accessed for this survey. Some data has also been collected through *Conservation of Scheduled Monuments in Cultivation (COSMIC)*, a project which was carried out by OA for EH and Defra (OA 2006).

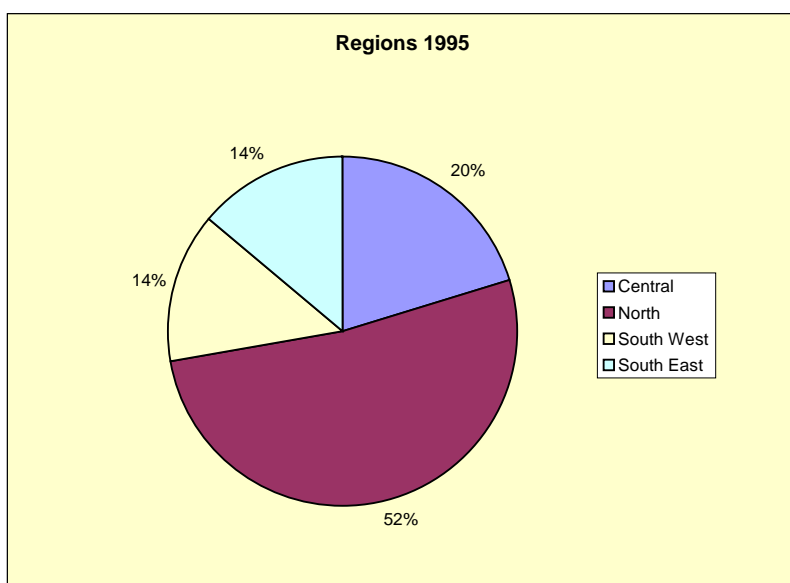
7.1.2 The CBA survey is the only project (apart from this one) to provide specific data on Nighthawking, although SM@R and MARS both contain some more general information on the issue. The MARS and COSMIC survey data on perceived risks from activities other than Nighthawking enable the scale of the threats from Nighthawking to be placed in a wider context.

### 7.2 EH funded CBA survey 1995

7.2.1 The methodology employed by the CBA survey has been summarised in Section 3.3. One of the intentions of the Nighthawking Survey as discussed in Section 2, was to demonstrate what changes in levels and patterns of Nighthawking have taken place since the CBA survey was published in 1995. The CBA survey only covered England and was only concerned with damage to SMs and excavations. For this section of the report, direct comparisons between the two surveys will be made using only data collected here from England.

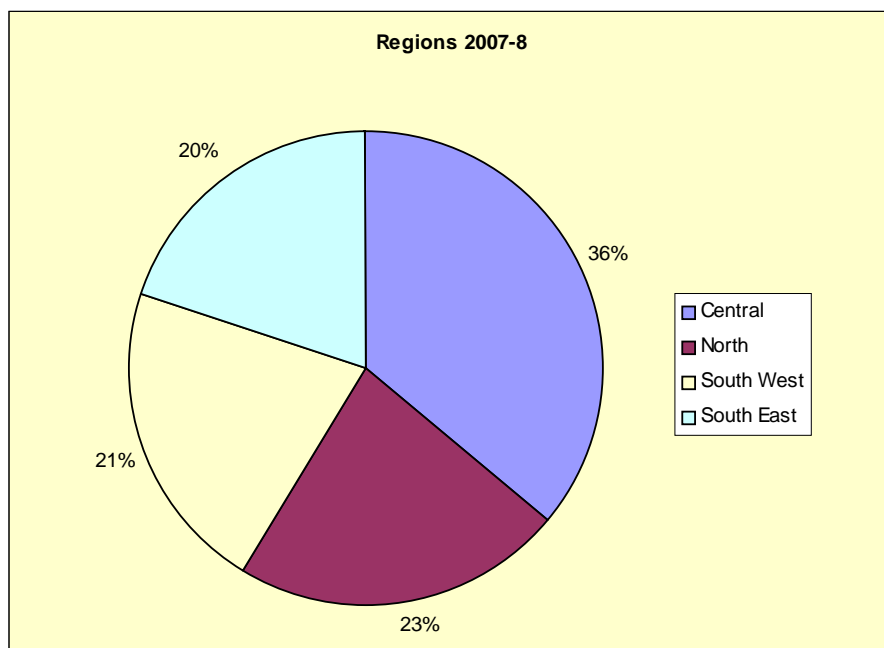
7.2.2 The 1995 CBA survey identified 188 SMs which had been subject to Nighthawking. The current survey received reports of Nighthawking on 75 SMs (figure does not include SMs outside England), representing a decrease in the amount of reported Nighthawking on SMs since 1995 of 58.5%. As discussed elsewhere another 59 SMs not already included in the 2007-8 survey were listed in the SM@R project as being at risk from Nighthawking (although not necessarily having been ever Nighthawked). Even if both the EH 'at risk' and those identified as being Nighthawked by this survey were added together, the total would still only be 137, still a significant decrease, in the order of 27%.

- 7.2.3 In total there were 14,743 SMs in 1995 of which 188 were believed to have experienced Nighthawking, 1.3% of the total. The authors believed this figure to be an underestimate. In 2007-8 the total number of SMs had risen to 18,300 of which the 75 identified as having experienced Nighthawking represents 0.41% of the total resource (also an underestimate). Even if the 'at risk' and identified SMs are added together this still represents only a small proportion of the overall resource.
- 7.2.4 Changes in the pattern of Nighthawking activity since 1995 can be investigated by comparing the regional distribution of SMs which have been Nighthawked, using the regions designed by OA (Section 6.2, Figure 6). In 1995 52% of the sites, 98 in total were located in the northern region. 20% or 38 sites were in the central region and 14%, 26 sites, in both the south-west and the south-east, as shown in Figure 22.



**Figure 22: Regional distribution of SMs identified as Nighthawked 1995**

- 7.2.5 By 2007-8 the picture had changed somewhat. Only 23% of the SMs, 17 in total, now lie in the northern region, representing a sharp fall. There have also been falls in the number of Nighthawked SMs identified in the south-east (15 sites) and south-west (16 sites), although these regions now represent a higher proportion of the whole. The actual number of SMs in the central region has fallen slightly to 27, but this region now has the highest proportion of Nighthawked SMs (36%). These results are shown in Figure 23.



**Figure 23: Regional distribution of SMs identified as Nighthawked 2007-8**

7.2.6 The variations across the UK and between the two surveys are shown more clearly in the results for particular counties (see Figure 25 below). The comparison shows the number of Scheduled sites in each county, which have experienced Nighthawking. The biggest change has taken place in Yorkshire where the number of reported incidents of Nighthawking on SMs has fallen from 44 to 9 (but see Section 9.10).

7.2.7 Another area where the number of sites has fallen sharply is Humberside, which recorded ten in 1995. Humberside was split between Lincolnshire and Yorkshire in local government reorganisation in 1996, when East Yorkshire was a new creation, and the 2007-8 results might have reflected these changes. The breakdown given in Figure 24, however, shows a decrease in activity across Yorkshire, and the number of sites in Lincolnshire where Nighthawking has taken place has also fallen from six in 1995 to four. These figures just include Scheduled sites, not the 30 sites identified in Yorkshire in total, as undesignating sites were not included within the CBA survey.

	1995	2007-8
Yorkshire East Riding	6	0
Yorkshire N	17	4
Yorkshire S	15	2
Yorkshire W	10	3

**Figure 24: Numbers of sites affected in Yorkshire by district**

7.2.8 The figures show that in a number of counties Nighthawking on SMs has increased since 1995, including Wiltshire, Warwickshire, Somerset, Oxfordshire and Buckinghamshire, with small rises in Northampton, Northumberland and Hampshire. However, the overall trend is

down since 1995.

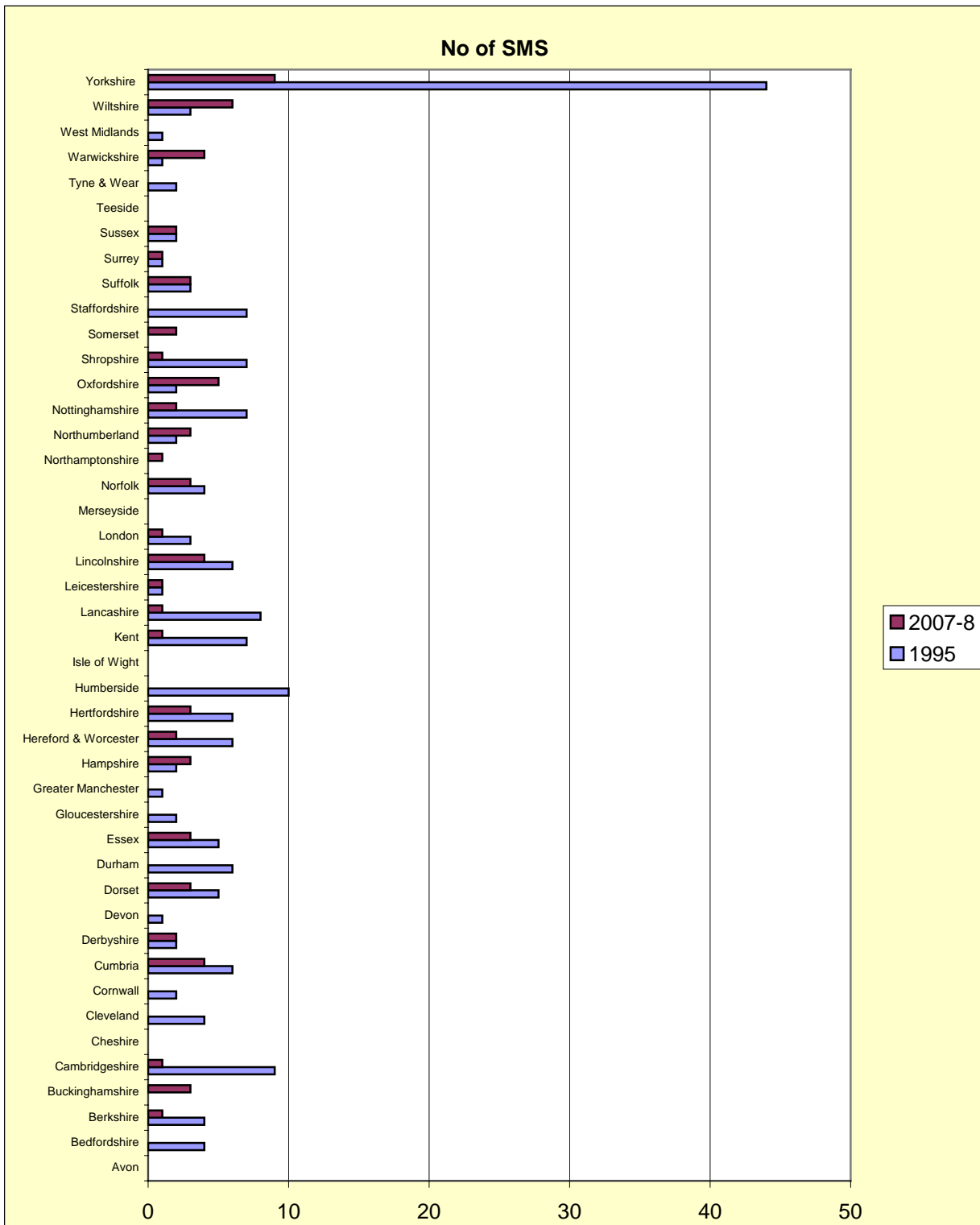


Figure 25: Distribution of scheduled sites identified as Nighthawked by county<sup>10</sup>

<sup>10</sup> Yorkshire local authorities included as one Region for comparative purposes with Denison and Dobinson 1995 (see Section 7.2). Breakdown of Nighthawking in the Yorkshire counties can be found in Figure 24. Only England included here as Denison and Dobinson 1995 only covered England.

### 7.3 OAWA survey

7.3.1 There has also been a decrease in archaeological units reporting Nighthawking since 1995. In 1995 37 out of 50 commercial archaeological units responded saying they had been affected by Nighthawking (74%). Although 54 archaeological units were approached for the 2007 Nighthawking Survey, not all of them replied despite several attempts to establish contact. Of the 19 that did reply, 15 reported that they had had excavations targeted by Nighthawks (27%), affecting 35 sites, leading to an unquantifiable loss of data.

7.3.2 Reasons for this drop in number of archaeological organisations reporting Nighthawking are likely to relate to the changes in the Health and Safety regulations and general improvements in construction site security. Of the 95 OA sites that had not suffered from Nighthawks (see Section 5.5), information on the reasons why the site may not have been targeted was obtained for 76 sites. Of these:

- 31 were thought to be not attractive to Nighthawks - ie not metal-rich sites - early prehistoric or later industrial sites
- 53 were fenced
- 60 had some form of restricted access
- 29 had 24 hour security
- 32 had been metal detected as part of the archaeological strategy
- 62 had more than 1 measure in place regardless of whether sites would be attractive to Nighthawks or not (see table below)
- only 3 sites had no measures in place to stop Nighthawks, two of which were not thought at risk from Nighthawks

7.3.3 Figure 26 shows how many sites had more than one reason which may have deterred Nighthawks.

Numbers of excavations	Site fenced	Restricted Access	24 hr Security	Metal Detected as part of archaeological strategy	Archaeological remains unlikely be attractive to Nighthawks (eg early prehistoric, later industrial etc)
1	N	Y	n	n	y
2	N	N	n	n	n
2	N	Y	n	y	y
3	Y	Y	y	n	n
11	Y	Y	y	y	y
7	Y	Y	n	y	y
14	y	y	n	n	n
4	Y	Y	y	n	y
6	N	Y	y	n	y
1	N	Y	n	y	n
4	N	Y	n	n	n
3	N	N	n	y	n

Numbers of excavations	Site fenced	Restricted Access	24 hr Security	Metal Detected as part of archaeological strategy	Archaeological remains unlikely to be attractive to Nighthawks (eg early prehistoric, later industrial etc)
1	Y	N	y	y	n
2	Y	Y	y	n	n
4	Y	N	n	y	y
2	N	N	y	y	y
5	Y	Y	n	n	y
1	Y	N	n	n	y
1	N	N	n	y	y
1	Y	N	n	n	n
1	N	N	n	n	y

**Figure 26: Possible reasons why sites escaped being Nighthawked**

- 7.3.4 One other statistic collated for the CBA survey was the number of excavations undertaken by the Museum of London (MoL) that had suffered from Nighthawking. They reported that they had had *c* 15 cases over the years 1989-94, less than 2% of 1,056 site projects (of all sizes and durations).
- 7.3.5 A similar question was asked by the Nighthawking Survey of Oxford Archaeology and Wessex Archaeology, although only larger excavations were included. Out of 95 sites excavated by OA over the last 3 years, 5 had been Nighthawked, (6%). Out of 57 sites excavated by WA over the last 3 years 2 sites had been Nighthawked (3.5%).
- 7.3.6 The MoL and the OA/WA data sets are not closely comparable due to the differences in size, timeframe and types of excavation represented in both surveys. Nevertheless, both surveys do suggest that only a small percentage of archaeological excavations are being Nighthawked, with the associated unquantifiable loss of archaeological information.

## 7.4 Numbers of excavations

- 7.4.1 During the course of the survey a question was raised on how many excavations are undertaken in the country per year so that a rough percentage can be calculated for how many of these sites are Nighthawked.
- 7.4.2 It is extremely difficult to obtain any figures for the total number of archaeological excavations carried out and data has therefore only been compiled for one year, 2006, using the last complete set of information published by the *Archaeological Investigations Project (AIP)*, run by Bournemouth University.
- 7.4.3 The project involves AIP researchers visiting the offices of archaeological curators, contractors and consultants, primarily to access archive copies of 'client reports', i.e. desk-based assessments, field evaluations, post-planning determination projects, research

projects, building surveys, estate management surveys and geophysical investigations. They attempt to visit every SMR in the country as well as all commercial archaeological units/trusts. Even this approach is not comprehensive as it does not include work carried out by local societies or many research excavations run by universities, reports for which are not necessarily passed to the curators. However, these represent only a small proportion of the total as the bulk of investigations are carried out within the commercial framework. Broadly speaking then, the AIP figures provide a good indication of how many fieldwork projects occur.

7.4.4 The numbers of intrusive excavations for 2006 are shown in Figure 27. Since more than one type of investigation may be employed at any particular location, the totals here are likely to be higher than the number of sites, but they do produce a good indication of the scale of archaeological work.

Type of investigation	Number of investigations
Evaluation (trenches excavated to inform planning decisions)	1253
Post-determination (archaeological work after planning permission has been given) and non-planning (mixed types) - includes mainly excavations and watching briefs	2394
Total	3647

**Figure 27: Types of archaeological investigation in 2006**

7.4.5 Statistics for the proportion of excavation sites which had been targeted by Nighthawks were gathered for the Nighthawking Survey from OA and from WA. Over three years between 3.5 and 6% excavations were targeted by Nighthawks. This is seen as a more representative figure than that suggested by the 35 sites reported as Nighthawked since 1995 by other organisations. The AIP register for 2006 catalogued 3647 intrusive fieldwork investigations of all types for the year for the entire country. Thus, if the OA/WA figures are representative, then between 128 (3.5%) to 219 (6%) archaeological excavations might be visited by Nighthawks each year.

## 7.5 Numbers of Scheduled Monuments in England

7.5.1 During the course of the survey a question was raised on how many of the Scheduled Monuments in England would actually be attractive to Nighthawks, and that the percentage of sites affected should relate to those which would be vulnerable, rather than the percentage of the whole resource. Therefore the following work has been undertaken.

7.5.2 Not all SMs are likely to be attractive to Nighthawks and the SMs from one county have been selected to examine what percentage of monuments would prove attractive to Nighthawks. This has then been scaled up for the whole country.

- 7.5.3 In April 2008, according to the EH website ([www.english-heritage.org.uk](http://www.english-heritage.org.uk)) there were c 18,300 entries on the EH list of Scheduled Monuments. This represents some 31,400 sites, as a number of monuments are represented by a group of discrete sites.
- 7.5.4 Within this collection there are a range of types and locations of monument, not all of which would be attractive to Nighthawking e.g. standing remains or features such as churches or post-medieval pumping stations, particularly in urban environments or sites without metal finds such as those dating to the Neolithic period. The date of the monuments is less important than their type as recent sites include military features of at least specialist interest. OA carried out a more detailed analysis of the set of monuments from Cambridgeshire, 214 in total, taken from the gazetteer published by EH. The number of monuments has been used for the statistics, not the number of separate sites, which would be more difficult to determine.
- 7.5.5 Figure 28 shows the distribution of SMs across the different Districts within Cambridgeshire, illustrating how varied this is for different periods, largely reflecting the different types of landscape. In Figure 29 the distribution and period of SMs thought unlikely to attract Nighthawks is shown, representing 20% of the county's stock. The criteria for excluded SMs include those with a lack of surrounding land on which Nighthawking would be possible, such as features in an urban setting, post-medieval standing structures and those from the earlier periods, e.g. stretches of dyke. Earlier prehistoric sites were not excluded as the Nighthawk may not be aware of their precise date.

	Neolithic	Bronze Age	Iron Age	Roman	Early Medieval	Medieval	Post-medieval	Mixed period	Unknown period	Total
<b>Cambridgeshire</b>	7	39	5	29	6	99	23	3	3	214
<b>Cambridge City</b>	-	-	-	-	-	2	3	-	-	5
<b>East Cambs</b>	1	11	-	6	1	15	2	-	-	36
<b>Fenland</b>	1	5	1	2	1	2	1	-	-	13
<b>Huntingdonshire</b>	1	10	-	3	1	52	14	-	-	82
<b>South Cambs</b>	4	13	4	18	3	28	3	3	3	86

**Figure 28: Distribution of Scheduled Monuments in Cambridgeshire by period**



	Roman	Early Medieval	Medieval	Post-medieval	Total
Cambridgeshire	1	6	99	23	44
Cambridge City	-	-	-	2	2
East Cambs	-	1	3	2	6
Fenland	-	-	2	-	2
Huntingdonshire	-	-	16	9	25
South Cambs	1	2	3	3	9

**Figure 29: Distribution of sites unlikely to attract Nighthawks by period**

7.5.6 Using the percentage of 20% of sites in Cambridgeshire that would be unattractive or not at risk from Nighthawks, it can be estimated that the number of SMs which would be vulnerable to Nighthawking across the whole of England would be *c* 14,500 (ie 80%). This survey has received reports of Nighthawking on 75 SMs in England, representing 0.52% of those perceived as vulnerable.

## 7.6 Comparison with Burtonwood survey 1996

7.6.1 The Burtonwood survey was carried out in 1996. The percentage of SMs identified as being Nighthawked, 21.3%, is much higher than the 1.3% recorded by the CBA survey the previous year. However, Burtonwood looked at only monuments from selected periods for only a few counties, most of which fall into the high risk category, so direct comparisons are difficult. The increased numbers reflects the fact that Burtonwood was actually able to interrogate the EH FMW paper files, which was not possible during this survey. However, a numerical comparison of the results of all three surveys can be found below in Figure 30.

County	CBA 1995		Burtonwood 1996		OA 2008	
	No of sites	% of sites	No of sites	% of sites	No of sites	% of sites
Cambridgeshire	9	3.8	15	27.5	1	1.0
Norfolk	4	1.1	18	45.0	3	3.0
Suffolk	3	1.2	8	28.0	3	3.0
West Sussex	12	4.3	5	6.5	2	2.0

**Figure 30: Comparisons between surveys**

7.6.2 The Burtonwood survey and the OA survey record levels of activity in the East Anglian counties being higher than those in West Sussex. It is interesting that this was the reverse of the conclusions of the CBA which recorded figures of *c* 1% Norfolk and Suffolk, 3.8% for Cambridgeshire and 4.3% for West Sussex.

7.6.3 The Burtonwood Report, like that of OA, contains a recommendation that changes be made in the EH record-keeping system so that Nighthawking can be recorded systematically.

## 7.7 Comparison with MARS

7.7.1 The MARS survey is the only published, detailed survey of the extent of damage to, and level of risk of, SMs in England. The data collection process for MARS identified a number of causes of damage to, and destruction of, SMs. Comparison of the MARS results with those obtained for the Nighthawking Survey allows comparison of the extent of the threat of Nighthawking to SMs in relation to other activities. In the MARS survey the degree of destruction and damage was calculated with respect to the area of monument affected rather than the number of monuments, which has been the basis for all the other surveys considered. However, it is still possible to identify patterns in threat levels. Overall 16% of monuments known in 1940 had been destroyed by 1995 and 95% of monuments had experienced some level of damage.

7.7.2 Figure 31 gives the analysis of causes for total destruction and Figure 32 those for piecemeal destruction of SMs.

Cause	% of total destroyed
Development & urbanisation	27
Demolition & building alteration	20
Unknown	17
Mineral extraction & industry	12
Agriculture	10
Road-building	9
Natural process, vandalism, visitor erosion, military damage, forestry (combined)	5

**Figure 31: Main causes of monument destruction to 1995 (Source; Darvill and Fulton 1998)**

Cause	% of total damaged
Agriculture	30
Natural process	22
Building alteration	11
Unknown	10

Cause	% of total damaged
Development & urbanisation	9
Demolition	5
No damage	5
Excavation	4
Road-building	4
Mineral extraction	2
Visitor erosion, , forestry & industry	1
Military damage, wild animal & vandalism	1

**Figure 32: Main causes of monument damage to 1995 (Source; Darvill and Fulton 1998)**

7.7.3 The report acknowledged the difficulty in estimating the impact of activities such as ‘metal detecting’, where the evidence for it happening may not be permanent. It estimated that less than 1% of monuments were affected, but thought this to be an underestimate. When the percentage of SMs affected by Nighthawking is compared with the figures for other sources of damage, Nighthawking appears to be much less of a risk, particularly in comparison to agriculture.

## 7.8 Comparison with COSMIC

7.8.1 The project *Conservation of Scheduled Monuments in Cultivation (COSMIC)*, which was carried out by OA for EH and Defra (OA 2006) was specifically designed to develop a methodology for assessing the risk to archaeological sites from arable cultivation. The East Midlands region had acted as a pilot area for the EH SM@R project and had identified 159 sites as being at moderate or high risk from cultivation damage. Of these, 77 scheduled, together with 39 non-scheduled sites, were investigated using a risk assessment model backed up by test pitting. The results identified 79% of SMs as being at moderate or greater risk of damage from arable farming and 75% of the non-scheduled sites (OA 2006). This once again shows that Nighthawking is less of a threat to archaeological sites than cultivation.

7.8.2 As Section 5.3 discusses, from the 95 letters sent to farmers in the pilot region, 40 replies were received of which seven said that the farm had been targeted by Nighthawks and 33 said that they had not. The questionnaire results suggest the rate of Nighthawking in this region could be affecting as many as *c* 17.5% of all arable landowners. This figure is higher than figures from other surveys, but is only based on a limited and selective sample.

## **7.9 Literature search**

7.9.1 As described in Section 4.9, OA consulted a sample of popular magazines from 1975 to the end of 2006. The comparison of this literature for the period leading up to the CBA survey in 1995 and for the subsequent period shows a decrease in the number of reported incidents of Nighthawking. Between 1975 and 1995 the number of sites reported was 25. Between 1995 and 2007 this had decreased to 9.

## **7.10 SM@R**

7.10.1 This survey has not been used for direct comparative purposes - see Section 5.4. However, some observations can be made. The 62 sites identified on the SM@R database as vulnerable to Nighthawking (although not necessarily being Nighthawked) represent <0.5% of the total number of SMs. The 25 sites which were definitely Nighthawked represent 0.14%. According to the Nighthawking Survey 0.41% of SMs have experienced Nighthawking, suggesting that the OA survey is more comprehensive than that undertaken by EH.

## 8 PAS MONITORING OF EBAY (PREPARED FOR OA BY THE PAS)

### 8.1 Summary

8.1.1 Following a Memorandum of Understanding between eBay, the British Museum and the Museums, Libraries & Archives Council, this document outlines the work of the British Museums' Department of Portable Antiquities & Treasure monitoring eBay for potential Treasure.

### 8.2 Background

8.2.1 On 2 October 2006, the British Museum and the Museums, Libraries & Archives Council announced a Memorandum of Understanding (MoU) with eBay, whereby the British Museum's Department of Portable Antiquities & Treasure (PA&T) monitors eBay for items of potential Treasure, questions vendors and notifies the Metropolitan Police's Art & Antiques Unit of any unreported items (Appendix 11a). Upon formal notification from the police, eBay are required to end the sale, and the police may investigate further.

8.2.2 The catalyst leading to the MoU was the passing of the Dealing in Cultural Objects (Offences) Act 2003, which made it an offence to acquire, dispose, import or export 'tainted cultural objects'.

8.2.3 Following the passing of the Act, Lord Redesdale (Secretary, All Party Parliamentary Archaeology Group) met with eBay's Director of Legal Affairs to discuss the matter: since eBay offered a market place for dealing in cultural objects, and some were no doubt 'tainted', he reasoned that eBay had a case to answer under the new Act.

8.2.4 It became clear that while eBay provided a market place for vendors and profited from sales of antiquities, eBay itself did not deal in cultural objects and therefore did not commit an offence under the new Act. However, eBay recognised it was a problem if people were using its site to sell illicit antiquities and welcomed advice and guidance on how matters could be improved.

8.2.5 It was agreed that advice for people buying archaeological objects should be provided, in order to inform both vendors and buyers of their legal obligations. It was thought that many people dealing in cultural objects were ignorant of the law; proving *mens rea* (intent) is an important component of successfully prosecuting under the Theft Act 1968, the Treasure Act 1997 or the Dealing in Cultural Objects (Offences) Act 2003. As a result eBay developed its own guidance Buying and Selling Antiquities Safely on eBay (Appendix 11.b) - prominent on its site, next to the antiquities listings. This was based on a PAS document Advice for People Buying Archaeological Objects from the UK (Appendix 11.c), agreed with colleagues in Scotland, Wales and Northern Ireland.

8.2.6 It was also agreed that there should be some sort of mechanism by which eBay could be monitored for tainted cultural objects and those items removed from sale. eBay took the view that its customers were inherently 'good' and was therefore reluctant to take down items

without substantial proof that an offence had been committed. Further, eBay lacked the professional expertise to monitor the site for illicit antiquities itself and therefore would be dependent upon external help in this respect. Hence the MoU, outlined above, was negotiated and agreed.

### **8.3 The Department of Portable Antiquities & Treasure**

8.3.1 PA&T oversees the running of the Portable Antiquities Scheme (a voluntary scheme under which there is no legal requirement for finders of archaeological objects to report them) and the Treasure process (under which finders have a legal obligation to report finds that qualify as Treasure - see *The Treasure Act 1996 Code of Practice (revised) England and Wales*). For some time PA&T had been aware that a significant number of potential Treasure finds were being sold on eBay and elsewhere and felt that the very open nature of the trade in such objects sent a poor signal to finders who reported Treasure correctly.

8.3.2 The primary interest in monitoring eBay is to identify archaeological objects found in England and Wales which finders are obliged to report; finds of potential Treasure. PA&T do not proactively monitor eBay for finds outside this remit, but we will highlight such cases to the relevant authorities as appropriate.

### **8.4 Benefits of an agreed Memorandum of Understanding**

8.4.1 Although it is possible for anyone to ask questions of vendors of antiquities on eBay, the MoU formalises the process, and ensures the involvement and expertise of other parties, particularly the Arts and Antiques Unit and MLA's Export Licensing Unit. Likewise, the fact that the initiative is supported by eBay, ensures that 'eBayers' generally (but not always) cooperate with our questioning. The main aim of the parties involved was simply to make both buyers and vendors aware of their legal obligations regarding the buying and selling of antiquities - in particular that of Treasure - and reduce the occurrences of unreported objects being sold.

### **8.5 The extent of the trade in UK antiquities on eBay**

8.5.1 eBay markets itself as 'the world's online market place', and the biggest in the United Kingdom. It has a global customer base of 233 million people of which more than 14 million are in the UK. The number of antiquities sold on eBay each day varies, but since October 2006 we have been making a record of the number of antiquities listed each day. This shows on average 2,464 listings classified as 'antiquities' each day, of which an average of 418 items were classified as 'British'. When PA&T did the same exercise in March 2007 it was found that on average there were 2,838 antiquities listed each day, of which 541 were said to be British finds. Probably not too much can be made of this apparent, though slight, reduction in the numbers of antiquities being sold on eBay. It is also wise to be wary of the classification 'British', as many of the items listed are clearly not from the UK.

## 8.6 Results of monitoring eBay: October 2006 to end May 2008

8.6.1 Since October 2006, PA&T has noted 290 cases of potential Treasure listed on eBay; 144 for the calendar year 2007. To put that number into context 748 finds were actually reported Treasure in 2007.

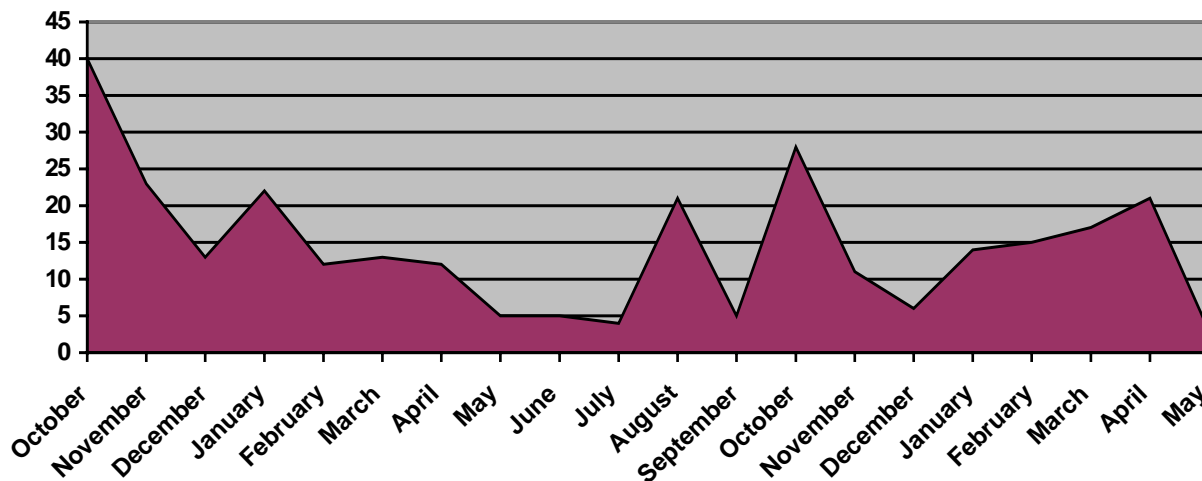


Figure 33: Potential Treasure per month listed on eBay

### *Category 1: Old finds*

8.6.2 7% (6.9%) of vendors said the finds they were selling were found prior to the Treasure Act 1996. A vendor of a 'Medieval silver ring', for example, said that *"the item described was found on a...farm in Hertfordshire...15 years ago"*. While the Treasure Act only applies to objects found after 24 September 1997, there was still a legal obligation to report all gold and silver finds of potential Treasure to the local coroner under Treasure Trove. However, in practice, many finders were turned away by the coroner, since only finds that were 'deliberately hidden, with the intention of recovery' qualified as Treasure. Moreover, finders who took finds to museums seemed not always to be told they had to report them, especially if it seemed likely the object was a casual loss. Of course it was for the coroner, not anyone else, to decide whether or not an object was Treasure Trove. Interestingly, in recent times there are fewer instances where a vendor has openly stated that the find was found before the new Act.

8.6.3 The Treasure Act is much clearer: it states that a finder should report Treasure to the coroner in the district in which it was found within 14 days, or within 14 days of realising the object is Treasure. So the non-reporting of Treasure is the offence under the new Act.

### *Category 2: Finder's responsibility to report*

8.6.4 Less than 1% (0.69%) of vendors stated it was the finder's responsibility to report Treasure, not theirs as a third party. Technically this is correct. However, one would have thought that a dealer would have a moral obligation to ensure bought items, and those he sold on, had been reported. Also, if *mens rea* can be proven - which invariably it cannot - then there might be an offence of handling stolen goods (Section 22, Theft Act) or laundering the proceeds of crime (Proceeds of Crime Act 2002). In 2007 no vendor has used this as a reason not to report a find believed to be potential Treasure.

### *Category 3: No knowledge of findspot*

- 8.6.5 More than 25% (25.52%) of vendors said they had no idea where the object came from or when it was found. In fact 57% (56.76%) of these vendors responded by saying they bought the object on eBay to sell on; for example a vendor of a 'Medieval silver finger ring' told us "*I do not know where these objects were found, I purchased them off eBay, I'm not the finder, I'm not a metal-detector person...*". Likewise, 41% (40.54%) of vendors who said they had no knowledge of the findspot of an item they were selling said they bought it from a flea market or suchlike. Two vendors (2.7%) stated they were unaware of antiquities law.
- 8.6.6 A good proportion of vendors continue to claim that they have no knowledge of the findspot of the objects they sell. It is disappointing, but unsurprising, that few dealers seem to verify the legal status of a find before they buy to sell on, so what hope then is there for the non-expert buyer who purchases such finds? eBay's own guidance, *Buying and Selling Antiquities Safely on eBay*, was obviously produced with the non-expert buyer in mind, and PA&T find it useful to flag this up to 'novice-buyers'.
- 8.6.7 In 2006 the Government published a draft Bill on coroner reform, which impacts upon the Treasure Act. In the view of the British Museum, there is a need to change the legislation so that the obligation to report Treasure is extended to all who come into possession of it, which would have a major impact on third-party buyers/sellers, but this is not in the draft Bill. A change which is in the draft Bill is a clause to extend the statute of limitation by which the police can launch a prosecution under the Treasure Act; currently 6 months from the time the offence was committed.
- 8.6.8 Under the existing system the Treasure Valuation Committee has the power to recommend to the Secretary of State that a reward is abated or reduced, but of course the find needs to have been reported or seized for this to happen.

### *Category 4: Foreign finds*

- 8.6.9 Given that antiquities laws in England and Wales are more liberal than elsewhere it is intriguing that more than 18% (18.27%) of vendors said the finds they listed came from abroad and therefore did not need to be reported under the Treasure Act. One vendor of a 'Medieval silver finger ring' even stated that "*I am aware of your schemes and so no longer sell British gold and silver antiquities on eBay!*"
- 8.6.10 The monitoring work shows that vendors remain happy to state that finds are foreign. The sale of foreign finds on eBay begs the question, were they imported legally from their country of origin? It maybe the case that some vendors are trying to pass off British finds as being foreign. Indeed, the fact that some finds, particularly Roman and Medieval antiquities, are of a form common in most parts of Europe makes it difficult to be sure of their country of origin.

### *Category 5: Other reasons*

- 8.6.11 Almost 17% (16.9%) of vendors gave other reasons why they did not think the find they were selling needed to be reported. In many cases they simply stated that the object was not Treasure, but did not give a reason. For example, the vendor of a 'Medieval silver fitting from



a dagger' said *"We are established dealers and fully aware of the requirements of the Treasure Act. We can confirm this item was not Treasure"*. When PA&T informed a vendor of a 'Roman silver finger-ring' of his legal obligations under Treasure he replied *"Whatever!"*, but after further questioning revealed *"I must be honest by telling you that my description is not exactly accurate, I'm afraid that you say pretty much anything to get the best price you can and my saying I am the finder gives the object much more credibility"*. Further questioning often helps ascertain whether or not a particular find should have been reported Treasure, but in any case all the records of every case PA&T follow up are filed and made available to the Art & Antiques Unit, who may investigate further if there is a realistic chance of a prosecution.

*Category 6: No response*

8.6.12 PA&T was unable to ascertain further information for about 26% (25.86%) of items listed. In 25 (33.33%) cases PA&T, for a variety of reasons, were unable to question the seller before the sale ended. In a further 50 (66.67%) cases PA&T was unsuccessful in getting a reply from the vendor. The MoU with eBay does not allow repeat questioning of vendors (see Appendix 11.a: Schedule 1, 5), but eBay have stated they are happy for us to ask further questions, but it is a matter for the police if things are taken further.

*Category 7: "I'll report it ..."*

8.6.13 Six per cent (5.86%) of vendors replied by saying they would report the finds. The seller of a 'Medieval gold posy ring' said that he was 'unaware that he may have been breaking any laws', removed the item from sale and reported it Treasure'. Likewise, the seller of a 'Medieval silver button' emailed to say *"I didn't realise this item would be classed as Treasure, I'm quite surprised"* and promptly informed their local Finds Liaison Officer.

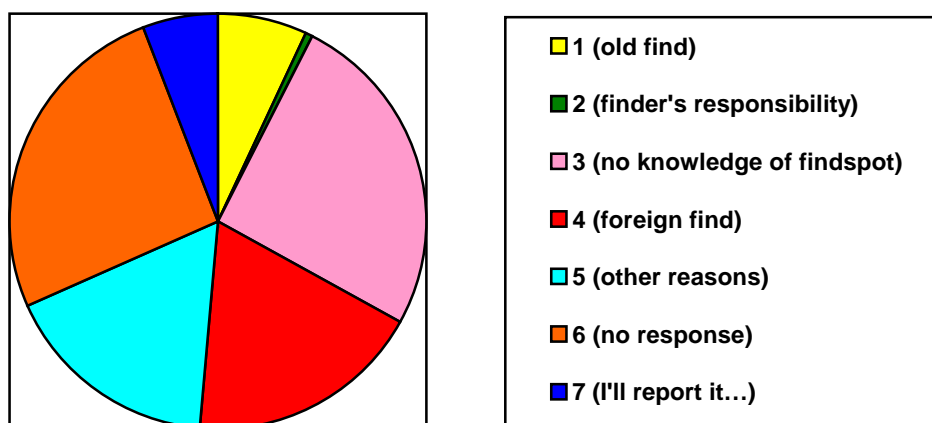


Figure 34: Response breakdown, by category - October 2007 to end May 2008

## 8.7 Examples of responses:

- 8.7.1 Medieval silver ring: *"Yes I am aware of this rule but I am not a detectorist, I am a dealer. I buy large quantities of finds from many detectorists mostly on eBay. I have no idea where or when this was found and it could take me quite a long time to identify where I got it from. I buy on trust that the person who finds any item that I buy has declared it as that is their responsibility".*
- 8.7.2 Bronze Age gold ring money: *"I purchased this piece from a collector of Celtic coins last month. He had purchased it from \*\*\*\* in June 1990 at a coin fair in London. He has the receipts and I had examined them before purchasing it. I have been told this came from a site in Camarthenshire in Wales and was legally detected with the owner's permission. As far as I am aware this is not treasure trove under the old law".*
- 8.7.3 Roman gold ring: *"I am fully aware of the Treasure Act 1996. The items I sell are mostly from abroad, as is this ring. I do not sell any British antiquities which have not been reported under the act, nor do I intend to do so in the future".*
- 8.7.4 Medieval gold ring: *"No all my silver and gold rings are purchased in Europe, unless stated".*
- 8.7.5 Bronze Age gold fragment: *"This item was purchased from a stallholder in Camden Passage Antiques Market in the early 80s, I have no idea of provenance. As it seems to be causing you some concern, I have now withdrawn the piece from sale".*
- 8.7.6 Roman silver mount and ring: *"I don't usually respond to this sort of email through eBay but this time I will be polite to your concerns. Both these items were found by myself in the mid 80s when I was an active metal detector user, this was before the Treasure Act of 1996. Due to the landowners wishes I am unable to divulge the site".*
- 8.7.7 Anglo-Saxon hook tag and strap-end: *"Thank you for your email. I purchased the two items in good faith, understanding it was the finder's duty to report finds. I do not have any details of when the items were found or where. I would like to add that these items were purchased legitimately as was the rest of my collection and is advertised as such".*
- 8.7.8 Roman silver ring: *"I am aware of the Treasure Act for gold and silver and this particular ring has not been reported since it is not a British find and was purchased from Germany. If I can be of further assistance please let me know".*
- 8.7.9 Bronze Age gilt silver pin: *"As this was found many years ago and not by me I understand that the law was different at that time so it wouldn't have been reported".*
- 8.7.10 Viking silver ring: *"The item you refer to was bought from overseas and was not found in the UK. I do not think the Act you talk of has anything to do with items that have not come from the UK".*

## 8.8 Export Licences (OA)

8.8.1 Applications for a licence to export art and antiquities from the UK are managed by the MLA, with the British Museum providing expert advisors to give advice on individual export licensing applications. Information on the number of licences granted, the types of artefacts, evidence for their provenance and types of exporter was sought. The MLA database contained information for the years 2002 to 2006, but was unable to provide most of the information sought due to the time required by them to extract it. The MLA stated that evidence for provenance accompanied the vast majority of objects and that their dates ranged from the Palaeolithic period onwards. A breakdown of the licence figures is given in Figure 35.

Year	No. for UK archaeological objects	% of total	No. for non-UK archaeological objects	Total no. of licences
2002	100	1.05	640	9500
2003	240	2.64	720	9100
2004	290	2.87	580	10100
2005	500	5.21	610	9600
2006	790	6.87	730	11500

**Figure 35: Breakdown of licences granted for export of art and antiquities 2002-6**

8.8.2 These figures do not help in any assessment of the extent of illegal trade in antiquities. All objects were accompanied by a provenance statement (but not necessarily a provenance that is archaeologically useful), but it is not known how many were returned Treasure or how reliable the provenance was. In theory where there are questions over provenance the ELU will make further enquiries and will, where appropriate, refuse to issue an export licence. It is clear that the number of UK objects exported has increased at the same time that the number of archaeological finds reported to the PAS has increased. The proportion of all export licences granted for archaeological objects of UK origin has also increased as the total number of export licences has not increased at the same rate. It is noteworthy that only a small number of coin and antiquities dealers regularly apply for export licences and many of the biggest players in the market do not (PAS pers. comm.).

## 9 DISCUSSION/ISSUES

### 9.1 Statistics and trends

- 9.1.1 The results from all the sources suggest that the percentage of SMs which have experienced Nighthawking in the period since 1995 is low compared with other forms of damage to monuments, especially agriculture, although it still should be seen as significant given the potential for Nighthawks to disturb or remove nationally significant archaeological deposits. Results suggest that 0.41% of the total scheduled resource is affected by Nighthawking, rising to *c* 0.5% if numbers of only monuments estimated to be attractive or accessible to Nighthawks are considered. Based on figures from the national surveys carried out by the CBA (1995 - 1.3%), MARS (1998 - 1%) and OA (2008 - 0.41%), Nighthawking has decreased overall on Scheduled Monuments since 1995, although it has increased in some localised areas. However, it is likely that the 75 of English SMs identified here is an underestimate of the overall problem, as Burtonwood (1996) similarly showed the CBA's results to be. This is suggested by the more comprehensive, but small-scale survey, of farmers in a predominantly arable area through COSMIC, which suggests that *c* 17.5% of farmers are being affected by Nighthawking. Only one of the Nighthawked COSMIC sites had previously been reported to the survey, suggesting that there are many more sites out there which are being Nighthawked than we have evidence for. However, given the similarity in data collection between the CBA and OA survey the comparative value of the data is thought valid and the reduction of Nighthawking on Scheduled Monuments appears real, even if the actual numbers in both surveys are most probably underestimates.
- 9.1.2 The EH funded, CBA 1995 survey had used Corbridge Roman fort as a case study, listing 24 Nighthawking incidents occurring between 1989-1992. When the Curator of the Hadrian's Wall Museums was contacted for the Nighthawking Survey she said of Corbridge *"My impression is that there has been far less trouble than there was before the Dobinson report, but the Visitor Operations staff have occasionally shaken their heads and implied that this was not the case."* However, this perceived reduction may be due to the fact that for the last four or five years a security guard has been employed for the weeks immediately post-ploughing. He has also liaised with the local police who also patrol in the area as much as is practicable to deter attacks on the scheduled area surrounding the site in English Heritage Guardianship. No similar decrease in activity has been noticed at Icklingham Roman site in Suffolk, although activity has apparently decreased at Wanborough, Surrey, another high profile site, possibly as a result of the perception that the potential of the site has been exhausted.
- 9.1.3 In 1995 37 out of 50 commercial archaeological units had sites affected by Nighthawking (74%), in 2008 this had reduced to 27% (15 out of 54). The survey of OA and WA excavations over the last 3 years suggest that up to 6% of archaeological excavations are being targeted, which is likely to be a more reasonable assessment of the threat to archaeological sites than the 35 sites identified by others for the post-1995 period.

- 9.1.4 Comparison of articles on Nighthawked sites in Journals pre-1995 and post-1995 suggest a drop in numbers of reported incidences from 25 to 9 cases.
- 9.1.5 It is not possible to look at trends in activity on unscheduled archaeological sites as the 1995 survey only covered SMs and excavations. The Nighthawking Survey received reports of Nighthawking on 79 unscheduled sites. There are of course many more unscheduled than scheduled archaeological sites in the country and the former are probably less well patrolled/monitored than the latter. It is therefore likely that this figure of 79 sites is an underestimation, especially when compared with the OA COSMIC results which showed 17.5% of farmers being affected by Nighthawking in the area tested.
- 9.1.6 The number of incidents recorded by year since 1995 could suggest that there has been an increase in Nighthawking since 2004, and that 2007 was a particularly bad year. This trend is more likely to be linked to the methodology of the survey. Information collected was based on what a variety of individuals and groups were able to supply and was not based on interrogation of a log of incidents. Recent episodes will be more memorable and while the survey was in operation it was used as a way of reporting incidents as they happened. It is likely that earlier cases have been forgotten and are under-reported. In 16 cases the respondent stated that the activity had been in the past. Only two sites described the activity as frequent, but it was described as ongoing at 41 sites.
- 9.1.7 The period from summer to autumn appears to be the most popular for Nighthawking, although it also happens in winter, and for seven reported sites it was said to happen all year round. Better weather may encourage Nighthawks. Nighthawking often occurred after a phase of cultivation which would bring up new artefacts and which would flatten off the surface of the soil making it easier to detect.
- 9.1.8 For archaeological excavations, the illegal activity usually takes place during evenings and weekends during the period of excavation, with pipelines being particularly attractive. There was one instance reported where Nighthawking was carried out between the site being marked out and work commencing. Information was received which indicated an efficient network of information exists between Nighthawks allowing fields to be targeted just after cultivation, archaeological sites just after laying out and metal detecting rallies just before the main rally.
- 9.1.9 There is clear evidence from the survey that Romano-British sites are the most vulnerable to Nighthawking. Anglo-Saxon sites, particularly those with burials, are also popular. Given the widespread use of coins and the quality of metal artefacts in use during these periods, these results are not surprising. Although there have been outstanding finds from other periods, particularly Bronze Age hoards such as that found near Salisbury in the early 1980s (Stead 1998), the likelihood of discovering valuable metal artefacts is lower.
- 9.1.10 The known low level of occupation and activity associated with these periods may be one factor behind the lower rates of Nighthawking in upland areas, the south-west of England and the others countries included in the survey. In Wales SMs from a wider range of periods were targeted, but the number of incidents was low. The topography and geology of these areas makes operation of a detector more difficult than on flatter ground in the arable areas

of the country. Efficient communication networks are another important factor in how attractive an area is to Nighthawks. While Scotland shares some of these features which would not encourage Nighthawking, it does have lowland areas with good communications and sites which would be attractive. However, only 4 sites were reported as being Nighthawked comprising Roman forts and a battlefield. It is thought that this is an underestimation of the problem caused by under-reporting (Historic Scotland).

## 9.2 Reasons for trends

- 9.2.1 When the results of the Nighthawking Survey are compared with the results of the CBA survey they show that the level of Nighthawking has decreased, both on SMs and on archaeological excavations (but see Section 9.10).
- 9.2.2 There are a number of reasons why this trend may be occurring, but the major change in the intervening 13 years has been the introduction of the PAS and Treasure Act. These have provided a much clearer definition of what constitutes Treasure and an efficient mechanism for recording of metal detected finds, both Treasure and otherwise. The PAS, particularly its team of FLOs, have made a major contribution to the improvements in relationships between heritage groups and metal detectorists. Although there are still entrenched views on both sides, archaeologists are now increasingly accepting the benefits obtained from metal detecting, both in recovery of artefacts and the identification of new sites.
- 9.2.3 During the last 10 years or so there has also been a move by metal detectorists, led by organisations such as the NCMD, to make members of the hobby aware of the heritage value of metal detecting and ensure that proper recording of artefacts is undertaken. Metal detectorists are now much more aware of the archaeological as opposed to monetary value of their finds. The NCMD has been working to improve the way in which the hobby is organised and, in combination with the heritage sector, has produced and promoted the influential Code of Practice for Responsible Metal Detecting in England and Wales. While adherence to the code is not mandatory for Membership of the NCMD, members are encouraged to follow it. The NCMD does however, have its own Code of Conduct as an appendix to its constitution which is a condition of Membership. This Code refers to the Code of Practice for Responsible Metal detecting in England and Wales, where applicable. FID also supported the 2006 Code and also have developed their own Code of Practice.
- 9.2.4 Apart from this change in climate, other reasons for a move away from Nighthawking on SMs include the suggestion that many of these SMs are 'played out', either through detecting or the effects of agriculture (see Section 9.6). After many years of Nighthawking the number of finds on many sites is thought to be too low for Nighthawks to bother with and Nighthawks are now moving to unscheduled sites where more can be found.
- 9.2.5 In the case of archaeological excavations it is thought the main change which has led to a decrease in the numbers of archaeological units reporting Nighthawking was the publication of PPG16 in 1991, although its impact was not felt immediately. This placed a requirement on developers to take account of archaeology and the vast majority of excavations since the mid 1990s have been carried out using developer funding. Developers are increasingly

concerned with security, with a plan to protect as well as Health and Safety issues. The installation of physical barriers and surveillance on sites, plus a better awareness of archaeology and Nighthawking, make it more difficult to target these archaeological excavations, many of which are in urban areas. Large rural excavations, particularly pipelines, which are rarely as secure, are more vulnerable.

9.2.6 Research excavations undertaken by universities and local societies still take place and are vulnerable to Nighthawking. One site excavated by Oxford University is regularly targeted. Camping on the site can act as a deterrent, but this failed on a site in Norfolk.

### 9.3 How Nighthawks operate

9.3.1 Nighthawks are mostly interested in the value of the artefacts they find. However, OA have received communications from Nighthawks who justify the crime by relating it to class war, taking what is their common inheritance from the landowning class, and claiming for themselves a similar status to the romanticised view of poachers. The majority of Nighthawks know what they are doing is illegal, although may deny all knowledge when caught. Only in a few cases will Nighthawking be undertaken in total ignorance of the law, perhaps by people who have only just bought a detector.

9.3.2 It has been suggested that those guilty of Nighthawking fall into two groups: the uninformed and the dangerous criminal. It has also been suggested that there are normally responsible metal detectorists who do not fall into these categories but who do also act illegally from time to time, whether it be non-reporting of Treasure or illegally detecting a site.

9.3.3 During the course of the Nighthawking Survey, information emerged about some of the ways in which Nighthawks are believed to operate.

9.3.4 There are many ways in which the location of a suitable site is identified:

- Many SMs are well known landmarks
- Spotting agricultural, metal detectorist or archaeological activity e.g. from nearby roads - the M1 and M11 were both mentioned
- Paid informants and insider knowledge
- Rallies often used to buy and sell information
- Gossip - one farmer is thought to have been too talkative about his farm's archaeological potential
- Metal detecting clubs - Nighthawks join clubs to pick up information
- Theft of information - a map was removed from Baldock Museum
- Rally sites - these are targeted before and after the event
- Publicity and articles - articles in archaeological publications as well as those in newspapers will attract Nighthawks
- Researching for likely sites in books, county journals, online resources etc

9.3.5 Nighthawking is not just a night-time activity. The survey has been informed of examples where Nighthawks have lied their way onto construction sites, by claiming to be contracted archaeologists, or will rely on claiming ignorance or a mistake on who owns the land if they are intercepted. Freshly drilled/rolled, arable fields will be targeted, although woodland can also prove attractive given the increased privacy it offers.

- 9.3.6 Evidence for Nighthawking can be difficult to collate. By their very nature Nighthawks work in secret and often try to cover their tracks, eg filling in their holes, especially if they want to return to a site. Farms these days, especially in the East of the country, can be huge and farmed by contractors, and Nighthawked fields can remain unnoticed. Once a field is cultivated all evidence disappears.
- 9.3.7 Lay-bys, gaps in hedges and convenient public car parks are all exploited by Nighthawks. Often they operate in groups rather than as individuals, sometimes paid by dealers. Some reports have talked about very large numbers arriving in vans. One report detailed how a bus-load of detectorists from Bradford were deterred from raiding an Anglo-Saxon cemetery in East Yorkshire after a police patrol car parked near by. Some of these groups are parts of organised tours. Many metal detecting holidays are organised legally and attract visitors from the US and Europe as well as the UK. Although the detecting is carried out legally, there have been problems with overseas visitors not reporting their finds, even if they might be Treasure, and trying to export them without a licence. Customs and Excise at airports and ferry ports have been involved in tackling this problem (see Section 6.3.34-7 for examples).
- 9.3.8 It has been suggested that at one time a significant amount of Nighthawking was being carried out by ex-miners, particularly from the north-east, during and after the miners' strike in the 1980s. There were a significant number of reports to this survey suggesting that there are still individuals and at least one group of Nighthawks operating out of North Yorkshire or County Durham. The other area that was mentioned frequently was Essex, again in terms of groups and individuals.
- 9.3.9 Some FLOs are also concerned that they are being used to supply a provenance for a doubtful find that can then be sold. Reports of the find's location can be vague and unlikely, and rallies are seen as a particular problem. It is very easy for a detectorist to hand in material from another site claiming that it had been found during the rally.
- 9.3.10 It has been suggested variously by a number of people that the number of Nighthawks active in the country is as low as 30-40 or as high as 300-400, depending on the source of information.

#### **9.4 Relationships and Perceptions**

- 9.4.1 As has been discussed already there have been major improvements in relationships between metal detectorists and heritage professionals since the 1980s. Despite this, metal detectorists remain suspicious of the motives behind heritage initiatives and in particular this survey. They cite the passing of the Treasure Act in 1996 after the CBA survey in 1995 as an example where data was collected and the law changed. Despite considerable effort by OA, the level of responses received from metal detectorists remained low (see Section 4.1). In some cases non-reporting has been explained by landowners not wanting metal detectorists to report their finds as it may lead to the farm being targeted by Nighthawks.
- 9.4.2 Similarly landowners sometimes feel that if they report Nighthawking to the police it will just serve to advertise the fact that they have archaeological sites which might be worth targeting. As discussed above, landowners often have little faith in the police capacity to act.



9.4.3 The benefits of improved relationships between heritage groups and responsible metal detectorists have been demonstrated by the vast number of finds recorded by the PAS, some of major importance. The former Culture Secretary, David Lammy, made headlines with his recognition of the contribution made by metal detectorists as 'unsung heroes' (Kennedy 2007). Areas of disagreement still exist. Metal detectorists argue that most of their finds come from the ploughsoil, are already disturbed and are found in levels which are removed without investigation during stripping for archaeological excavations. They comment that archaeologists therefore regard these finds as not having a proper context and therefore almost not worth having. EH (2006a) have produced a model of good practice regarding the integration of metal detecting into excavation projects and Gurney (2003) sets out the use of metal detecting as part of the standard for the Eastern Region. This is discussed further in Section 9.7.

## 9.5 Access issues

- 9.5.1 When farmers are affected by Nighthawking, which can often cause damage to crops and lead to financial liabilities, one reaction is to ban any metal detecting on their land altogether. Such bans can make it easier to police, as all those found on the land will be there illegally. The Forestry Commission is considering revoking licences issued in Norfolk where Nighthawking has been a problem and where the large area involved makes it difficult to monitor. Responsible metal detecting groups who have worked with landowners over a period of years can find themselves losing access to fields as a result of the activity of a few Nighthawks. Several detectorists expressed the opinion that more restrictions on the hobby will drive otherwise responsible detectorists to become Nighthawks through frustration.
- 9.5.2 There is a perception among metal detectorists that land is sometimes scheduled in order to prevent metal detectorists from detecting on it. The use of agri-environment schemes, particularly the Higher Level Countryside Stewardship Scheme, to impose restrictions on metal detecting comes in for particular criticism, although this only covers *c* 2.6% of the country (see Section 3.1.). Both of these issues were raised in connection with the controversial Water Newton Rally in 2007, which was held close to the Roman town of Durobrivae. The agri-environment restrictions were seen by metal detectorists as particularly ironic given agriculture's potential adverse effects on below-ground archaeology.
- 9.5.3 Some areas have always required a licence for metal detecting, such as National Trust land and parts of the Thames Foreshore. The National Trust does still suffer from Nighthawking, for example sporadic activity has been reported in Dorset, at sites such as Hod Hill and Badbury Rings and a recent episode has occurred at Morden Hall in London. No information on Nighthawking has been received relating to the Thames Foreshore. The Crown Estates have recently introduced annual permits for metal detecting on all beaches under their ownership. No reports of Nighthawking on beaches have been received, probably due to the fact that the permit system has only just been introduced. The first permits had a £25 fee and forbade permit holders from recovering items from a depth greater than 3". Following representations from the NCMD, the Crown Estates have agreed to waive the £25 fee and the 3" depth restriction. Now excavation is allowed only within the foreshore and not the hard pack sub-surface of the foreshore (Searcher and Treasure Hunting December 2008).

9.5.4 The ban on metal detecting on MoD land was breached in the past, particularly around air bases in East Anglia, for example Lakenheath in Suffolk. There have been suggestions that US service personnel were involved. US personnel have also been blamed for flying artefacts illegally out of the country to America. The particular hazards associated with military land were shown by a SM in Wales, used as a Home Guard post. The phosphorus grenades they had buried were found by Nighthawks, fortunately without incident (Cadw 2005 and Section 6.3).

## 9.6 Artefact erosion

9.6.1 Responsible metal detectorists accept prohibitions on detecting on SMs, but have made a case for a programme of organised surveys to 'clear' a monument of artefacts to deter Nighthawks and also to protect the artefacts from ongoing damage from agriculture. Dobinson and Denison (1995) concluded that 'some specialists independently reported a gradual but noticeable decay in the quality of material [metal] in the last 10 years (ibid 52), and using an example for comparison of Iron Age coins found in arable land with those found in pasture.

9.6.2 There has been some limited research undertaken over the last 20 years on the condition of artefacts in the ploughsoil. Studies into the physical damage of artefacts include Reynolds (1989) which looked at the process of cultivation, winter frost action followed by the creation of a seed bed in the spring and its detrimental effects on the more vulnerable pottery types - in this case very coarse Iron Age pottery. Reynolds also looked at the gradual fragmentation of pottery over time in the ploughsoil at Butser. Work also undertaken in the 1980s as part of the Stonehenge Environs Project (Richards 1985), noted that on sites ploughed since the 18th-19th century very little pottery was found in contrast to comparable sites which had only recently been brought under the plough, where *c* 2000 sherds of pottery were discovered in a relatively small area.

9.6.3 The OA survey into the 'Management of Archaeological Sites in Arable Landscapes' (2002) brought together information on both physical and chemical damage to artefacts. Correspondence with coin expert J May revealed that in his opinion:

*It seems that the proportion of fragmentary coins to complete ones is higher now than it used to be on many other Lincolnshire sites, and indeed the quantities of objects found by metal detectors is declining too. (J May pers. comm.).*

9.6.4 At an Iron Age and Romano-British temple complex at Rothwell Top (Lincs.), a comparative study was carried out between coins found by metal detectorists on the site from 1984-8 and those from 1987-92. It was clear that coins found in the later survey were in poorer condition, with 51% of those found in 1987-92 being broken, compared to 29% in the earlier survey. The cause of this deterioration was thought to be the frequent use of heavy tractor-drawn machinery such as ploughs, harrows, rollers, seed-drilling machines and harvesters (including pea-picking, sugar-beet and potato-lifting machines) (May in OA, 2002, Appendix F, 15).

- 9.6.5 Where archaeological artefacts have lain in the soil for a long period of time they will have reached a chemical equilibrium with the soil around them which allows their preservation. Any change in the chemical make-up of the surrounding soil is likely to upset this balance and can cause the artefacts to decay. Bone and metal objects are especially vulnerable to this process.
- 9.6.6 Soils under an arable regime will frequently be subjected to inputs of a variety of agricultural chemicals (herbicides, pesticides and fertilisers). The exact effect of chemicals on archaeological artefacts has not been studied extensively. However, the limited work that has been carried out has shown that buried artefacts (especially those made of metal) and human bone are suffering active destruction as a result of the chemical action of fertilisers, nitrates, and weedkillers and from acid rain in areas of Europe (Fjaestad et al. 1997, Scharff and Huesmann, 1997, Gerwin and Baumhauer 2000 and Wagner et al 1997). Another potential problem identified comes from the spreading of pig slurry onto fields to fertilise soils. Slurry is known to contain a high degree of ammonia, which will build up in the soil therefore changing its chemical structure. It is suggested that this may be one of the reasons why objects containing silver are showing rapid degradation. This work has been summarised by OA in 2002 (Appendix F 15-20). One example quoted is Malim and Hines (1998) who noticed that copper alloy and iron artefacts from the Anglo Saxon cemetery at Barrington (Cambs) were in much worse condition when recently excavated than seen 10 years previously during a previous phase of excavations, which was thought to be due to the presence of fertilisers and other chemical agents in the soil. The NCMD have provided information and photographs relating to the deteriorating quality of artefacts found in the ploughsoil by metal detectorists and information on what causes this damage within a farming context (Appendix 13).
- 9.6.7 However, this cannot reflect all situations, as it can be seen from some of the finds recorded through the PAS, and pictures of objects seen in the popular metal detecting magazines that at least some metal artefacts are surviving in very good condition in the ploughsoil. It is acknowledged that only those worth publicising are used in these instances eg the well-preserved artefacts, but at least in some cases it may be that the effects on artefacts by both physical and chemical damage may not be as widespread as some fear or that these artefacts have not been circulating in the ploughsoil for long enough to be affected by this long-term degradation. Perhaps the best preserved items are those which are continually being brought to the surface by the plough biting deeper into unaffected features at each phase of ploughing caused by compaction or erosion (OA 2002, F, 13-15). This is accentuated on slopes and it is this process which leads to a site giving up new finds when detected year after year, and could explain why Nighthawks continually return to sites expecting fresh material. The alternative explanation is that these artefacts are from non-ploughsoil contexts, either from non-ploughed land or taken from below the ploughsoil. Further work is needed on these issues.

## 9.7 Topsoil issues

- 9.7.1 Archaeological excavations are targeted by Nighthawks because they are likely to contain valuable archaeological objects. Nighthawks will often wait until the topsoil has been stripped so there is easy access to undisturbed features with metal objects present *in situ*. Developer-led archaeological work is undertaken to a methodology either set by, or agreed with, the relevant curatorial archaeologist, either archaeologists employed by the planning authority or in certain circumstances English Heritage, or other National or local curatorial bodies. Many excavation strategies include the removal of the topsoil over an excavation by machine without the requirement to look for artefacts within the stripped soil. Excavation strategies also include methodologies which only make it necessary to excavate only a proportion of the archaeological features uncovered, and in the case of small features only half the feature is often excavated. Both the un-investigated topsoil and parts of the features not excavated will attract Nighthawks throughout the life of an excavation.
- 9.7.2 As discussed above, in Section 7.3, there are various ways in which archaeological units have tried to combat Nighthawk problems. Many of these precautions are put in place as requirements of general health, safety and security measures imposed by developers to keep their site secure, but many have been put in place by archaeological organisations specifically to combat the risk of trespass and theft. Kent Police are currently working to develop a Kent Code for pre-development sites which would include training for archaeological units in crime prevention and reduction techniques eg fencing, CCTV, working with accredited detectorists and secure storage for tools etc. This all has a cost implication for these sites, but the responsibility lies with the contractors to protect the heritage of the site.
- 9.7.3 Increased security is one way to prevent Nighthawks - the removal of artefacts is another. Archaeological sites are often detected by the members of the archaeological organisations themselves, or often a local metal detector society or recommended metal detectorist is brought in. An example of this was at an OA site in Kent, where the brief provided by the County Archaeologist, stipulated that the site had to be detected. Here an important piece of Copper slag of possible Bronze Age date was discovered by members of the Kent Archaeological Metal Detector Support Unit (KAMSU), which otherwise would probably been missed. Planning archaeologists in some other parts of the country also require metal detector surveys to be carried out (see Appendix 12 and Gurney 2003), but this is not yet a widespread practice. By undertaking such surveys this in effect sterilises the site, making it unattractive to Nighthawks (also see discussion on necessary requirements and qualifications in Section 11.2). If metal detecting is used as a deterrent, this often ensures that all features, whether excavated or not, are detected and also that the topsoil is included in the search.
- 9.7.4 However, there are still excavations occurring where the removal of topsoil is taking place without the search and removal of artefacts. From talking to detectorists this has a further unanticipated, negative effect, in that it sends the signal to metal detectorists that professional archaeologists do not see artefacts in the topsoil/ploughsoil as being significant enough to retrieve. This leads to the questioning of why therefore professional

archaeologists are so keen to get metal detectorists to record the artefacts when they themselves do not bother even retrieving this material from the topsoil.

## 9.8 Effectiveness of the law and prevention measures

9.8.1 Actions taken by the police were quite varied, ranging from proactive intervention to a reluctance to accept that they should become involved at all. The positive initiatives of some forces have already been discussed (eg Kent - see Section 3.4.3). In relation to individual sites there has been some good follow up work by police, including raids. Sometimes the police themselves discover Nighthawks, stopping suspicious cars or spotting perpetrators when they are on patrol. In one case it was the traffic hazard of the parked cars which first drew police attention, but officers in the vicinity have now become aware of what constitutes heritage crime and are monitoring sites. Often just including a Nighthawked site on an officer's patrol route will be enough to deter the perpetrators.

9.8.2 Even when notified police do not always attend the site of Nighthawking. Reports of unsatisfactory responses include a description of the police as 'lethargic'. Excuses by the police for lack of action recorded included:

- Impossible to police
- "They're not mugging old ladies"
- "Don't see that they could have found anything"
- Fairly low down list of priorities
- Will only do something if there is a 'racial' element

9.8.3 On one site our respondent stated:

*They visited the site and took details - we received a crime number. However as we could not tell them what had been stolen and its value they felt they could go no further with this. They also rejected making a report of criminal damage as an alternative as they felt they could not interpret 'digging holes' as criminal damage. Otherwise they promised to keep an eye on the site.*

*The police response was one of 'helpful ignorance', the officers who attended had no idea what if any crime had been committed and told me that even if they wanted to investigate it they would not be allowed to take the issue any further when they reported the event to their 'reviewing officer' who would not consider it worthy of further police time and resources. Interestingly when questioned they had no knowledge of Ancient Monuments legislation and only a vague notion that there might be sites where metal detecting would be illegal.*

9.8.4 This example illustrates the problems the police have in prosecuting Nighthawks, in order to mount a successful prosecution of an individual they probably have to be arrested on site with objects from that site.

9.8.5 However, also in this case:

*In fact two weeks later the local community support officer did challenge me when I returned to the site one evening to collect some equipment, she informed me that she had been told about the incident and was checking the site whenever she passed by.*

- 9.8.6 There appears to be among some police a clear lack of awareness and understanding of the problem and the law. In one case the police rang the FLO to ask what action they could take, in another they rang the suspect and asked them if he was guilty.
- 9.8.7 There has to be some sympathy for the police in terms of their levels of resources, the nature of other criminal activity that might be taking place and the large areas of countryside where Nighthawking can occur. However, there is a vicious circle of lack of response from the police leading to lack of confidence in victims and under-reporting which in turn creates a false picture and underestimation of the seriousness of the situation. A number of landowners stated that they didn't think it was worth involving the police.
- 9.8.8 Various preventative approaches were reported in the survey. Responsible metal detecting seems to be effective, both on unscheduled land and for archaeological excavations. Many archaeological contractors now invite local clubs and individuals on a routine basis to detect across the whole site, not just on spoil. However, it has also been suggested if a Nighthawk sees a metal detectorist detecting a field, it flags up a site with potential which may then attract Nighthawks. Once an archaeological site has been cleared of objects by a metal detector survey, then the threat of Nighthawks reduces.
- 9.8.9 Several excavations were able to employ 24 hour surveillance funded by the developer, although even this is not necessarily 100% effective, as OA found during an excavation in 1997/8 in Kent. Other locations were monitored by local groups. Monitoring is seen as a fairly good approach to prevention. In one case it was said that Nighthawking stopped after police began to monitor the site. Gamekeepers are thought to be effective, although the possibility of them being 'paid off' was raised.
- 9.8.10 Distracters, warning notices and barriers such as gates are not seen as particularly effective. Signs may have the opposite effect, identifying an otherwise invisible site making it vulnerable to Nighthawks.
- 9.8.11 The development of a network of accredited and informed heritage volunteers could be very effective as being developed by Kent Police. This involves tying in a network of trained volunteers with the Crime Stoppers and Neighbourhood Watch framework and into their Environmental and Wildlife Crime Packages to allow an effective system for reporting the crime. This is discussed further in Section 11. They have strong links with the NFU and have developed a web-based communication system called Kent Community Messaging, which allows the exchange of emails, texts and images. Kent Police are also proposing to assess risk to Scheduled Monuments, World Heritage Sites and pre-development sites in the Canterbury District from crime including Nighthawking. Designating risk levels to sites allows the police to accurately allocate resources. This combined with the other initiatives introduced by Kent Police (see Section 3.4.3) are and will prove effective in identifying and stopping the crime and in bringing successful prosecutions.
- 9.8.12 From the survey results, it is clear that for many, the police and courts are not seen as worth involving, either because they do not respond or because the level of penalties is too low. Police responses have already been discussed. The police themselves are often frustrated by the difficulty in convincing the Crown Prosecution Service (CPS) to pursue a prosecution.

There are difficulties in proving material originated from a particular site, even following positive soil identification tests in one such case, unless the perpetrators are caught in the act. Even where there is good evidence for the crime the CPS may decide that prosecution is not in the public interest for social reasons. There is a lack of awareness among both the CPS and police of the value of archaeological finds, in that they are judged by the courts by their monetary value, not their heritage value.

- 9.8.13 Once the case comes to court and the perpetrators have been found guilty, the penalties imposed do not always act as a deterrent (see Section 6.2). Even after being caught on film by the police, Nighthawks in Humberside received small fines and had their metal detectors returned. Magistrates do not regard the theft as very serious and fail to consider the broader issue of loss of cultural knowledge and criminal damage.
- 9.8.14 Even in areas such as Kent and Norfolk where the police have been active in developing strategies for tackling rural crime, including heritage crime, the scale of prosecutions is still low, despite some high profile cases in Kent. It is expected that these will rise as the initiatives are developed further and have longer to create an impact.
- 9.8.15 A lack of understanding of the law and the broader issue of heritage crime was demonstrated by landowners and the legal system. One landowner telephoned to ask what constituted Nighthawking, fortunately not having (yet) experienced it. It is this lack of knowledge that influences the poor record of prosecutions for heritage crime. There are sufficient laws already in place to cover most cases for all the countries and jurisdictions covered by the Nighthawking Survey.
- 9.8.16 One area where the law does need some review is the position of battlefields. Although there are 43 battlefields on the EH Register of Historic Battlefields, they have no statutory protection and can be metal detected with the landowner's permission with no restriction. Most significant evidence from a battle will lie within the topsoil and these sites are particularly vulnerable to Nighthawks. The proposed Heritage Protection Bill would have made it an offence to detect on battlefields without a licence, therefore making these vulnerable sites easier to protect. EH has just launched the Heritage at Risk Register (July 2008), which states that there are 10 battlefields currently at high risk from unregulated metal detecting, one of which, Towton was reported to this survey as being Nighthawked.

## **9.9 Illegal trade**

- 9.9.1 The existence of a market for illegal antiquities encourages Nighthawks who are interested in the financial rewards of their activities. Although there were only a small number of reports made to the Nighthawking Survey in relation to illegal dealing in antiquities, the role of online trading, particularly through eBay, was clear. The level of sales of British antiquities on eBay and the potential level of undeclared Treasure finds advertised has been considered by the PAS (see Section 8). Various informants have suggested that dealers are funding groups of Nighthawks and offering incentives, such as discounted equipment, to finders to ensure that items are offered to them first. There are dealers who are knowingly taking unreported items, including potential Treasure, and some names have been passed on to the police.

- 9.9.2 The avoidance by some dealers of responsibility for ensuring the legal provenance of articles has also been noted by the PAS monitoring of eBay. There have been few successful prosecutions for the sale of antiquities, as it is difficult to prove whether those involved genuinely thought the object was legitimate or not and it is also difficult to prove the origin of an object. Some material seen for sale has been returned to museums in its area of origin as a result of enquiries.
- 9.9.3 Among the measures in the draft Coroners Bill is an amendment to the Treasure Act 1996 which requires those in possession of objects they believe to be Treasure to notify the Coroner of Treasure, whether or not they were the finder of the object (Ministry of Justice 2008).
- 9.9.4 The law relating to the trade in antiquities on both national and international levels has been under review in recent years, in response to looting of museums and archaeological sites after the invasion of Iraq. The Dealing in Cultural Objects (Offences) Act was introduced for England, Wales and Northern Ireland in 2003, but a recent survey (Mackenzie & Green 2007) did not find that attitudes to sales had changed as a result. There have been no prosecutions under the act to date. The illegal trade in antiquities is a major international problem, stretching from the Nighthawks to some of the world's top museums. There have been some high profile court actions, such as that involving the Icklingham Bronzes and a New York Gallery (Plouviez 1989) and the Italian courts are currently prosecuting a number of dealers and museum officials following a complex investigation (Watson & Todeschini 2006). Stopping illegal trading would go along way to stopping those thieves who supply the material for it.

## **9.10 Reliability of the Nighthawking survey**

- 9.10.1 Various measures, as described in Section 5, were adopted to ensure that information collected for the Nighthawking Survey was as reliable as possible. A wide range of sources was targeted, using a range of approaches and replies were followed up if contact details were supplied. The comparisons with the results of other surveys, and the tasks undertaken to specifically validate the results of the survey, suggest that the amount of Nighthawking activity found, and its distribution across the country, reflect the general pattern and that no major sources of information were overlooked as part of the survey. However, the actual number of examples reported to this survey is bound to be an underestimation, given that Nighthawking is an illegal activity, whose perpetrators aim for maximum secrecy, covering their tracks wherever possible. The smaller, but more intensive pieces of work such as COSMIC and the OA/WA survey suggest activity on a greater scale than the results of the wider survey indicate and perhaps suggest a more realistic scale of the problem.
- 9.10.2 However, although the Nighthawking Survey would never be able to log every example of Nighthawking that has occurred, the evidence demonstrates that it does reflect the overall picture and distribution pattern, with a number of 'hot spot' areas identified, if not the overall numbers of sites targeted.



9.10.3 Comments by Norfolk County Council are very relevant here and reflect that in some hot spot areas Nighthawking is still a very big problem (Section 7.2.8):

*We are concerned that the nighthawking survey may not be able to assess fully and accurately the scale of the issue due to a lack of evidence. In Norfolk we suspect is that the problem is one of considerable dimensions with the (very few) prosecutions being merely the tip of an iceberg. We currently identify over 20,000 metal objects per annum in the county, which we estimate is only a proportion of the total recovered, leading to a concomitant unknown loss of knowledge. That said, we do not know how much of this additional knowledge is lost as a result of the deliberate non-reporting of finds, or how much of this information we might be able to capture if we had more resources to undertake outreach to metal-detectorists and farmers with whom we currently have no contact.*

## 10 CONCLUSIONS

- 10.1.1 The survey has successfully identified that Nighthawking is a problem. England is the worst affected with 226 out of the 240 archaeological sites identified as being targeted, being within this country. The total number of sites identified is bound to be an underestimation given the nature of the crime. Problems have also been identified with the selling of Treasure items without provenances and the effectiveness of the law enforcement agencies in providing an effective deterrent to the problem. Positive initiatives have been identified including the partnerships developed by PAS between metal detector users, archaeologists and the police. These partnerships, especially those developed with Kent Police, offer the best opportunity for tackling the problem of Nighthawking,
- 10.1.2 The results of the Nighthawking Survey show that in England on Scheduled Monuments, the level of Nighthawking is decreasing. The percentage of SMs targeted has fallen to 0.41% (75) of the total scheduled resource in England in 2008 from 1.3% in 1995. It is likely that this figure is an underestimation of the problem, as was the original figure from the 1995 survey. However, given the similarity in data collection between the CBA and OA survey the comparative value of the data is thought valid and the reduction of Nighthawking on Scheduled Monuments appears real, even if the actual numbers have been underestimated. The results from the literature search also appear to show a decline in reported incidents of Nighthawking since 1995. Despite a national decrease in reported incidences, there is evidence to suggest that in some areas the incidence of Nighthawking is increasing on Scheduled sites, with some of these areas also showing a large number of non-designated sites also affected. Counties where Nighthawking has increased on Scheduled sites include Wiltshire, Warwickshire, Somerset, Oxfordshire and Buckinghamshire. Counties where the highest incidences of Nighthawking has been reported on all types of sites are Suffolk, Oxfordshire, Norfolk, Lincolnshire, Kent and Essex and the Yorkshire region.
- 10.1.3 This decrease in Nighthawking on SMs is also reflected through communication with people across the heritage profession and among responsible metal detectorists. On the positive front this has been attributed to better relations between metal detectorists and the heritage sector, the introduction of the Treasure Act, PAS and Code of Practice, the role of organisations such as the NCMD, and changes in the level of understanding of heritage issues among responsible metal detectorists. On the negative side it has also been suggested that many SMs have now been Nighthawked so much that most of the valuable artefacts have been removed, leading to Nighthawks moving on to unscheduled sites.
- 10.1.4 In the case of unscheduled sites it is not possible to assess whether the level of Nighthawking is increasing or decreasing as this survey is the first to collect information about such sites. Nighthawking has been identified on 117 unscheduled sites (including 35 excavations) and on an additional 35 sites of unknown status. This again is likely to be an underestimation of the problem given the illegal and secretive nature of Nighthawking. Perhaps the work undertaken on the back of the COSMIC survey provides a better indication of the percentage of sites affected by Nighthawks, where out of 40 farmers who responded,

7 had been the victim of Nighthawking. It could be hypothesised therefore that *c* 17.5% of landowners in mainly arable areas are affected by Nighthawks. This strongly suggests therefore that the numbers of designated sites affected by Nighthawking has been considerably under-reported.

- 10.1.5 In 1995 74% of archaeological units, representing 37 out of 50 units contacted, had reported problems with Nighthawks whereas for this survey the figure had fallen to 27.8% with 15 out of 54 units (working throughout the UK and Crown Dependencies) reporting problems (35 sites identified). A survey looking at a sample of 152 archaeological excavations excavated countrywide has shown that between 3.5-6% of sites are affected by Nighthawking. If this is representative of the overall picture, and the number of excavations in a year is *c* 3647, then somewhere in the region of 128 (3.5%) to 219 (6%) archaeological sites might be visited by Nighthawks each year. Again comparable data does not exist to show whether this is an increase or decrease of activity. For this sector the move towards developer-funded excavations since the publication of PPG16 has led to much higher level of security on sites. Archaeologists now have a better understanding of the possible threat from Nighthawks and make plans to deter the activity. There is also now an increasing use of metal detectors and metal detecting groups as part of the excavation process.
- 10.1.6 It seems that the figures on sites Nighthawked collated by the main method for data collection, do reflect the general distribution and pattern of the problem. However, when more detailed, localised analysis and data is collected the scale of the problem appears much higher. This is not unexpected given the illegal and secretive, unreported nature of this activity.
- 10.1.7 Certain archaeological sites will be more vulnerable to Nighthawks, particularly those dating to the Romano-British and Anglo Saxon period, where the likelihood of coins and interesting metal artefacts, often Treasure, is high. All the time there is a market for antiquities there will be those who try to supply it and reap the financial reward. Further work to try and reduce the market for illegally excavated antiquities would help stop this cycle. The majority of archaeological sites are situated in rural areas where it is possible for illegal activity to be carried out with a low risk of being caught.
- 10.1.8 Although the Nighthawking Survey extended across the whole of the UK and the Crown Dependencies the vast majority of the sites on which Nighthawking had taken place lay in England. No reports were received from any of the Crown Dependencies and only one possible one from Northern Ireland. There were nine reports from Wales and four from Scotland. It appears therefore that Nighthawking is not a significant problem outside England, although as elsewhere lack of reporting will have affected these totals. The limited number of sites Nighthawked in Scotland and within the Crown Dependencies, made conclusions regarding differences in legislation and restrictions affecting the occurrence of Nighthawking unrealistic.
- 10.1.9 Information on arrests and prosecutions for heritage crime proved difficult to obtain for this survey, but it appears that there have not been large numbers of either. From the survey results and discussions with those responding it is clear that heritage law is not well

understood by the public or many police officers and that the issue is not regarded as particularly serious by many in the legal profession. Even when arrests take place the CPS is reluctant to proceed and the level of penalties imposed on those found guilty are not high. This creates a climate in which many landowners feel that it is not worth involving the police. Raising the profile of heritage crime must be a priority for future action and the PAS have already begun to work with ACPO and with Kent Police to develop initiatives in this area. It is important that any profile-raising is targeted to hot spot areas to ensure resources are used effectively. Heritage crime does not exist as a distinct category of offence in police statistics at present and there is therefore no requirement to record whether there was a heritage element involved. In order to make data easier to extract there needs to be changes in police recording, to ensure that Nighthawking a recordable offence.

10.1.10 Problems were also encountered in accessing information from heritage bodies. Some information is kept, mainly in paper form, making it difficult to interrogate. The Heritage at Risk database is a step forward, but it needs to be amended so that sites that are considered to be at risk of Nighthawking can be distinguished from those that have actually been Nighthawked. Other national heritage groups and local authority HERs, do not keep records of reported incidents of Nighthawking. However, the PAS has recently started to keep records of reports of Nighthawking received from FLOs, and this could be used as a guide for a new system. The PAS also routinely reports all finders who accidentally metal detect on Scheduled Monuments to English Heritage. Improvements in monitoring and record keeping by heritage bodies could preclude the need for further extensive surveys, and allow regular monitoring on reported incidences.

10.1.11 The establishment of the PAS in 1997 is making an important difference to the enhancement of knowledge and understanding of the archaeology of England and Wales and its establishment may be part of the reason why Nighthawking on Scheduled Monuments appears to be decreasing in most areas. The records contained within its database and passed on to HERs are enhancing the archaeological record, informing development control, providing a basis for extensive research projects and helping to identify new archaeological sites. The PAS and its network of FLOs is a major force in increasing public awareness of cultural heritage and the damaging effects of heritage crime. FLOs develop close relationships with metal detectorists in their areas and have done much to improve relationships between legitimate groups and the heritage sector. There needs to be a long term commitment to this organisation, including a more stable funding basis.

10.1.12 Since the early 1990s relations between metal detectorists and archaeologists have improved, but there is still a fair way to go in establishing a common understanding. The work of the PAS and an increasing involvement of responsible metal detectorists with archaeological excavation and survey work represent some positive developments. Metal detecting groups do still have a strong suspicion of the heritage sector, as demonstrated by attitudes to this survey. Monitoring of online forums during the lifetime of the survey has encountered some deeply entrenched negative views from both detectorists and archaeologists. It is unlikely that these extreme opposing views can ever be reconciled, but those occupying the middle ground have a lot to offer each other, and they should be

encouraged to continue to constructively debate in public. It is crucial that these forums do not become monopolised by the extremists of whatever persuasion.

10.1.13 Several reports to the Nighthawking Survey have referred to the benefits of working with metal detecting clubs and the use of metal detectors emerged as an effective way of combating the threat of Nighthawks on a site. Restrictions on hobby detecting can be counterproductive. Metal detectorists have reported feeling that their hobby is under threat from those who want to impose further limits on where responsible metal detectorists are able to operate. Some landowners are reacting to Nighthawking on their land by withdrawing consent for any detecting, even where clubs have established a long-standing relationship with them. Some responsible detectorists feel that EH will schedule land in order to prevent metal detecting from taking place and that conditions attached to many Environmental Stewardship Schemes are being used to restrict the hobby further. Metal detectorists have argued that some will be driven to operate illegally as the area available to them for their hobby is reduced.

10.1.14 While their contribution to this survey was limited, responsible metal detectorists do have something to offer to the heritage sector and encouragement should be given to the development of effective partnerships between the two sectors. If this survey does result in tougher action against Nighthawks and a reduction in their activities then it is expected that some of the restrictions put in place by landowners to combat Nighthawking, eg blanket bans, would be more likely to be lifted.

10.1.15 The problem of illegal sales of artefacts is wider than just metal detecting finds, and has a major international dimension. Thefts from museums and private collections, looting and illegal excavations all contribute material to the illegal trade. Equally, in the course of their monitoring of eBay for potential Treasure finds, the PAS have noted large numbers of metal detected finds offered for sale with no provenance or only very vague provenances and few of them have been recorded with PAS. It is impossible to know whether these finds are being sold legally, with the permission of the landowner, or Nighthawked, but it is possible that a significant number have been illegally recovered. The Nighthawking Survey has attempted to collect information on illegal sales of antiquities, but only a few reports were obtained. Several mentioned online trading, particularly on eBay, an area in which the British Museum has already established a programme of monitoring. Illegal sales are a problem, and Nighthawking is often about financial gain, but it has not been possible to make a useful contribution in this area through the current survey. Several European countries, Germany, Switzerland, Austria, have this year concluded an agreement with eBay whereby only antiquities from their own countries that can be shown to be legitimate are being offered for sale on their site (Appendix 14), which is very much tougher than the current MoU with eBay over Treasure finds, and it would be useful if eBay had a similar agreement for UK antiquities. By making it harder to sell illegally obtained antiquities it is thought that the incidences of Nighthawking will reduce.

10.1.16 It is important that all levels of heritage crime are seen as serious and carrying the levels of penalty that will act as a deterrent. The levels of fines and other punishments identified during the Nighthawking Survey were generally low, particularly when compared to

the prices which can be obtained when artefacts are sold. There is some evidence to suggest that fines for this offence have actually decreased in the last 20 years. Very few successful prosecutions receive more than a brief mention in the local media, whereas Treasure rewards tend to have a higher profile. There is a need for some high profile cases to be pursued and to result in successful prosecutions, both for Nighthawking and for illegal sale of antiquities. Such events would raise awareness of the intellectual implications of heritage crime and highlight the fact that Nighthawking and non-reporting of illegally sourced finds are criminal offences, with a commensurate penalty attached.

10.1.17 All of the countries and jurisdictions involved in this survey have on their statute books a range of legislation related to cultural heritage. These existing laws provide a range of mechanisms by which prosecutions can be pursued for Nighthawking or the illegal sale of antiquities. Changes to the existing legislation relating to the trade in antiquities might be needed, but not to metal detecting, only that there needs to be the will and awareness to use what is available.

10.1.18 Regardless of the numbers of sites affected by Nighthawking, the heritage is a finite resource and those that steal from it should be prosecuted. The real value of heritage is not primarily financial but lies in the information it can provide about our common history and origins, and this knowledge belongs to everyone. Laws such as the Theft Act (1968) already exist to enable the prosecution of those who steal this heritage, but the will to enforce those laws is currently inadequate. This needs to change and it is hoped that the recommendations in this report will be implemented to achieve such a change, and that the heritage professionals see this crime as suitably serious to make records of when and where it happens, so the success or otherwise of any initiatives can be monitored.

## 11 RECOMMENDATIONS

### 11.1 Overall recommendations

11.1.1 This Section summarises the main recommendations discussed in this chapter (Section 11.2) and who, through discussions with the project board, would ensure that they are taken forward. Having organisations willing to champion a recommendation is key to the success of the survey, as in the absence of such positive influences, the key changes are unlikely to be implemented and Nighthawking will remain a problem. Organisations who have agreed to champion a recommendation have been indicated below. Recommendations have mainly concentrated on dealing with the problem in England, as it is in England where the problem is greatest. Similar initiatives can obviously be introduced in England, Wales, Northern Ireland, Scotland and the Crown Dependencies, based on similar principals, but using the legal and heritage structures present within these areas. The background behind these recommendations and more general discussion can be found in Section 11.2.

*Police/CPS:*

**Provide clear guidance to the police, CPS and Magistrates on the impact of Nighthawking, how to combat it, levels of evidence and possible penalties.**

11.1.2 The PAS will continue to pursue the work with ACPO on Heritage Guidance and reporting of individuals. Police forces could also adopt the series of initiatives already being developed in Kent (Sections 3.4, 9.8 and 11.2). As a start, heritage training days could be offered to local forces, starting with those most at risk from Nighthawking and also possibly working with local landowners. PAS in partnership with the representative from the Kent police have agreed to promote this and provide training and representatives from CPS could also be invited. If this works, the programme could be rolled out across the country, starting in the hot spot areas and could be linked to established crime prevention networks such as Neighbourhood Watch and local Wildlife Crime Packages.

11.1.3 Dialogue between EH's legal advisers and the CPS has also been put forward as a way to make them more aware of the issues. EH would identify concerns and the CPS would state what evidence would be needed, EH will promote this course of action. Suggested penalties would include routine confiscation of detectors and the proceeds of crime, increased fines, more use of ASBOs and community orders and in very serious cases, imprisonment.

11.1.4 The Theft Act is already well understood by both criminals and the criminal justice system, but more use could be made of the Ancient Monument and Archaeological Areas Act 1979 and the Treasure Act 1996, if information about their provisions was more widely known.

*Landowners:*

**Provide more information for landowners on identifying Nighthawking and what to do when they encounter it.**

- 11.1.5 The PAS has a part-written leaflet for landowners which could be revived for this purpose. PAS has agreed to lead on this. The National Museum of Scotland already has such a leaflet for landowners. An alternative system could be the production and distribution of a simple postcard detailing what to do if Nighthawking has been discovered, clarifying the law and landowner rights.

*Heritage Bodies - Recording:*

**Develop better ways to find out what is going on and establish and promote a central database of reported incidents of Nighthawking.**

- 11.1.6 Where Nighthawking is being reported eg to the PAS on Scheduled Monuments, this data should be collated and recorded by EH. For non-scheduled monuments this data could be collected by the local authority HERs then passed to EH as part of their annual reporting to EH. EH should maintain a central database recording all incidences of Nighthawking across the country. Historic Scotland and Cadw could do the same for their areas. Given the small-scale nature of the problem in the other Crown Dependencies a system based at the main heritage unit could easily be set up in each Dependency. There may be a need for additional recommendations with respect to local initiatives.
- 11.1.7 This new system would need extensive publicity to ensure that cases are reported either to the HERs or EH, but it is not intended to replace the other mechanisms for reporting incidents, such as informing the police. ALGAO is to take lead and ensure that HERs collect this data. EH will ensure that central database is set up (but see Section 11.4).

*General Public:*

**Use available opportunities to publicise positive aspects of responsible metal detecting and the negative effects of Nighthawking**

- 11.1.8 EH and PAS will take the lead on this, in partnership with other bodies e.g. ACPO and NCMD.

*Portable Antiquities Scheme:*

**Ensure the PAS is fully funded, so links between archaeologists and metal detectorists are further strengthened.**

- 11.1.9 The partnerships developed by PAS between metal detector users, archaeologists and the police offer the best opportunity for tackling the problem of Nighthawking, but they require sufficient funding to operate effectively. Building up long term relationships based on trust in this way allows many problems to be tackled.



*Archaeologists and Detectorists:*

**Integrate metal detecting into the archaeological process, including development control briefs.**

- 11.1.10 This should apply to all archaeological investigations, not just developer-funded work. ALGAO and the PAS have agreed to promote this process. Archaeologists need to be aware of measures which they can take to protect excavation sites in their care such as those being developed by Kent Police (Section 9.8).

*Illegal Sales:*

**Implement changes recently introduced in Europe which increases the obligation on sellers of antiquities to provide provenances and establish legal title, and urge eBay to introduce more stringent monitoring of antiquities with a UK origin offered for sale on their website, as they have done with Germany, Switzerland and Austria.**

- 11.1.11 Nighthawking is carried out primarily for monetary gain and eliminating the market for illegal antiquities is essential in tackling the problem.
- 11.1.12 At present there is no obligation to report potential Treasure items unless you are the finder, this needs to be addressed in the Coroners Bill. Stronger arrangements are in place for other European countries, eg on providing provenance for finds when selling them which could usefully be adopted here (Appendix 14). These actions would make it more difficult to sell illegally acquired objects. The PAS will promote these issues.

## **11.2 General discussion and general recommendations**

*Police/CPS*

- 11.2.1 There is a difficulty in persuading police, CPS and courts of the seriousness of heritage crime in general and, while acknowledging the scale and range of other issues for these groups, there are opportunities for trying to improve the power of deterrent of the legal system. The laws themselves are in place to deal with Nighthawks and no additional legislation or major changes are proposed.
- 11.2.2 The most effective law to use is the Theft Act, which if applied appropriately, consistently and regularly, and backed by strong CPS and court support, would go a long way to solve the problem. If a few highly publicised cases were brought initially, with appropriate penalties involving imprisonment and confiscation of the proceeds of crime, this could send a message to less committed Nighthawks that Nighthawking was not worth the risk.
- 11.2.3 A major area for action is the production of briefing information for police, CPS and magistrates explaining what laws apply and the consequences of heritage crime, stressing the intellectual losses rather than the monetary issues (although the value of some finds should not of course be ignored entirely).
- 11.2.4 Guidance for police should also include practical advice on how to arrest Nighthawks in the field e.g. waiting to catch them as they return to their cars with metal detectors and finds is better than approaching them in the field where they have more opportunity to dump material

and run. Regular patrols of areas where Nighthawking has been reported is also likely to deter the Nighthawks, although only perhaps encouraging them to search elsewhere.

11.2.5 Liaison between the police and heritage professionals could also be improved to make better use of intelligence-based policing. Information about possible suspects, likely targets or descriptions of possible stolen property could help police target their resources. The police could benefit from established contacts who could assist in identifying possible stolen goods. It would be beneficial if a programme of training courses for local police forces linked to the completion of the ACPO Guidance on Heritage Crime were adopted, though this would need to be resourced. The training would need to be done locally, as an attempt to have a training session in London for Due Diligence Officers did not work.

11.2.6 Many of these activities are already taking place in some areas. Steps should be taken to promote best practice e.g. the approaches being adopted by the Kent and Norfolk forces, who integrate heritage crime into a wider rural crime remit and in Kent's case their proposed use of risk assessments for Scheduled Monuments, World Heritage Sites and pre-development sites, backed up by a network of volunteers for monitoring purposes (Canterbury District).

11.2.7 The development of such a network of accredited and informed heritage volunteers could therefore be developed elsewhere, on hand to report suspicious activity to the police. These could be tied in with the Crime Stoppers and Neighbourhood Watch framework and Environmental and Wildlife Crime Packages (such as the badger group, RSPB, Mammal groups etc), to do away with the fear of uninformed 'busybodies' making trouble and to increase the number of informants. Responsible metal detectorists could also be trained in this way and linked to the National networks, through training accredited by police forces, the PAS and English Heritage. This would raise their profile and provide an effective channel for action. Training in these issues could also be offered to both archaeologists and heritage professionals to ensure that they too can be actively involved in effectively combating the crime.

11.2.8 Other initiatives developed by the Kent Police which could be adopted elsewhere include:

- Partnership training involving: Police Officers, Police Community Support Officers, Kent County Council Wardens, Crown Prosecution Service in heritage-related crime
- Nominated Single Point of Contact within Kent Police
- Nominated Point of Contact within English Heritage
- Regular engagement between Police and PAS officer
- Heritage expert working with Kent Police as a Police Support Volunteer
- Dedicated Crown Prosecutor trained in Heritage and Treasure Act legislation.
- Engagement with Archaeological groups and societies
- Engagement with metal detector clubs
- identification of 'high-risk' heritage and archaeological sites allowing an appropriate crime prevention strategy to be developed
- Strong links with the NFU and a web-based communication system allowing the exchange of emails, texts and images

11.2.9 The propaganda value of high-profile prosecutions has already been mentioned (Cf the Icklingham case where Nighthawks are caught regularly thanks to the efforts of the

landowner, even if the penalties imposed by the courts are barely enough to act as a deterrent - see Section 6.3.2-6). It might be possible for police to target an area that is known to be vulnerable to Nighthawking and to produce material that would grab the public imagination. If arrests were made on such a site and then successfully prosecuted with severe penalties imposed, the public message that Nighthawks are criminals could be clearly reinforced.

- 11.2.10 Existing laws allow for a broader range of penalties to be applied than usually happens in practice. ASBOs or injunctions could be imposed and under the legislation on profiting from the proceeds of crime, not just metal detectors, but the culprits' vehicles could be confiscated. Other suggested penalties would include increased fines, more use of community orders and in very serious cases, imprisonment.
- 11.2.11 Technology is opening up more avenues for police surveillance. CCTV cameras and automatic number plate recognition are used, but there is more that could be done in that area to place 'hot spot' sites under effective surveillance.
- 11.2.12 In order to improve the effectiveness of the legal system in dealing with heritage crime, it is not just the grass roots police and prosecutors who need to become more aware. The PAS has already begun to work with ACPO on draft guidance on Heritage Crime (Appendix 5). Awareness must also be raised with those who hold responsibility at higher levels, such as Police Authorities and the All Party Parliamentary Archaeological Group (APPAG). Such bodies are in the position to ask questions about statistics, and to influence policy and priorities.
- 11.2.13 OA has found it impossible to obtain statistics on the number of arrests and prosecutions for heritage crimes. Future work in this area would be greatly assisted if some simple indication of a 'heritage' element was incorporated into the crime statistics databases and this is one area which the initiatives with ACPO have already begun to consider.

#### *Landowners*

- 11.2.14 Landowners are key to the prevention of Nighthawking, in providing clarity on where and when metal detecting is permitted, providing opportunities for legal detecting and in monitoring and reporting illegal activity. Not all are interested in the historic environment, but damage to crops and property is a concern. Unfortunately, they are often reluctant to report incidents, because they don't think it is worthwhile and because of threats by the Nighthawks themselves. The lack of reporting has affected this survey, despite widespread publicity (eg Farmwatch), but also that run by the NFU who received only 8 reports of Nighthawking after their initiative in trying to obtain information on heritage crime. It seems farmers are either suffering in silence, have little faith that anyone can do anything about it or are insufficiently concerned about the issue.
- 11.2.15 Landowners need to know more about the law in relation to heritage crime and Nighthawking in particular. Information packs and articles in relevant journals could help with this and in raising awareness of the importance and vulnerability of heritage generally. It has been suggested that more work needs to be done to convince landowners that responsible

metal detecting need not harm their land and may have benefits for them. This could all be tackled by finalising the leaflet the PAS has already part written in consultation with relevant bodies. This draft leaflet for landowners, which has already been discussed by the Portable Antiquities Advisory Group, could be developed further in consultation with all relevant parties including the NCMD, PAS, countryside organisations and national heritage bodies. Such a leaflet already exists for Scotland. Alternatively a simpler alternative could be introduced, either as a stand alone information resource or to compliment the leaflet, in the form of a handy postcard. This could contain information on the law and landowners rights if targeted by Nighthawks and could also be used by HEFAs and members of archaeological societies.

11.2.16 More work needs to be done in improving the appreciation of cultural heritage by landowners and tenants, particularly in relation to their own land. A broad spectrum of groups, both heritage and countryside, need to become involved including the NFU and CLA.

11.2.17 Following on from this, encouragement should be given to the development of partnerships between landowners and responsible metal detectorists, drawing attention to benefits experienced, such as increased knowledge of sites and the deterrent effect that responsible metal detecting can have on Nighthawking.

11.2.18 At the moment many landowners are reluctant to involve the police. It is very important to increase their faith in the legal system, which can only really be done through successful prosecutions with appropriate penalties. They also need to know that the police will respond to reports. If Nighthawking is a persistent problem on their land then they need to feel that they can work with heritage bodies and the police to provide support and practical help in prevention and detection. Any increase in reporting will also aid in future monitoring of the patterns of Nighthawking.

#### *Heritage bodies*

11.2.19 Recording instances of Nighthawking is key in being able to monitor the problem, not just for the effective management of individual monuments, but also to monitor whether this problem is increasing or decreasing. This study has been hampered by the lack of reliable, logged data. Repeatable surveys using consistent data is the only way to monitor the trends as a result of any initiatives adopted subsequent to this study.

11.2.20 EH, Cadw, Historic Scotland and National Trust do not maintain a record of incidents of suspected Nighthawking. Lack of a formal record-keeping system by historic environment groups is disappointing. If reliable assessments of the level of Nighthawking are to be made in the future without the need to commission further surveys such as this, some changes will need to be made in this area. If some simple method of monitoring, through HEFAs and property managers for example, could be developed without adding to the workload of already busy people, it would be very useful. This information should be stored in a central database so that trends and occurrences can be monitored in the future. It is proposed that EH maintain a central database for all reported cases of Nighthawking and that reports should be either made to them for Scheduled sites or through HERs which will maintain an

annual record before passing over to EH on a yearly basis as part of their annual report to EH (but see Section 11.4).

11.2.21 It has been suggested that the establishment of a network of volunteer 'Heritage Guardians' may be a good way forward to locally monitor sites. These could be tied in with the Crime Stoppers and Neighbourhood Watch framework and Environmental and Wildlife Crime Packages (such as the RSPB, Badger and Mammal groups etc), to do away with the fear of uninformed 'busybodies' making trouble and to increase the number of informants (see 11.2).

11.2.22 An alternative could be to follow the parish warden scheme developed in Leicestershire. This Network is co-ordinated by the County's Archaeological Services Team, who can put parish representatives and local archaeologists in touch with each other, and with Heritage Wardens and Heritage Watch Groups. They are provided with a summary of the Archaeological Sites and Monuments Record of their Parish which they can then monitor, although monitoring is not the primary purpose of these groups.

11.2.23 Whatever system of monitoring of sites is deployed, accredited training, perhaps provided by a combination of police, PAS and EH, will be need for those involved to correctly identify the signs of Nighthawking, as opposed to other ground disturbance from say badgers and rabbits etc.

#### *General Public*

11.2.24 It will be beneficial to make the general public more aware of the consequences to the heritage record of the removal of objects from the ground without recording and that such activity without permission is illegal. This increased level of awareness will help foster a climate of opinion against Nighthawking and may persuade more people to report incidents either to landowners or to the police. The media can play a major part in this, for example the Guardian recently covered the problem of metal detecting on battlefields (Kennedy 2008). More opportunities for outreach activities need to be sought by both heritage and metal detecting groups, possibly working with the police.

11.2.25 Greater awareness of issues relating to illegal antiquities may also encourage more people to check the provenance of objects they buy, making them less ready to accept the unsupported word of dealers.

#### *Role of PAS and FLOs*

11.2.26 The PAS and its FLOs have been the key drivers in the improvements in recording of metal detecting finds and the awareness about cultural heritage among metal detectorists and landowners. It is important that this organisation continues to operate at current or increased levels, with an assured funding base. The PAS needs to continue targeting metal detecting clubs and national metal detecting groups and encouraging them to spread good practice and report Nighthawks to ensure that they continue to play a part in potentially reducing this crime .

### *Archaeologists and metal detectorists*

- 11.2.27 This survey has shown that the introduction of the PAS and development of partnerships between the historic environment sector and metal detectorists and the ongoing awareness-raising by groups such as the NCMD, have seemingly reduced the scale of Nighthawking, on Scheduled sites away from the hot spot areas. However, there remains a degree of suspicion and prejudice on both sides which needs to be addressed by further initiatives, co-operation and communication.
- 11.2.28 There is further room for improvement in liaison between local museums, local archaeological societies and metal detectorists. PAS education and outreach work is a good example of the positive liaison between archaeologists and metal detectorists and the PAS holds many hundred such events every year. Some museums, such as Thame, have established metal detecting groups. Perhaps local groups might hold joint events or exchange speakers. Overall though the most important point is for archaeologists to involve responsible detectorists as much as possible in activities which can be mutually beneficial.
- 11.2.29 More use could be made of responsible metal detectorists on archaeological sites, if contractual arrangements allow. Not all archaeological units do this as routine, although some briefs for work do include this as a requirement. The treatment of topsoil during commercial excavations needs reviewing where this is not treated as a legitimate archaeological resource. Currently local authority archaeologist project briefs rarely suggest metal detecting should form part of archaeological investigations and this omission needs to be addressed, both to ensure maximum retrieval of artefacts and to avoid sending conflicting messages to metal detectorists (see Section 9.7). The onus should be on the archaeological contractor to protect the site from damage and theft, as promoted and aided by the Scheme developed by Kent Police. The PAS has gathered together some examples of where the development control archaeologist has included a requirement for metal detecting within the brief for developer-funded excavations and these have been included in Appendix 12.
- 11.2.30 However, it should be recognised that while the inclusion of a metal detecting survey should be implemented within all appropriate briefs, there should also be safeguards to ensure that only responsible metal detectorists are involved, ie those who follow the Code of Practice for Responsible Metal Detecting in England and Wales, and that they should be aware of the need to tie-in with the main contractor's health and safety requirements and deadlines. The time restraints can sometimes require a very quick turn around for pre-determination surveys and those working on site often have to have their own Construction Skills Certification Scheme Card (CSCS) for health and safety purposes.
- 11.2.31 It has been postulated that Nighthawking will increase in response to greater access restrictions that are put in place to prevent metal detecting. Currently there is a perception that extensions to licensing schemes and Countryside Stewardship agreements encourage people to take up Nighthawking, as the resource of available land for legitimate detecting is shrinking. This needs to be kept under review.

*To prevent illegal sales (largely written by the PAS)*

- 11.2.32 PA&T has been monitoring eBay on a regular basis for 24 months. This is providing useful insights into how the online trade in antiquities works, as well as the difficulties of law enforcement. Since October 2006 PA&T have become more effective and efficient in its monitoring work, through conducting better searches, questioning of vendors, and adapting policy on how best to take cases forward.
- 11.2.33 Initially it was thought that many people who bought and sold potential Treasure finds on eBay were ignorant of the law. However, while it is the case that some people buy and sell antiquities unaware of their legal obligations, others, such as established dealers and metal-detectorists, undoubtedly know better. PA&T believes these individuals should take greater care to establish that finders have legal title to sell before buying and selling-on such finds, and new legislation might be useful.
- 11.2.34 It is the view of the British Museum that changes are needed in the Treasure Act (or related legislation, like the Coroner's Bill due to be introduced in early 2009 (see CI.18, above) to extend the obligation to report Treasure to all those who come into possession of it, as well as extending the statute of limitations by which the police can launch a prosecution under the Treasure Act. It is also thought that eBay should be encouraged to introduce more stringent monitoring of antiquities with a UK origin offered for sale on their website, as they have done with Germany, Switzerland and Austria (Appendix 14).
- 11.2.35 In the meantime it is crucial that law enforcement authorities are persuaded to pursue prosecutions, as these send a clear message to dealers who flout the law. Stopping illegal sales would help to curb the activities of Nighthawks. In particular it would be useful to follow up vendors who fail to respond to questioning. While it is almost certain this would not lead to a prosecution, it would send an important message to dealers that they cannot ignore questions about objects they are selling and would also demonstrate that the police take the matter of non-reporting of potential Treasure seriously.
- 11.2.36 There are also some dealers who regularly attract attention, and are probably known to the police as part of other investigations. Covert operations to investigate these people would be extremely welcome.

### **11.3 Further work**

- 11.3.1 If the recommendations discussed above are addressed, there should be a decrease in the level of Nighthawking. This trend should be detectable through a consensus of opinion and examination of the newly installed system of record keeping rather than requiring further large-scale studies to be commissioned in the future. This depends however, on up to date records being kept of all reported instances and careful monitoring of sites (see above). However, given that wherever a more detailed analysis has been undertaken, looking 'beneath' the results obtained from the main methodology, eg the OA/WA and COSMIC surveys, the problem of Nighthawking appears to be greater than implied by the original methodology, a further localised survey may be beneficial to see how representative these

more detailed results are, especially for non-designated sites. This could involve an intensive survey of landowners in a defined area and further more detailed research into records held by heritage bodies.

11.3.2 The Nighthawking Survey has not produced much evidence to inform discussions on the illegal trade in antiquities found through Nighthawking. The work being carried out by the PAS on monitoring eBay sales needs to continue, although there are other outlets for the trade, which have not been addressed. It is possible that more work could be done in this area.

11.3.3 Information on prosecutions proved very difficult to obtain and the number of prosecutions for heritage crime is low. It may be useful to revisit this area in the future when initiatives between the PAS and ACPO, including the development of ACPO guidance, and their outcomes have had time to establish themselves.

11.3.4 Further work could include projects that would further inform the debate and create opportunities for archaeologists and metal detectorists to work together. This could include working closely together on archaeological sites, eg Catterick (Brickstock et al 2007), but also perhaps on more strategic projects. These could include working with metal detectorists on a more detailed study on the changes of condition of artefacts over the last 20 years, perhaps using collections built up by individual metal detectorists.

#### **11.4 Interim recording**

11.4.1 Prior to the main database being set up by English Heritage to collate future reports of Nighthawking, an interim system of recording has been agreed. Until the link says otherwise any reporting of Nighthawking should be made to [nighthawking@thehumanjourney.net](mailto:nighthawking@thehumanjourney.net).



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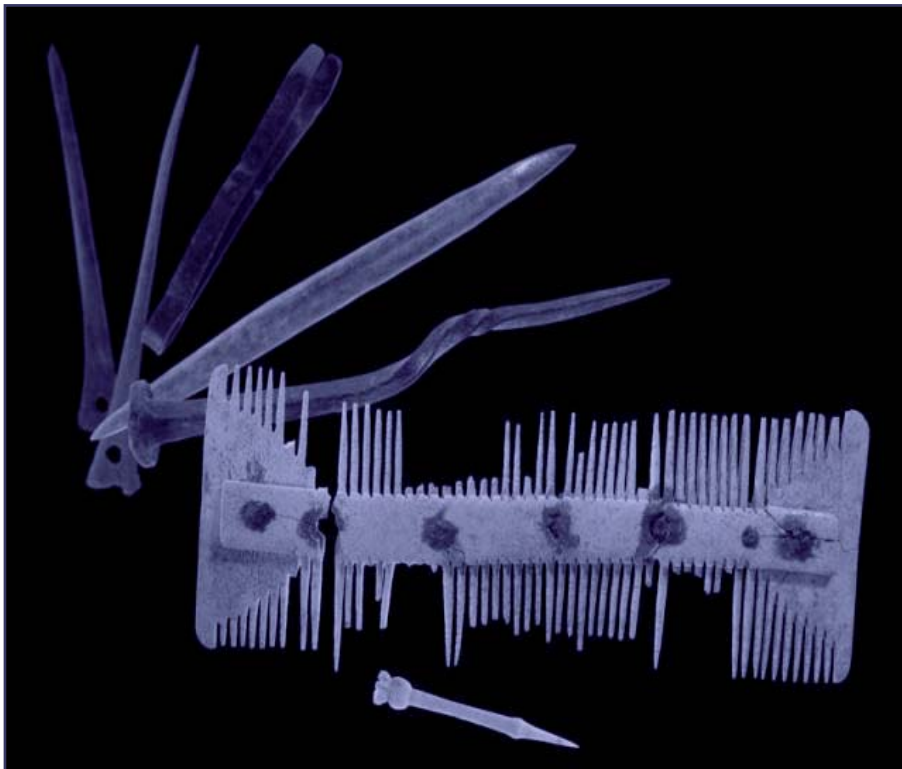
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# Appendices





**Brief for an Evaluation Study:**

**Nighthawks and nighthawking: damage to archaeological sites in the United Kingdom and Crown Dependencies caused by illegal searching and removal of antiquities<sup>1</sup>**

Invitation to tender

**1. Summary**

This brief for an Evaluation Study has been developed by English Heritage, the Portable Antiquities Scheme, with the support of the Council for British Archaeology's Portable Antiquities Working Group and other interested bodies, to investigate the extent of damage to archaeological sites in the United Kingdom and Crown Dependencies caused by illegal searching and removal of antiquities. The aim of this study is to better inform the political establishment and law enforcement authorities<sup>2</sup> of the extent of such illicit activity in the hope of mitigating criminal activity and protecting archaeological sites from damage.

Funding for this project has been provided by English Heritage and others, is administered by English Heritage and will be subject to the appropriate Historic Environment Enabling Programme (HEEP) Procedures and Guidance. Further information on HEEP Procedures is available at [www.english-heritage.org.uk/Archaeology/Grants Policy & Guidance/Archaeology Commissions/Procedures and Guidance](http://www.english-heritage.org.uk/Archaeology/Grants Policy & Guidance/Archaeology Commissions/Procedures and Guidance)

**2. Introduction and Content**

The damage to archaeological sites in the United Kingdom caused by illegal searching and removal of antiquities is perceived as a major problem by archaeologists and others. However robust data highlighting the extent of the problem has neither been systematically and/or comprehensively collated and studied in recent times. Therefore, it has been difficult to persuade the Government and the law enforcement authorities that this matter should have a higher priority than is current. This may also be an issue for the Crown Dependencies.

This said, a number of recent initiatives have highlighted the issue of unauthorised searching and removal of antiquities from sites in the United Kingdom, and indicated the greater priority being given to it by the Government. These include the Treasure Act 1996 (in England and Wales), Dealing in Cultural Objects (Offences) Act 2003 (in England and Wales), accession to the Valetta and UNESCO Conventions (2002) and the extension of the Portable Antiquities Scheme across the whole of England and Wales in 2003. However, whilst such legislation exists prosecutions remain very rare.

There is a substantial body of anecdotal (often unsubstantiated) information on the damage to sites caused by the unauthorised searching and removal of antiquities. Also, significant numbers of illicit antiquities are being traded on eBay and elsewhere. However, monitoring of this activity and collating intelligence that might be used by the law enforcement authorities is piecemeal and often under-resourced.

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<sup>1</sup> 'Nighthawking' is defined as metal-detecting without the landowner's permission or on a protected archaeological site. It is proposed, for the purposes of this exercise, to adopt a board definition of an archaeological site.

<sup>2</sup> The police, HM Revenue & Customs, the Crown Prosecution Service and the relevant agencies in the Crown Dependencies.

### 3. Aims and objectives

The aims of this project are as follows:

Produce targeted baseline data on the extent of such damage to archaeological sites in the United Kingdom and Crown Dependencies caused by illegal searching and removal of antiquities.<sup>3</sup>

Foster a climate of opinion within all sectors that the illegal search, removal and sale of antiquities is unacceptable and that resources, as appropriate, should be made available to mitigate such activity.

The objectives of the project are as follows:

- Identify key stakeholders and interest groups.
- Publicise the aims and objectives of the project.
- Identify the sources of information/intelligence from which to collate data.
- Collate data on a general scale as to the damage to archaeological sites caused by illegal searching and removal of antiquities, including, but not restricted to:
  - Protected archaeological sites
  - Archaeological sites under excavation.
  - Nighthawking on privately or publicly owned land.
  - The sale of illicitly recovered archaeological material online and elsewhere.
  - Prosecutions and convictions of 'heritage crime' whether under relevant heritage legislation or any other law.
- Analyse the data collated.
- Produce a report, including key recommendations.
- Identify a mechanism for collating such data in the future and disseminating this.
- Working with English Heritage Corporate Communications and other national heritage agencies and sponsors to publicise the report and its recommendations.

### 4. Methodology

4.1 The successful tender will demonstrate a clear methodology that will meet the projects aims, objectives and deliverables. The challenge for the successful tender will be to collate objective robust data, rather than unsubstantiated hearsay.

It is anticipated that the following individuals/sources, amongst others, will be involved in this study:

- Field Monument Wardens and the Ancient Monuments Inspectorate from English Heritage and Heritage Professionals from the other heritage agencies of the United Kingdom and Crown Dependencies.
- Historic Environment Records Officers.
- Finds Liaison Officers (Portable Antiquities Scheme).
- Archaeological contractors and units, both professional and amateur.
- Museum archaeologists, university archaeologists and independent professionals.
- Metal-detectorists, their representatives, and other finders.
- Law enforcement agencies, and Court records.
- Media and press reports.
- Landowners
- Antiquities dealers and auction houses/sites.
- Relevant academic research both published and unpublished.
- The Institute of Field Archaeologists and the Institute of Archaeologists of Ireland

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<sup>3</sup> This is inline with *English Heritage's draft* policy on portable antiquities (section 6.1.2) states that it wishes 'to support research into portable antiquities issues including research into illegal activity and its impact on the historic environment'.



## 4.2 Project Board

The project will be monitored by English Heritage in line with normal Historic Environment Enabling Programme procedures.

The Project Team will be advised by a Project Board, which will consist of the CBA's Portable Antiquities Working Group. Represented on this are English Heritage, the Council for British Archaeology, the Association of Local Government Archaeological Officers, the Society of Museum Archaeologists, the Society of Antiquaries of London, the Institute of Archaeology at UCL, the National Museums of Scotland, the National Council for Metal-Detecting, the Portable Antiquities Scheme, the Joint Nautical Archaeology Policy Committee, the Illicit Antiquities Research Centre, and the Illicit Trade Advisory Panel. (For the purposes of this project the Working Group will be supplemented by representatives from Cadw, Historic Scotland, National Museums Wales, National Museum of Scotland, the Northern Ireland Environment and Heritage Service, **Guernsey Museum Services**, Jersey Heritage Trust and Manx National Heritage).

## 5. Deliverables

The project deliverables will include:

- A campaign to publicise the work of the project.
- An archive of data collated and research (to be published online).
- Presentation of a draft report to English Heritage and other stakeholders, as well as and the augmented Portable Antiquities Working Group.
- An illustrated final report, including key recommendations: 5,000 hard-copies (about 30 pages) to be produced (after refereeing/approval by the stakeholders and funding bodies) and digital copy (as a .pdf) to be available from appropriate agency web sites.
- Identify a mechanism for collating information on the damage to archaeological sites in the United Kingdom and Crown Dependencies caused by illegal searching and removal of antiquities.
- Media campaign (to be agreed with Sponsoring Bodies' Corporate Communications and/or Press Offices) to publicise the report and its recommendations.

## 6. Monitoring

The project will be initiated by English Heritage and will be managed in accordance with the Management of Archaeological Projects 2 (MAP2) and IFA Codes, Standards and Guidance. A Project Officer appointed by English Heritage will carry out routine monitoring of standards and progress.

## 7. Terms and Conditions

The terms and conditions that will apply to the project will be those used for the English Heritage Historic Environment Enabling Programme.

## 8. Tender submissions

A duration of approximately 12 months is assumed for the collation and analysis of data. The report and publicity would be expected thereafter within 6 months.

Tenders should be submitted in the form of a detailed MAP2 project design. The tender document should conform to the minimum standards for project designs set out in Appendix 5 of the HEEP Guidance for Applicants, with costs calculated and presented as indicated there. For further advice on costings, should this be necessary, please contact:

Tim Cromack  
Historic Environment Commissions  
English Heritage  
1 Waterhouse Square  
138-142 Holborn

London EC1N 2ST  
Tel: 0207-973-3106  
Email: tim.cromack@english-heritage.org.uk

Completed tenders/Project Designs should be directed to the above address.

### **9. Bibliography**

Brodie, N., Doole, J., and Watson, P., *Stealing History: the illicit trade in cultural material* (McDonald Institute for Archaeological Research, 2000).

Burtonwood, G., *Metal-detecting on Scheduled Monuments* (unpublished diploma dissertation, University of Oxford, 1996).

Darvill, T. & Fulton, A., *The Monuments at Risk Survey of England 1995, Main Report* (Bournemouth University & English Heritage, 1998).

Dobinson, C. & Denison, S., *Metal-Detecting and Archaeology in England* (Council for British Archaeology & English Heritage, 1995).

Kelly, M., *The Illicit Antiquities Trade in the UK: An Examination of the Operation of and Attempts to Stem the Market in Illicit Objects* (unpublished MA dissertation, University College London, 2004).

English Heritage  
May 2006

Checklist

## Buying with confidence



Verify the identity of the seller

Buy from a member of a professional trade association

Check the object against material contained in a database of stolen art

Ask if an authentication certificate is available

Ask where the object came from including its country of origin (see the information on illicit trade in the public collections section of this site)

If it has been exported from another country, ask to see a copy of the export licence

Ask to see any documentation about its history

Ask for a condition report prior to purchase

Ensure that you have a written invoice signed and dated by the seller, containing full details of the seller's identity and business address

Ensure that the invoice / receipt gives full details of the object including significant identification marks and age

Pay by cheque wherever possible

Ask for a receipt of purchase



Keep any documentation you have on the purchase safely away from the object itself



Seek expert advice if you have any concerns regarding the object's history



If at any stage in this process you have any suspicions about the object and its history you should not proceed with the purchase. If you believe a criminal offence has taken place you should contact the police, or the [Customs Confidential](#) 24 hour hotline on 0800 59 5000.

## APPENDIX 3: EBAY ANTIQUITIES BUYING GUIDE

To prevent illegal sales of antiquities on the eBay marketplace, members should ensure that they have fully understood their obligations to report many antique items under the terms of the Treasure Act. eBay works closely with the Portable Antiquities Scheme (funded by the The Museums, Libraries and Archives Council (MLA) and run by the British Museum) to stop the sales of such items. We have got together to create the following guidelines to help you have a safe and successful experience when buying or selling antiquities on eBay.

### Advice for Selling Antiquities Safely on eBay

In England, Wales and Northern Ireland there is a legal obligation to report Treasure finds: under the law of Treasure Trove if found before 24 September 1997 or under the Treasure Act 1996 if found after that date.

Although there is no legal obligation to report finds from England and Wales unless they are Treasure, the [Code of Practice for Responsible Detecting](#) recommends that all finds are reported to the Portable Antiquities Scheme so that the information can add to our knowledge of the past. Visit [www.finds.org.uk](http://www.finds.org.uk) for details of your local Finds Liaison Officer, who will also be happy to advise you on the Treasure Act.

In Scotland there is a legal obligation to report all archaeological finds as Treasure Trove. In Northern Ireland there is a legal obligation to report the discovery of all archaeological finds and these should not be purchased without proof that the discovery has been reported. If it is established that items of Treasure for sale on eBay.co.uk have not been reported and a disclaimer issued by an appropriate body for them, listings will be removed from the site as they are in breach of our policy on [Artefacts, Antiques, Cultural Items and Grave-Related Items](#)

### How Treasure is Defined by Law

1. Any metallic object, other than a coin, provided that at least 10 per cent by weight of metal 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.
2. Any group of two or more metallic objects of any composition of prehistoric date that come from the same find (see below)
3. Two or more coins from the same find provided they are at least 300 years old when found and are composed of at least 10 per cent gold or silver (but if the coins contain less than 10 per cent of gold or silver there must be at least 10 of them). Only the following groups of coins will normally be regarded as coming from the same find:
  - (a) hoards that have been deliberately hidden,
  - (b) smaller groups of coins, such as the contents of purses, that may be dropped or lost, and
  - (c) votive or ritual deposits.
4. Any object, whatever it is made of, that is found in the same place as, or had previously been together with, another object that is Treasure.
5. 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, that have been deliberately hidden with the intention of recovery and whose owners or heirs are unknown will come into this category.

**Note:** An object or coin is part of the "same find" as another object or coin if it is found in the same place as, or had previously been together with, the other object. Finds may have become scattered since they were originally deposited in the ground.

All finds of gold or silver found before 24 September 1997 should have been reported as Treasure Trove. All Treasure finds found after that date should have been reported under the Treasure Act 1996.

In Scotland there is a legal obligation to report all archaeological finds, no matter when they were found. Likewise in Northern Ireland there is the legal requirement to report all archaeological finds found after 1926.

## What to Consider When Listing Your Item

To reassure buyers that the item you have the right to sell the item you have listed on eBay.co.uk, we recommend taking the following steps when listing your item:

1) Sellers should say in their listing that they have reported the items that they are selling to the appropriate bodies and that they have been given permission for re-sale. Sellers should include details about disclaimer documentation in their listing

**Note:** There is a legal obligation on sellers to report archaeological finds. These obligations depend on where in the UK the item was found:

- for items found in England and Wales, sellers should be able to provide proof that items found before 24 September 1997 were reported under Treasure Trove or under the Treasure Act if found after that date. Sellers should be able to provide Crown Disclaimer documents
- for items found in Scotland, sellers should be able to provide a disclaimer certificate that shows items have been reported and that they have been given legal entitlement to be sold
- for items found in Northern Ireland, sellers should produce certification to show that the items have been reported to the Northern Ireland Environment and Heritage Service or to the Ulster Museum

2) Be prepared to answer questions from buyers. They'll want to be reassured that the item is yours to sell (or whether you're selling on behalf of someone else), why you're selling it, and if you operate as a business seller, your location, company number or whether you have shops on the High Street.

3) To save time answering buyers questions, you could create a list of frequently asked questions, which will be displayed to buyers when they click on the **Ask Seller a Question** link from your item listing. You'll be able to display up to 15 FAQs as well as any questions (and answers) that you've already posted in your listing.

To customise your **Ask Seller a Question** page, go to your **Preferences in My eBay**. In the **Selling Preferences** section, click on **Show** next to **Ask Seller a Question**. From there, simply click **Edit** and begin customising.

4) If you sell the object abroad then you will probably need to obtain an export licence for it. All archaeological objects found in the UK that are more than 50 years old need an export licence. Licences are issued by the [Museums, Libraries and Archives Council](#).

## Advice for Buying Antiquities Safely on eBay

To minimise the risk of buying an antiquity that has not been reported, you should take the following basic steps.

1) Read the item description very carefully and make sure that you know exactly what you're buying. If you're unsure, ask the seller to explain the description. Sellers are normally very happy to help you if it means they will get a sale. When it comes to antiquities, there are a series of questions that you should always ask:

- **Where Was the Item Found?** If it was found in England, Wales or Northern Ireland, make sure the seller got permission from the person who owned the land on which it was found to sell the item. If the object has been recorded with the Portable Antiquities Scheme then you can have more confidence that this will have happened.  
If the item was found in Scotland, make sure that the item was reported under Treasure Trove  
Ask the seller to sign a statement verifying their account of provenance and their legal title to sell
- **Ask for Documentation.** You should ask the seller to provide all written documentation relating to reporting of finds under the procedures required by the country in which the item was found  
For items found in England and Wales, sellers should be able to provide proof that items found before 24 September 1997 were reported under Treasure Trove or under the Treasure Act if found after that date. Sellers should be able to provide Crown Disclaimer documents  
For items found in Scotland, sellers should be able to provide a disclaimer certificate that shows items have been reported and that they have been given legal entitlement to be sold  
For items found in Northern Ireland, sellers should produce certification to show that the items have been reported to the Northern Ireland Environment and Heritage Service or to the Ulster Museum

- **Learn as much as you can about the seller.** Check their feedback - not just the score, but also dig deeper and look out for some of the following things:
  - a) Whether the person has been buying a lot of low-value items, (they may have done so to build up their feedback score), and is now selling large numbers of high-value items
  - b) The kinds of items that they have been buying or selling - make sure that the person's eBay record makes them look like either an established antiquities dealer or a private individual selling the odd find
  - c) How long they have been registered on the site - if they have been trading for a reasonable period of time, with a positive feedback score, they are more likely to be a safer bet to buy from
 These factors do not necessarily mean that someone is selling an antique that they are not allowed to, but they should alert you to do some further research before you buy.
- **Ask the seller questions.** Make sure that it is their's to sell, ask them why they are selling and if they are a business ask them where they are based, whether they have shops or what their company number is. Unscrupulous sellers will tend not to answer such questions or their answers will be evasive.

2) If you are buying, make sure that you are paying with PayPal. It is a much more secure way of paying on eBay than any other because it offers purchase protection to buyers. If anything does go wrong, using PayPal means that we'll have the seller's contact details (address, financial details), so will be able to work with law enforcement to track down the seller.

### Useful Sources of Information

There are a series of websites and resources where you can find information about your obligations when selling antiquities. Because different organisations are responsible for this area, the organisation you need to consult will depend on where the item that you are buying or selling was found:

- If an item was found in England, you can find information about reporting it under the Treasure Act at [www.thebritishmuseum.ac.uk](http://www.thebritishmuseum.ac.uk) or [www.finds.org.uk/contacts](http://www.finds.org.uk/contacts) <http://pages.ebay.co.uk/buy/guides/antiquities/www.finds.org.uk/contacts>
- If the item was found in Wales, you can also consult the website for the National Museums & Galleries of Wales at [www.nmgw.ac.uk](http://www.nmgw.ac.uk)
- If the item was found in Scotland, you will need to consult the information provided by the Treasure Trove Secretariat which is to be found on their website: [www.treasuretrovescotland.co.uk](http://www.treasuretrovescotland.co.uk)
- If an item has been found in Northern Ireland, you need to consult the Environment & Heritage Service. Find more information at [www.ehsni.gov.uk/built/legislation/legislation.shtml](http://www.ehsni.gov.uk/built/legislation/legislation.shtml) <http://pages.ebay.co.uk/buy/guides/antiquities/www.ehsni.gov.uk/built/legislation/legislation.shtml>

If you want to know about exporting an antiquity or require an export licence, consult the [Acquisition, Export & Loans Unit](#) of the The Museums, Libraries and Archives Council.

### Buy with Confidence

Before buying any antiquities on eBay.co.uk, make sure you know exactly what you're buying, research your seller, and understand how eBay and PayPal protect you.

### Know What You're Buying

Read the details in the item listing very carefully.

Remember to include delivery costs when you calculate the final cost of the item. If you spend a lot of money on an item, make sure the seller will insure the delivery of the item.

If you want more information, ask the seller. Use the **Ask Seller a Question** link under the seller's profile.

Always make sure you complete the full transaction on eBay, with a bid, Buy It Now or Best Offer. If you complete the transaction directly with the seller (ie: off eBay), you will not be covered by eBay protection programs or policies.

**Never** pay for your eBay item using instant money wire transfer services such as Western Union or MoneyGram.

The use of instant money transfers as a method of receiving payment, via companies such as Western Union or Moneygram, is not allowed on eBay.co.uk. We have banned the use of instant money transfers as a payment method on the eBay.co.uk site to protect members, because in the past some sellers have exploited instant money transfers in order to defraud buyers.

### **Know your seller**

Research your seller so you feel positive and secure about every transaction. Use the following questions as starting points:

- What is the seller's Feedback rating?
- What is the seller's Feedback rating? What do buyers say in their feedback -- did the seller receive praise? What percentage of positive responses do they have?
- How many transactions have they completed?
- Do they accept returns? What are the terms and conditions?

### **Buyer protection**

In the unlikely event that a problem arises during your transaction, eBay and PayPal are there for you.

[Pay safely with PayPal](#): PayPal enables you to pay without the seller ever seeing your bank account or credit card numbers

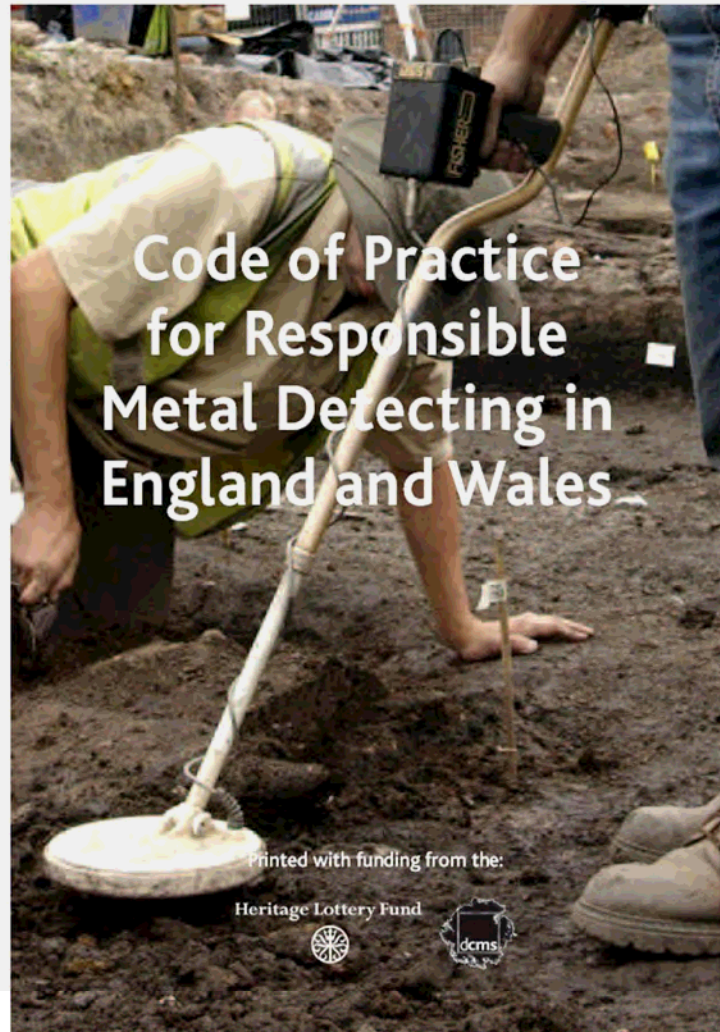
[eBay Safety Centre](#): Visit the Safety Centre to learn how to protect your account and use eBay's quick and efficient resolution tools.



APPENDIX 4: CODE OF PRACTICE

This code of practice is voluntary, but the following organisations have endorsed it:

 <p>www.ncmd.co.uk</p>	 <p>www.mla.gov.uk</p>	 <p>www.detectorists.net www.fid.newbury.net</p>
 <p>www.rchamw.gov.uk</p>	 <p>www.britarch.ac.uk</p>	 <p>www.nmgw.ac.uk</p>
<p><b>Society of Museum Archaeologists</b></p> <p>www.socmusarch.org.uk</p>		
 <p>www.finds.org.uk</p>	 <p>www.nfuonline.com</p>	
 <p>www.english-heritage.org.uk</p>	 <p>www.thebritishmuseum.ac.uk</p>	



Being responsible means:

### Before you go metal-detecting

1. Not trespassing; before you start detecting obtain permission to search from the landowner/occupier, regardless of the status, or perceived status, of the land. Remember that all land has an owner. To avoid subsequent disputes it is always advisable to get permission and agreement in writing first regarding the ownership of any finds subsequently discovered (see [www.cla.org.uk](http://www.cla.org.uk) / [www.nfuonline.com](http://www.nfuonline.com)).
2. Adhering to the laws concerning protected sites (e.g. those defined as Scheduled Monuments or Sites of Special Scientific Interest: you can obtain details of these from the landowner/occupier, Finds Liaison Officer, Historic Environment Record or at [www.magic.gov.uk](http://www.magic.gov.uk)). Take extra care when detecting near protected sites: for example, it is not always clear where the boundaries lie on the ground.
3. You are strongly recommended to join a metal detecting club or association that encourages co-operation and responsive exchanges with other responsible heritage groups. Details of metal detecting organisations can be found at [www.ncmd.co.uk](http://www.ncmd.co.uk) / [www.fid.newbury.net](http://www.fid.newbury.net).
4. Familiarising yourself with and following current conservation advice on the handling, care and storage of archaeological objects (see [www.finds.org.uk](http://www.finds.org.uk)).

### While you are metal-detecting

5. Wherever possible working on ground that has already been disturbed (such as ploughed land or that which has formerly been ploughed), and only within the depth of ploughing. If detecting takes place on undisturbed pasture, be careful to ensure that no damage is done to the archaeological value of the land, including earthworks.
6. Minimising any ground disturbance through the use of suitable tools and by reinstating any excavated material as neatly as possible. Endeavour not to damage stratified archaeological deposits.
7. Recording findspots as accurately as possible for all finds (i.e. to at least a one hundred metre square, using an Ordnance Survey map or hand-held Global Positioning Systems (GPS) device) whilst in the field. Bag finds individually and record the National Grid Reference (NGR) on the bag. Findspot information should not be passed on to other parties without the agreement of the landowner/occupier (see also clause 9).

8. Respecting the Country Code (leave gates and property as you find them and do not damage crops, frighten animals, or disturb ground nesting birds, and dispose properly of litter: see [www.countrysideaccess.gov.uk](http://www.countrysideaccess.gov.uk)).

### After you have been metal-detecting

9. Reporting any finds to the relevant landowner/occupier; and (with the agreement of the landowner/occupier) to the Portable Antiquities Scheme, so the information can pass into the local Historic Environment Record. Both the Country Land and Business Association ([www.cla.org.uk](http://www.cla.org.uk)) and the National Farmers Union ([www.nfuonline.com](http://www.nfuonline.com)) support the reporting of finds. Details of your local Finds Liaison Officer can be found at [www.finds.org.uk](http://www.finds.org.uk), e-mail [info@finds.org.uk](mailto:info@finds.org.uk) or phone 020 7323 8611.
10. Abiding by the provisions of the Treasure Act and Treasure Act Code of Practice ([www.finds.org.uk](http://www.finds.org.uk)), wreck law ([www.mcga.gov.uk](http://www.mcga.gov.uk)) and export licensing ([www.mla.gov.uk](http://www.mla.gov.uk)). If you need advice your local Finds Liaison Officer will be able to help you.
11. Seeking expert help if you discover something large below the ploughsoil, or a concentration of finds or unusual material, or wreck remains, and ensuring that the landowner/occupier's permission is obtained to do so. Your local Finds Liaison Officer may be able to help or will be able to advise of an appropriate person. Reporting the find does not change your rights of discovery, but will result in far more archaeological evidence being discovered.
12. Calling the Police, and notifying the landowner/occupier, if you find any traces of human remains.
13. Calling the Police or HM Coastguard, and notifying the landowner/occupier, if you find anything that may be a live explosive: do not use a metal-detector or mobile phone nearby as this might trigger an explosion. Do not attempt to move or interfere with any such explosives.

### Finding out more about archaeology

You can find out more about the archaeology of your own area from the Historic Environment Records maintained by local authority archaeology services (in England) and the Welsh archaeological trusts (see contact lists at [www.english-heritage.org.uk/server/show/nav.1549](http://www.english-heritage.org.uk/server/show/nav.1549) and [www.ggat.org.uk/fourwelshstrusts.htm](http://www.ggat.org.uk/fourwelshstrusts.htm)). For further information contact the Council for British Archaeology (tel 01904 71417 / [www.britarch.ac.uk](http://www.britarch.ac.uk)) who can also supply details of local archaeology societies.

## APPENDIX 5: WORKING DOCUMENTS FROM PAS AND ACPO INITIATIVE

### DRAFT FROM PAS

## HERITAGE CRIME - RURAL

### National Guidance

The purpose of this guidance is to offer some tactical considerations for forces preparing operational orders concerned with heritage crime, particularly in rural areas. It is not intended as a template into which forces should feel obliged to operate, but customised according to their individual and differing local circumstances. This said these guidelines have been developed, in consultation with heritage agencies and forces experience in heritage crime, in the hope they might be useful to all forces within England and Wales.

### Background

1. England and Wales has a wealthy and unique heritage, resulting from many centuries of human occupation. This heritage is an important expression of the nation's culture and identity, and also has economic and educational benefits, both for the country at large and local communities.
2. Our heritage is susceptible to criminal activity, particularly in rural areas. However, this guidance shows that targeted policing of heritage sites and the efficient use of existing resources (both internally and externally) can impact upon key crime reduction targets, as well as protecting and preserving heritage.
3. The nation's heritage varies considerably. It includes the historic built environment, such as old buildings or ancient structures. Protected monuments (known as Scheduled Monuments), including built structures, as well as earthworks and archaeological sites. Also vulnerable are known (productive) archaeological sites, which may or may not be 'protected'.
4. Heritage professionals are most concerned about theft (normally of artefacts and coins) from heritage sites and criminal damage. However, heritage sites attract all sorts of criminal activity and anti-social behaviour, including vandalism, drugs, and underage drinking. It is also the case that people who thief from heritage site are involved in higher profile criminal activity, such as fraud, drugs and money laundering.
5. The extent of the problem is largely unknown as heritage crime is not a recordable offence. English Heritage recently has commissioned Oxford Archaeology to undertake a study of illicit metal-detecting. Otherwise initiatives by Kent Police (Heritage Watch), the Metropolitan Police Service (ArtBeat) and by heritages agencies (such as the Portable Antiquities Scheme) have begun to highlight the extent of the problem and develop appropriate mechanisms to prevent and police heritage crime.

### Legislation

1. Legislation already exists to deal with heritage crime offences, of which the most appropriate will be well known to Police Officers, in particular the Theft Act 1968 and the Proceeds of Crime Act 2002 (see Guidance for Police Officers flow-chart).
2. However, there are some offences that are best dealt with under specific heritage legislation, including the Ancient Monuments & Archaeological Areas Act 1979, the Treasure Act 1996

and the Dealing in Cultural Objects (Offences) Act 2003 (see Guidance for Police Officers flow-chart). Most Police Officers will not be familiar with this legislation, so relevant training for appropriate officers is useful.

## Intelligence Model that Forces may Adopt

### *Crime Prevention*

1. It would be useful to identify single points of contact in forces which will allow a proper exchange of information and communication, both with ACPO and key national stakeholders; Due Diligence Officers that liaise with the Art & Antiquities Unit, MPS, might offer an appropriate model. I have agreed to make these available and would be grateful if forces could identify them to me. Please supply this information to name and contact details.
2. Heritage Crime training should be offered to relevant Police Officers, SPCs, community wardens and accredited volunteers. A suggested model, which works well, has been organised by Kent Police. It is hoped that appropriate courses could be offered by whom to forces.
3. Identify heritage sites at risk, of which a model for this can be provided by Kent Police. Forces might consider enlist volunteers from the local community, whom after Heritage Crime training, will be able to risk assess sites and become heritage wardens for sites at risk.
4. Police Officers trained in Heritage Crime might encourage site owners/guardians to take preventative measures to protect sites at risk, such restricting access routes, installing security or clearing up litter to discourage anti-social behaviour.

### *Resources*

1. It is useful if relevant Police Officers are adequately trained in Heritage Crime and Heritage Crime policing and, particularly, understand the relationship between heritage crime and other sorts of rural crime, including anti-social behaviour.
2. Volunteers should be effectively used to reduce burdens on regular Police Officers, in particular for intelligence and crime prevention purposes. It is suggesting that liaising with responsible metal-detectorists, members of local historical and archaeological societies and members of the local community will prove beneficial.
3. Throughout England and Wales exists a network of local archaeologists who are experts in small archaeological finds (such as ancient coins, jewellery and other artefacts), known as Finds Liaison Officers, whom would be available to give expertise and guidance to the police.

### *Investigation*

1. Take a statement from all relevant people (accused, informer, landowner/occupier). It maybe that the accused has a *bona fide* reason for being at a particular place in question or have the relevant permissions to excavate or remove finds or building fabric, but further investigation might be needed to verify this. Your original account will be crucial in the event of a prosecution. Beware (especially if the accused is the metal-detector user) that the accused might be a victim of a false accusation, which could well be malicious.
2. Confiscate all archaeological finds/building fabric in the possession of the owner (even if the accused says they are not relevant to the investigation) and any other objects relevant to the operation (e.g. illicit detector users will often black out their detectors or wear camouflage and generally will excavate at night).

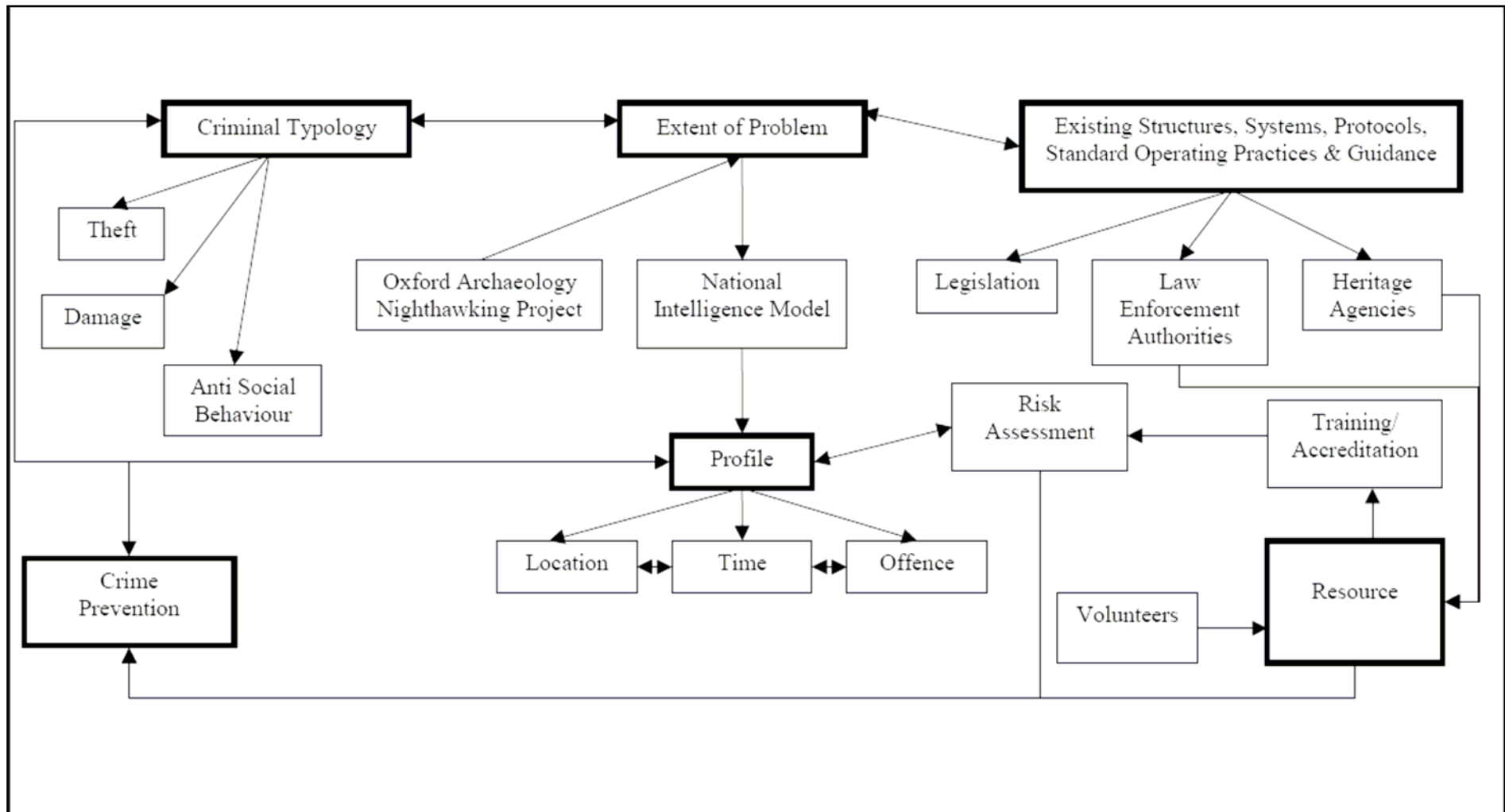
3. Liaise with the local Finds Liaison Officer to verify the authenticity of any archaeological finds or building material confiscated or relevant to the investigation.
4. Liaise with the local authority Sites and Monuments Record to check whether the site or monument subject to investigation is protected (i.e. a Scheduled Monument).

### *Offences*

The types of offences that might constitute Heritage Crime vary, but include:

1. **Theft** of archaeological finds (normally by using metal-detecting without permission) or removing them from a scheduled monument or listed building (without the necessary permissions) - consider 1) Theft Act 1968, 2) Ancient Monuments & Archaeological Areas Act 1979, 3) Criminal Damage Act 1971.
2. **Going Equipped** to steal archaeological finds (such as artefacts or coins) - consider 1) Theft Act 1968, 2) Ancient Monuments & Archaeological Areas Act 1979.
3. **Trespass** (on to private land without permission) in order to steal archaeological finds (Theft Act 1968) or damage a scheduled monument or listed building (Criminal Damage Act 1971).
4. Causing **Criminal Damage**, by attempting to remove archaeological finds or architectural material from the ground or a structure (whether the monument is 'protected' or not) without the necessary permissions - consider 1) Theft Act 1968, 2) Criminal Damage Act 1971, 3) Ancient Monuments & Archaeological Areas Act 1979.
5. Failure to report archaeological finds as potential **Treasure** where there is a legal obligation to do so: very important - the failure to report is the offence, whether or not the find is Treasure - consider 1) Treasure Act 1996, 2) Theft Act 1968.
6. Selling illicit material (normally archaeological finds or ancient building fabric), knowing them to be stolen, to benefit from the **Proceeds of Crime**. The internet or antiquities dealers are the favoured outlet for such illicit material (Proceeds of Crime Act 2002).

Draft from PAS  
3/12/07



Appendix 6: On-line Questionnaire (English and Wales Version)

<b>The Nighthawking Survey - England and Wales</b>	
This survey is relevant only to England and Wales	
<b>1. Contact details</b>	
Please provide at least one method of contact	
* 130: Your name	Please write your answer here: <input type="text"/>
* 131: Please provide a method of contact (e.g e-mail, post address, telephone)	Please write your answer here: <input type="text"/>
* 134: Are you happy to be contacted to discuss further the information you are providing?	Please choose <b>only one</b> of the following: <input type="checkbox"/> Yes <input type="checkbox"/> No
* 135: Do you specifically want to discuss anything further with one of the team members?	Please choose <b>only one</b> of the following: <input type="checkbox"/> Yes <input type="checkbox"/> No
136: If yes to either of these questions - Please indicate your preferred contact method	Please write your answer here: <input type="text"/>
137: If you do not want to fill out this form online tick here and we will send a paper questionnaire	Please choose <b>all</b> that apply: <input type="checkbox"/> Please send a paper questionnaire
138: If you do not want to fill out a questionnaire tick here and we will contact you direct using your preferred contact details	Please choose <b>all</b> that apply: <input type="checkbox"/> I don't want to fill out a questionnaire, please contact me
139: Are you a metal detectorist?	Please choose <b>only one</b> of the following: <input type="checkbox"/> Yes <input type="checkbox"/> No
140: How did you find out about this survey?	Please choose <b>all</b> that apply: <input type="checkbox"/> By The Nighthawking Survey website <input type="checkbox"/> By <a href="#">The Human Journey website</a> <input type="checkbox"/> By another website or forum (i.e. Britarch/PAS) <input type="checkbox"/> By the Nighthawking Survey publicity postcard <input type="checkbox"/> By the press

- By contact with a Finds Liaison Officer / Portable Antiquities Scheme  
 By word of mouth  
Other:

**141: If you know that nighthawking is not a problem in a particular area please email us [nighthawking@oxfordarch.co.uk](mailto:nighthawking@oxfordarch.co.uk) with this information and state the reasons and/or evidence why you think this is not taking place**

## 2. What next?

Choose what you want to do next

\* **139: » Please choose what you want to do next**

Please choose **only one** of the following:

- report evidence for nighthawking on an archaeological site (Section A)  
 provide information on the illegal sale of antiquities (Section B)  
 provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)

[Only answer this question if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

\* **1402: Are you**

Please choose **only one** of the following:

- Member of the public  
 Landowner or tenant farmer of land affected by nighthawking  
 Member of the archaeological profession

## 3. Questionnaire

[Only answer this question if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1401: You are reporting evidence of nighthawking.**

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1401: You have information on the illegal sale of antiquities.**

[Only answer this question if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1401: You have information on arrests for nighthawking or illegal selling of antiquities.**

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1403: Where is the field/site where nighthawking has taken place? (please fill in as much detail as you can)**

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1405: Address**

Please write your answer here:



[Only answer this question if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1406: Grid reference**

Please write your answer here:

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1407: Other**

Please write your answer here:

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1408: Name of archaeological site if known**

Please write your answer here:

[Only answer this question if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1409: Type of archaeological site if known**

Please write your answer here:

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1410: Date of archaeological site if known (eg. prehistoric / Roman / Saxon)**

Please write your answer here:

[Only answer this question if you answered 'Member of the public' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1411: Name and contact details of landowner/farmer if known**

Please write your answer here:

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1411b: Is the site protected in any way?**

Please choose all that apply:

- It is a Scheduled Monument
- It is National Trust land
- It is Forestry Commission land
- It is a National Park
- It is a protected Military Site
- It has an agri-environment scheme

Other:

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1412: Why do you suspect that nighthawking has taken place:**

Please choose all that apply and provide a comment:

- Holes (not caused naturally) appearing in the ground. Approx. how many?
- Unauthorized vehicles and people seen on field at night
- Eye witness report of nighthawking
- Hearsay/Anecdotal
- Other

[Only answer this question if you answered 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1414: Why do you believe this activity was illegal?**

Please choose the appropriate response for each item:

	Yes	No	I don't know
It is a Scheduled site	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It is National Trust land	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It is Forestry Commission land	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It is a National Park	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It is a protected Military Site	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do you know that no permission has been given	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[Only answer this question if you answered 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1421: Other**

Please write your answer here:

[Only answer this question if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1422: What time of year did this activity occur?**

Please choose the appropriate response for each item:

	Yes	No	I don't know
Spring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Summer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Autumn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Winter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Just after cultivation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1427: Exact date(s) if known**

Please write your answer here:

[Only answer this question if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1428: Approximate date(s)**

Please write your answer here:

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1429: How often has this activity occurred on this site?**

Please choose **only one** of the following:

- once per year
- 1-5 times per year
- 5-10 times per year
- 10+ times per year

[Only answer this question if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1433: For how many years has this activity occurred?**

Please choose **only one** of the following:

- 1
- 1-5
- 5-10
- over 10

[Only answer this question if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1434: Tick the years which you think this activity has occurred**

Please choose **all that apply**:

- 1970s
- 1980s
- 1990s
- 2000
- 2001
- 2002
- 2003

- 2004
- 2005
- 2006
- 2007

[Only answer this question if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1435: Has this activity increased over the:**

Please choose all that apply:

- last year
- last two years
- last 3-5 years
- last 5-10 years

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1436: Do you think that this activity has been carried out by more than one individual?**

Please choose only one of the following:

- 1 person
- 1-2 persons
- 2-5 persons
- 5-10 persons
- 10-15 persons
- Over 15 persons

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1436a: Have you ever spoken to a person engaged in this activity?**

Please choose only one of the following:

- Yes
- No

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1436b: Have you been threatened by them?**

Please choose only one of the following:

- Yes
- No

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1437: »Have you reported this activity to the police?**

Please choose only one of the following:

- Yes
- No

[Only answer this question if you answered 'Yes' to question '1437 ' and if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1438: »Have the police responded?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Yes' to question '1437 ' and if you answered 'Yes' to question '1438 ' and if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1439: What was their response? (eg. attended scene)**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1437 ' and if you answered 'Landowner or tenant farmer of land affected by nighthawking' or 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1440: Did it result in prosecution or other police action?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1441: »Have you reported this activity to an archaeological body, DEFRA or Natural England?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Yes' to question '1441 ' and if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1442: What organisation did you report it to?**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1441 ' and if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1443: What was its response?**

Please write your answer here:

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

question '139 ']

**1443a: »Have you taken any steps on your own to deter nighthawkers?**

Please choose **only one** of the following:

Yes

No

---

[Only answer this question if you answered 'Yes' to question '1443a ' and if you answered 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1443b: What were they? Were they successful?**

Please write your answer here:

---

[Only answer this question if you answered 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1443c: Do you allow law-abiding metal detectorists on your land?**

Please choose **only one** of the following:

Yes

No

---

[Only answer this question if you answered 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1444: »Have you reported the this activity to the landowner/farmer?**

Please choose **only one** of the following:

Yes

No

---

[Only answer this question if you answered 'Yes' to question '1444 ' and if you answered 'Member of the public' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1445: What was their response?**

Please write your answer here:

---

[Only answer this question if you answered 'Member of the public' or 'Landowner or tenant farmer of land affected by nighthawking' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1447: Other comments**

Please write your answer here:

---

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1502: Name of employing organisation**

Please write your answer here:

---

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1503: Position within organisation**

Please write your answer here:

---

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you

answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1504: Preferred contact details**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1505: Where is the field/site where nighthawking has taken place? (please fill in as much detail as you can)**

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1507: Address**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1508: Grid reference**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1509: Other**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1510: Name of archaeological site**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1511: »Is it a Scheduled Monument ?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Yes' to question '1511 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']



**1511b: Number**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1512: »Do you know if it is on the SMR/HER?**

Please choose only one of the following:

Yes

No

[Only answer this question if you answered 'Yes' to question '1512 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1512b: Number**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1513: Type of archaeological site**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1514: Date of archaeological site**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1515: Name and contact details of landowner/farmer if known**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1516: »Is this an archaeological site you are or have been excavating?**

Please choose only one of the following:

Yes

No

[Only answer this question if you answered 'No' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1517: Has this activity on this site been reported to you?**

Please choose only one of the following:

Yes

No

[Only answer this question if you answered 'No' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1518: Who reported this activity?**

Please choose all that apply:

Landowner

Member of Public

Other:

[Only answer this question if you answered 'Yes' to question '1517' and if you answered 'No' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1519: What was the evidence that was reported to you suggesting nighthawking was taking place?**

Please choose all that apply and provide a comment:

Holes (not caused naturally) appearing in the ground. Approx. how many?

Evidence of unsolicited vehicles and people being on the site

Vehicles and people seen on field at night

Eye witness of nighthawking

Hearsay

[Only answer this question if you answered 'No' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1520: Have you witnessed evidence for nighthawking on this site yourself?**

Please choose only one of the following:

Yes

No

[Only answer this question if you answered 'Yes' to question '1520' and if you answered 'No' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1521: What was this evidence?**

Please choose all that apply and provide a comment:

Holes (not caused naturally) appearing in ground

If holes have been seen approx. how many

Evidence of unauthorized vehicles and people being on the site

Vehicles and people seen on field at night

Eye witness of nighthawking

Hearsay

[Only answer this question if you answered 'No' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1522: Why do you suspect this is evidence of illegal activity?**

Please choose all that apply:

- It is a Scheduled
- It is National Trust land
- It is Forestry Commission land
- It is a National Park
- It is a protected Military Site
- You know that no permission has been given
- It happened at night

Other:

[Only answer this question if you answered 'No' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**\* 1523: What time of year did this activity occur?**

Please choose the appropriate response for each item:

	Yes	No	I don't know
Spring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Summer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Autumn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Winter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Just after cultivation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[Only answer this question if you answered 'No' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1529: Exact date if known**

Please write your answer here:

[Only answer this question if you answered 'No' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1530: Approximate date**

Please write your answer here:

[Only answer this question if you answered 'No' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1531: How often has this activity occurred on this site?**

Please choose only one of the following:

- once per year
- 1-5 times per year
- 5-10 times per year
- 10+ times per year

[Only answer this question if you answered 'No' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1532: How many years have you noticed this activity occurring?**

Please choose only one of the following:

- 1
- 1-5

- 5-10
- over 10

[Only answer this question if you answered 'No' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1533: Tick the years which you think this activity has occurred**

Please choose all that apply:

- 1970s
- 1980s
- 1990s
- 2000
- 2001
- 2002
- 2003
- 2004
- 2005
- 2006
- 2007

[Only answer this question if you answered 'No' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1534: Has this activity increased over the:**

Please choose all that apply:

- last year
- last two years
- last 3-5 years
- last 5-10 years

[Only answer this question if you answered 'No' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1535: Do you think that this activity has been carried out by more than one individual?**

Please choose only one of the following:

- 1 person
- 1-2 persons
- 2-5 persons
- 5-10 persons
- 10-15 persons
- Over 15 persons

[Only answer this question if you answered 'Yes' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1553: What was the evidence of nighthawking on site?**

Please choose all that apply and provide a comment:

Holes (not caused naturally) appearing in actual area of excavation. Approx. how many?

Holes (not caused naturally) appearing close to the excavation. Approx. how many?

There was evidence of

unauthorized vehicles and people  
being on the site

Someone witnessed nighthawking  
activity

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1554: Date of the excavations**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1555: How long did the excavations last?**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1556: Are they ongoing?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1557: How often did/is this activity occurring on this site per year?**

Please choose **only one** of the following:

- once per year  
 1-5 times per year  
 5-10 times per year  
 10+ times per year

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1559: Did this activity occur**

Please choose **all** that apply:

- In the evening/night after work  
 At the weekend

Other:

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1560: Do you think that this activity was carried out by more than one individual?**

Please choose **only one** of the following:

- 1 person  
 1-2 persons  
 2-5 persons  
 5-10 persons

- 10-15 persons
- Over 15 persons

---

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1562: Over how many years has this activity occurred?**

Please choose **only one** of the following:

- 1
- 1-5
- 5-10
- Over 10

---

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1563: Tick the years this activity has occurred on this site**

Please choose **all** that apply:

- 1970s
- 1980s
- 1990s
- 2000
- 2001
- 2002
- 2003
- 2004
- 2005
- 2006
- 2007

---

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1564: Has it increased over the:**

Please choose **all** that apply:

- last year
- last two years
- last 3-5 years
- last 5-10 years

---

[Only answer this question if you answered 'Yes' to question '1516 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**\* 1565: What do you think that the effect of this activity is physically having on the archaeological site in question?**

Please choose **only one** of the following:

- It is causing serious physical disturbance to the site in terms of damage to the stratigraphy and deposits
  - It is causing moderate physical disturbance to the site in terms of damage to the stratigraphy and deposits
  - It is causing minor physical disturbance to the site in terms of damage to the stratigraphy and deposits
  - It is not significantly affecting the physical condition of the site
-

[Only answer this question if you answered 'Yes' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**\* 1566: What do you think that the effect of this activity is having on the ability to interpret the archaeological site?**

Please choose **only one** of the following:

- It is seriously affecting the ability to interpret the site in terms of damage to the stratigraphy and deposits
- It is moderately affecting the ability to interpret the site in terms of damage to the stratigraphy and deposits
- It is only causing a minor affect in the ability to interpret the site in terms of damage to the stratigraphy and deposits
- It is not significantly affecting the ability to interpret the site from damage to stratigraphy and deposits

[Only answer this question if you answered 'Yes' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**\* 1568: What types of material do you think are being stolen?**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1516' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1569: Any other comments on the type and extent of damage**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1570: »Did you contact the landowner/farmer about the nighthawking?**

Please choose **only one** of the following:

- Yes
- No

[Only answer this question if you answered 'Yes' to question '1570' and if you answered 'Member of the archaeological profession' to question '1402' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139']

**1571: What was their response?**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402' and if you

answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1572: »Were you able to introduce or recommend procedures to protect the site from nighthawks?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Yes' to question '1572 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1573: What were they?**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1572 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1574: Were they successful?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1575: »Did you introduce procedures to monitor the nighthawking activity and collate evidence?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Yes' to question '1575 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1576: What were they?**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1577: »Did you report it to the police?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Yes' to question '1577 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']



archaeological site (Section A)' to question '139 ']

**1578: »Have the police responded?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Yes' to question '1577 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1579: What was their response? (eg. attended scene)**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1581: »Did you report it to an archaeological body, DEFRA or Natural England?**

Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Yes' to question '1581 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1582: What organization did you report it to?**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1581 ' and if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1583: What was its response?**

Please write your answer here:

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1584: Have you or your colleagues ever been threatened by nighthawks?**

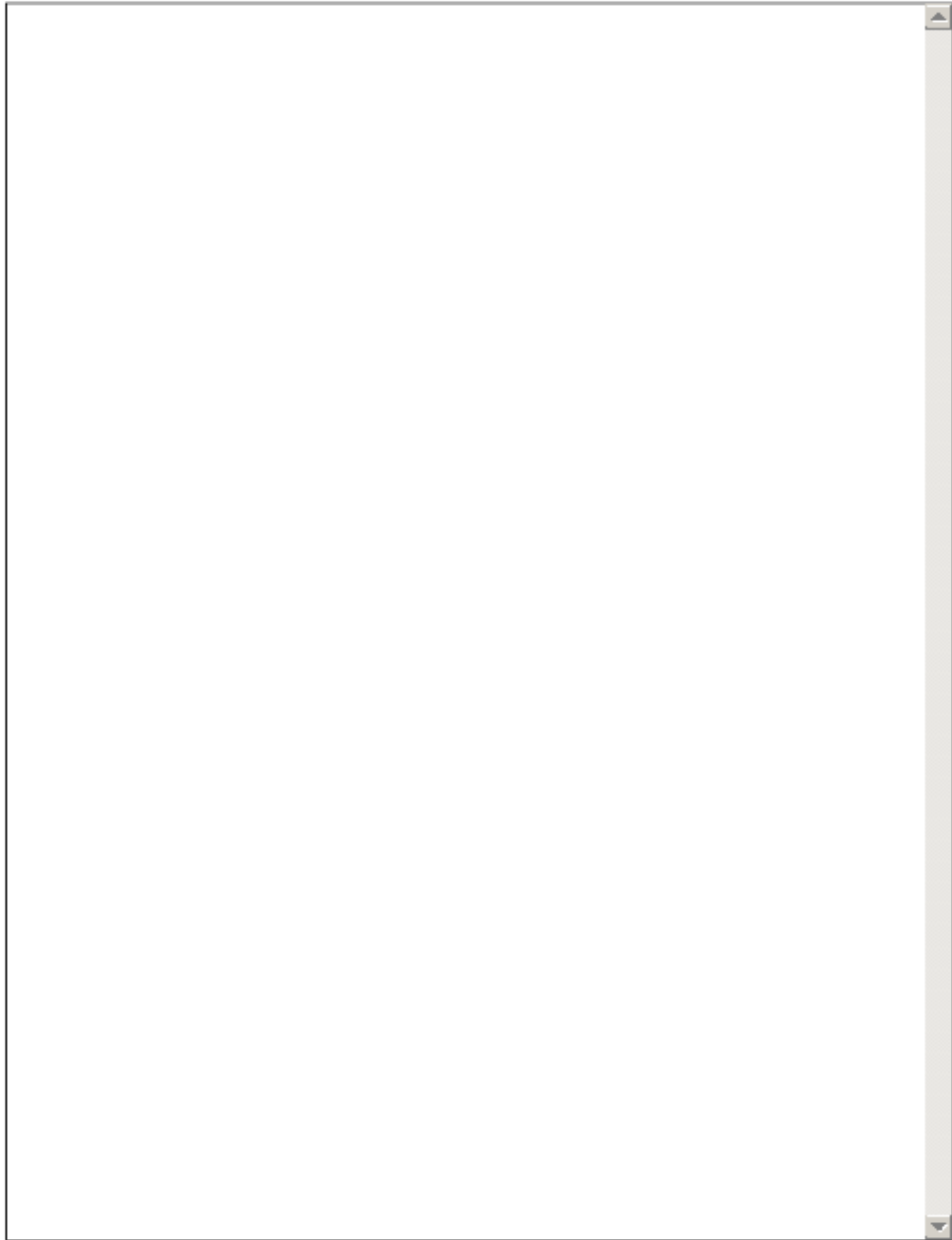
Please choose **only one** of the following:

- Yes  
 No

[Only answer this question if you answered 'Member of the archaeological profession' to question '1402 ' and if you answered 'report evidence for nighthawking on an archaeological site (Section A)' to question '139 ']

**1586: Other comments**

Please write your answer here:



[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1600: Details and relevant guidance to help people buying and selling art, antiques and antiquities to stay within the law can be found [here](#).**

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1601: Are you in the antiquities trade?**

Please choose **only one** of the following:

Yes

No

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1602: Are you a member of the public?**

Please choose **only one** of the following:

Yes

No

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1603: Are you a member of the archaeological profession?**

Please choose **only one** of the following:

Yes

No

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1604: Briefly describe the incident(s) of illegal sale**

Please write your answer here:

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1604a: Type of object(s)**

Please write your answer here:

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1604b: Date of transaction (if known)**

Please write your answer here:

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1604c: Location of transaction**

Please write your answer here:

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1605: Why do you suspect that the object(s) is/are being sold illegally?**

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1606: Do you suspect that the object(s) were taken illegally from an archaeological site through nighthawking:**

Please choose **all** that apply:

eg. without the owner's permission

eg. from a site protected from metal detecting (Scheduled Monument)

Other:

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1607: Do you suspect the object(s) were stolen from their rightful owners?**

Please choose **only one** of the following:

Yes

No

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1608: Do you suspect the object(s) are Treasure which has not been reported to the Coroner ([link to Treasure Code](#))**

Please choose **only one** of the following:

Yes

No

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1609: Do you suspect that the object(s) has been exported without an export licence? ([link to requirements for an export licence](#))**

Please choose **only one** of the following:

Yes

No

[Only answer this question if you answered 'provide information on the illegal sale of antiquities (Section B)' to question '139 ']

**1610: Are there any other reasons why you think that the object(s) is being sold illegally?**

Please write your answer here:

[Only answer this question if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**\* 1700: »Do you have information on successful arrests or otherwise for:**

Please choose **only one** of the following:

- Nighthawking
- Illegal selling of antiquities

[Only answer this question if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**\* 1700a: How did you find out about this?**

Please choose **only one** of the following:

- Presence in Court (if so in what capacity)
- Newspaper Report (if so what newspaper and what date)
- Written up in Journal (if so what is reference)
- Hearsay
- From landowner
- Other

Make a comment on your choice here:

[Only answer this question if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1701: How many persons were arrested?**

Please write your answer here:

[Only answer this question if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1701a: What action was taken against those arrested?**

Please choose **all that apply**:

- Prosecution
- Charged but not prosecuted
- Caution
- ASBO
- No action
- Don't know

[Only answer this question if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1701b: If not prosecuted, do you know why?**

Please write your answer here:

[Only answer this question if you answered 'Nighthawking' to question '1700 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1702: What legislation were the perpetrators prosecuted under?**

Please choose all that apply:

- Theft Act
- Law of Trespass
- Treasure Act
- Dealing in Cultural Object (Offences) Act
- Ancient Monuments and Archaeological Area Act
- Military Act

Other:

[Only answer this question if you answered 'Illegal selling of antiquities' to question '1700 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1702b: What legislation were the perpetrators prosecuted under?**

Please choose all that apply:

- Theft Act
- Treasure Act
- Dealing in Cultural Object (Offences) Act
- The Export of Objects of Cultural Interest (Control) Order
- The Customs and Excise Management Act

Other:

[Only answer this question if you answered 'Nighthawking' to question '1700 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1703: What evidence was put forward?**

Please choose all that apply:

- Eye witness
- Arrest on site
- Video/photographic evidence
- Arrest in possession of objects from the site
- Information from landowner

Other:

[Only answer this question if you answered 'Illegal selling of antiquities' to question '1700 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1703b: What evidence was put forward?**

Please choose all that apply:

- Arrest in act
- Video/photographic evidence
- Arrest in possession of illegal objects

Other:

[Only answer this question if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1704: »Was the prosecution successful?**

Please choose only one of the following:

- Yes
- No

[Only answer this question if you answered 'Yes' to question '1704 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1705: How many persons were prosecuted?**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1704 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1706: What was the sentence?**

Please choose all that apply and provide a comment:

- Fine £
- Custodial
- Other (eg. Caution, ASBO)

[Only answer this question if you answered 'No' to question '1704 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1707: Why was the prosecution unsuccessful?**

Please choose **only one** of the following:

- Not enough evidence
- Other (eg. not in public interest)

Make a comment on your choice here:

[Only answer this question if you answered 'No' to question '1704 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1708: Can you supply details?**

Please write your answer here:

[Only answer this question if you answered 'Illegal selling of antiquities' to question '1700 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1708a: What were the objects which were being illegally sold?**

Please write your answer here:

[Only answer this question if you answered 'Illegal selling of antiquities' to question '1700 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1708b: Was it revealed where they came from?**

Please choose **only one** of the following:

- Yes
- No

[Only answer this question if you answered 'Illegal selling of antiquities' to question '1700 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1708c: »Was the case related to a specific location?**

Please choose **only one** of the following:

Yes

No

[Only answer this question if you answered 'Nighthawking' to question '1700 ' and if you answered 'Yes' to question '1708c ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1709: Where was the site for which the prosecution took place:**

[Only answer this question if you answered 'Illegal selling of antiquities' to question '1700 ']

**1709a: Country of site**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1708c ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1709b: Site name**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1708c ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1711: Location**

Please write your answer here:

[Only answer this question if you answered 'Yes' to question '1708c ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1712: Grid reference**

Please write your answer here:

[Only answer this question if you answered 'Nighthawking' to question '1700 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1714: Is it a known site on the SMR?**

Please choose **only one** of the following:

Yes

No

Don't know

[Only answer this question if you answered 'Nighthawking' to question '1700 ' and if you answered 'provide information on prosecutions of nighthawking or illegal selling of antiquities (Section C)' to question '139 ']

**1715: Is it a Scheduled Monument?**

Please choose **only one** of the following:

Yes

No

Don't know

**Submit Your Survey.**

Thank you for completing this survey. Please fax your completed survey to: .



## APPENDIX 7: LIST OF PUBLISHED MATERIAL AND PUBLICITY

Prior to the launch of the on-line questionnaire press releases were sent to selected contacts for both print and web media.

During the course of the project further press releases were issued and articles prepared for inclusion in particular journals, but not all the material supplied was taken up.

### Articles published

The Archaeologist 65  
British Archaeology 95, 98  
RESCUE News 103  
'City and County', published by the Northumberland and Newcastle Society  
Museums Journal  
The Searcher  
Treasure Hunting  
Surrey Archaeological Society Bulletin 404

### Articles sent, but not published

Current Archaeology  
Farmers Weekly  
Farmers Guardian  
Defra website  
Farming Life, Northern Ireland

### Press articles

Jersey Radio interview  
Sunday Telegraph  
Wiltshire and Gloucestershire Echo

### Press contact, article not seen

New Letter, Northern Ireland  
Gloucestershire Echo  
This is Guernsey  
Isle of Man Today  
News Letter - Northern Ireland

### Selection of websites where project is mentioned

24 Hour Museum  
(<http://www.24hourmuseum.org.uk/birmingham/news/ART48340.html?ixsid=>)  
Archaeoblog  
([http://archaeoblog.blogspot.com/2007\\_03\\_01\\_archive.html](http://archaeoblog.blogspot.com/2007_03_01_archive.html))  
Archaeology in Europe  
([http://www.archaeology.eu.com/weblog/2007\\_03\\_01\\_archaeologyeu\\_archive.html](http://www.archaeology.eu.com/weblog/2007_03_01_archaeologyeu_archive.html))  
Architect's website  
([www.bdonline.co.uk/story.asp?storyCode=3091016](http://www.bdonline.co.uk/story.asp?storyCode=3091016))  
Art Loss Review  
(<http://www.artlossreview.com/news/archiveresultsshow.php?id=190&date=2007-07-01%2006:30:00>)  
BAJR  
([http://www.bajr.org/bajrforum/topic.asp?TOPIC\\_ID=1575](http://www.bajr.org/bajrforum/topic.asp?TOPIC_ID=1575))  
Britarch  
([www.britarch.ac.uk/ba/ba95/news.shtml](http://www.britarch.ac.uk/ba/ba95/news.shtml))  
Chepstow Archaeological Society  
(<http://uk.groups.yahoo.com/group/ChepstowArchSoc/messages/220>)  
Cultural Heritage News  
([culturalheritagenews.blogspot.com/2007/09/nighthawking.html](http://culturalheritagenews.blogspot.com/2007/09/nighthawking.html))  
Detectorists.co.uk  
(<http://www.detectorist.co.uk/phpBB2/viewtopic.php?t=2284>)

Gloucestershire Police  
([www.gloucestershire.police.uk/Rural%20Policing/Nighthawking/item5595.html](http://www.gloucestershire.police.uk/Rural%20Policing/Nighthawking/item5595.html))

Hampshire CC  
(<http://semaphore2.hants.gov.uk/scripts/semaphoreserver.exe?CMD=search.run&TOPDOC=220&HIDECONCEPT=1&SAVEDB=hants&SAVEQUERY00=metalled&SAVESTYPE=simple&SAVESOURCESTEM=metalled:metal%7C>)

HER Forum Buckinghamshire CC  
([http://www.buckscc.gov.uk/moderngov/Published/C00000490/M00002819/AI00004532/\\$MetalDetectingReport.docA.ps.pdf](http://www.buckscc.gov.uk/moderngov/Published/C00000490/M00002819/AI00004532/$MetalDetectingReport.docA.ps.pdf))

Heritage Link 133 - IFA  
([www.heritagelink.org.uk/wp/wp-content/uploads/2008/03/heritage-link-update-no-133.pdf](http://www.heritagelink.org.uk/wp/wp-content/uploads/2008/03/heritage-link-update-no-133.pdf))

Hungarian Medievalists  
([http://hmedievalists.blogspot.com/2007\\_03\\_01\\_archive.html](http://hmedievalists.blogspot.com/2007_03_01_archive.html))

Illicit Cultural Property  
(<http://illicit-cultural-property.blogspot.com/2007/07/metal-detectors-discover-important.html>)

Marlow Archaeology  
([marlowarchaeology.org/links.aspx](http://marlowarchaeology.org/links.aspx))

Mid Kent MDC  
([http://www.mid-kent-mdc.co.uk/ncmd\\_news.htm](http://www.mid-kent-mdc.co.uk/ncmd_news.htm))

NCMD  
([www.ncmd.co.uk/docs/NCMD%20News%20&%20Views%20Summer%20%202007.pdf](http://www.ncmd.co.uk/docs/NCMD%20News%20&%20Views%20Summer%20%202007.pdf))

Network News- Leicestershire Museums  
([www.leics.gov.uk/network\\_news\\_32.doc](http://www.leics.gov.uk/network_news_32.doc))

Newcastle University  
([www.ncl.ac.uk/unescolandscapes/files/THOMASSuzie.pdf](http://www.ncl.ac.uk/unescolandscapes/files/THOMASSuzie.pdf))

NFU  
(<http://www.nfuonline.com/x17219.xml>)

Northumberland and Newcastle Society  
([www.nandnsociety.org.uk/Articles/nov\\_2007\\_nighthawking.html](http://www.nandnsociety.org.uk/Articles/nov_2007_nighthawking.html))

PAS  
([www.finds.org.uk/documents/confmarc05/taking\\_pas\\_forward\\_737.doc](http://www.finds.org.uk/documents/confmarc05/taking_pas_forward_737.doc))

RESCUE - British Archaeological Trust  
(<http://www.rescue-archaeology.freemove.co.uk/>)

SALON - Society of Antiquaries  
([http://www.sal.org.uk/salon/index\\_html?id=665](http://www.sal.org.uk/salon/index_html?id=665))

Scarborough Country Watch  
(<http://www.scarcountrywatch.org.uk/LatestNews/LatestNews.asp#TheNight-hawkingSurvey>)

SCA today.net  
(<http://scatoday.net/node/9271>)

Society of Museum Archaeologists  
([www.socmusarch.org.uk/news.htm](http://www.socmusarch.org.uk/news.htm))

Solent Thames - Buckinghamshire CC  
([http://www.buckscc.gov.uk/bcc/get/assets/docs/Solent%20Thames%20RF%20Steering%20Group%20Minutes%2018\\_07\\_07.pdf](http://www.buckscc.gov.uk/bcc/get/assets/docs/Solent%20Thames%20RF%20Steering%20Group%20Minutes%2018_07_07.pdf))

Sunday Telegraph  
([www.telegraph.co.uk/news/uknews/1556793/Night-metal-detectors-'looting-Britain'.html](http://www.telegraph.co.uk/news/uknews/1556793/Night-metal-detectors-'looting-Britain'.html))

UKTV - Sky  
(<http://uktv.co.uk/history/item/aid/584731>)

Unidroit-L - Yahoo news group  
(<http://groups.yahoo.com/group/Unidroit-L/message/2592>)

Wikipedia  
(<http://en.wikipedia.org/wiki/Nighthawking>)

Worcester City Neighbourhood Watch  
(<http://www.worcesterneighbourhoodwatch.co.uk/page26.htm>)

## Seminars and Events Attended

IFA Conference, Reading	3rd April 2007
FLO Quarterly Meeting, British Museum	22nd June 2007
Solent Thames Research Framework Steering Group Meeting, Oxford	18th July 2007
Water Newton Metal Detecting Rally	17th August 2007
FLO Quarterly Meeting, British Museum	11th October 2007
Cadw FMW Meeting	23rd October 2007
Oxford Blues MDC, Oxford	7th November 2007
NCMD Management Team Meeting	17th November 2007

## APPENDIX 8: LIST OF ORGANISATIONS CONTACTED

<b>English Heritage</b>	Monuments, Inspectors, HEFAs, Regional Offices, Archaeological Survey Team, Archaeology Projects Team
<b>Local authorities</b>	Local Authority Archaeologists, - individually and through ALGAO, HECAs, local parishes-Jersey
<b>Cadw</b>	FMWs
<b>PAS</b>	FLOs, Finds Advisers
<b>National Trust</b>	Regional archaeologists, individually; National Trust for Jersey
<b>Museums</b>	Through Society of Museum Archaeologists, individually Thame Museum, Museum of Scotland
<b>Environment Agency</b>	Archaeologists
<b>Environmental Division of the State of Jersey</b>	
<b>Dept of Agriculture Fisheries &amp; Forestry, Isle of Man</b>	
<b>English Nature</b>	Regional archaeologists
<b>Crown Estate</b>	Rural Estates Office
<b>Duchy of Cornwall</b>	District offices
<b>MoD</b>	Archaeologists
<b>Church of England</b>	Archaeological Officer
<b>Police</b>	Kent Police, Metropolitan Police Art & Antiquities Unit, Gloucestershire Police, Thames Valley Police, State of Jersey Police
<b>Local authority farms</b>	Co-ordinators from Tenant farmers Association list - 54 councils
<b>Leicestershire &amp; Rutland Archaeological Network</b>	
<b>Northern Ireland Heritage Link</b>	

### Farmwatch schemes (22)

Alston & Cybermoor	North Shropshire
Bedfordshire	N Yorks - Scarborough
Cambridgeshire	Northants
Cleveland	Suffolk
Cumbria	Southam/Stockton
Durham	South Yorks
Dyfed Powys	Surrey
Hartlepool	Sussex
Leics	Tynedale
Lincs	Warks
Norfolk	West Mercia

### University Departments (29)

Bangor	Exeter
Belfast	Glasgow
Birmingham	Hull
Bournemouth	Lampeter
Bradford	Leicester
Bristol	Liverpool
Cambridge	London: Institute of Archaeology
Central Lancashire	London - ucl
Chester	Manchester
Durham	Newcastle
East Anglia	Newport
Edinburgh	Nottingham

Oxford  
Reading  
Southampton

Winchester  
York

### **Archaeological contractors (54)**

Albion Archaeology  
Archaeological Project Services  
Archaeological Development Services Ltd  
Archaeological Services and Consultancy Ltd  
AoC Archaeology (London)  
AoC (Edinburgh)  
Atkins  
Birmingham Archaeology  
Bristol & Region Archaeological Services  
Cambrian Archaeology  
Cambridge Archaeological Trust  
Canterbury Archaeological Trust  
CFA Archaeology Limited  
CgMs Consulting  
CAM ARC  
Clwyd Powys Trust  
Colchester Archaeological Trust Ltd  
Cotswold Archaeological Trust  
Essex County Council Archaeological Services  
Exeter Archaeology  
Field Archaeology Specialists Limited  
Gahan & Long Ltd  
Gifford and Partners  
Gwynedd Archaeological Trust  
Glamorgan/Gwent Archaeological Trust  
Headland Archaeology  
Historic Environment and Archaeology Service  
Humber Field Archaeology

Jacobs Babtie  
John Moore Heritage Services  
Marches Archaeology  
MOLAS  
Network Archaeology  
Norfolk Archaeology Unit  
Northamptonshire Archaeology  
Northern Archaeological Consultancy  
Oxford Archaeology  
Pre-Construct Archaeology  
Scott Wilson  
Southampton City Council's Archaeology Unit  
Suffolk County Council Archaeological Service  
Surrey County Archaeological Unit  
Sussex Archaeological Society  
Tees Archaeology  
Thames Valley Archaeological Services  
Thanet Archaeological Trust  
Trent and Peak Archaeological Unit  
Tyne and Wear Museums Archaeology Dept  
University College London Field Archaeology Unit,  
University of Leicester Archaeological Services  
Warwickshire Museum Field Services  
Wessex Archaeology  
WYAAS  
York Archaeological Trust

### **Local Societies (96)**

Abingdon Area Archaeological and Historical Society  
Amphill and District Archaeological and Local History Society  
Ards Historical Society  
Architectural and Archaeological Society of Durham and Northumberland  
Association for Portland Archaeology  
Association of Northumberland Local History Societies  
Avon Local History & Archaeology Society  
Axe Valley Archaeological Association  
Ballyclare Historical Society  
Bedford Archaeological and Local History Society  
Belcoo & District Historical Society  
Berkshire Archaeology Research Group  
Bexley Archaeological Group  
Bletchley Archaeological and Historical Society  
Breifne Historical Society  
Brindle Historical Society  
Bristol and Avon Archaeological Society

Bristol and Gloucestershire Archaeological Society  
Buckinghamshire Archaeological Society  
Centre for Manx Studies  
Chepstow Archaeological Society  
Chester Archaeological Society  
Chichester and District Archaeology Society  
Chorley History and Archaeological Society  
City of London Archaeological Society  
Clogher Historical Society  
Coleraine Historical Society  
Cornwall Archaeological Society  
Craigavon Historical Society  
Creggan Historical Society  
Cumberland and Westmorland (Cumbria) Antiquarian and Archaeological Society  
Desertmain Local History Group  
Donaghmore Historical Society  
Dromore & District Historical Society  
Dumfries and Galloway Natural History and Antiquarian Society  
East Belfast Historical Society  
East Dorset Antiquarian Society  
Egham-by-Runnymede Historical Society  
Faversham Society  
Federation of Ulster Local Studies Ltd  
Friends of Grampian Stones  
Glens of Antrim Historical Society  
Gloucestershire Society for Industrial Archaeology  
Great Yarmouth and District Archaeological Society  
Hampshire Field Club and Archaeology Section  
Hastings Area Archaeological Research Group  
Hendon and District Archaeological Society  
Huddersfield and District Archaeological Society  
Isle of Man Natural History Society and Antiquarian Society  
Isle of Wight Industrial Archaeology Society  
Isle of Wight Industrial Archaeology Society (History Centre)  
Kent Archaeological Society  
Kilrea Local History Group  
Lecale Historical Society  
Leicestershire Archaeological and Historical Society  
Leicestershire Industrial History Society  
Leighton Buzzard & District Archaeological & Historical Society  
London and Middlesex Archaeological Society  
Manshead Archaeological Society of Dunstable  
Marlow Archaeological Society  
Merseyside Archaeological Society  
Mourne Local studies Group  
Muintirevlin Historical Society  
Norfolk Historic Buildings Group  
North Buckinghamshire Archaeology Society  
North East Hampshire Historical and Archaeological Society  
North Hertfordshire Archaeology Society  
North West Mills Group  
Northamptonshire Natural History Society: Archaeology and History Section  
Northumberland and Newcastle Society  
O'Neill Country Historical Society  
Orpington and District Archaeological Society  
Oxford University Archaeological Society

Oxfordshire Architectural and Historical Society  
 Queen's University, Belfast: Archaeological and Palaeoecology Society  
 Rathfriland Historical Society  
 Ryedale Vernacular Building Materials Research Group  
 Saintfield Heritage Society  
 Scarborough Community Heritage Initiative  
 Shetland Amenity Trust  
 Société Jersiaise  
 Somerset Archaeological and Natural History Society  
 South Oxfordshire Archaeological Group  
 South Trafford Archaeological Group  
 Southampton University Industrial Archaeology Group  
 Standing Conference on London Archaeology  
 Stewartstown & District Local History Society  
 Stoke-on-Trent Museum Archaeological Society  
 Suffolk Institute of Archaeology and History  
 Suffolk Preservation Society  
 Surrey Archaeological Society  
 Sussex Archaeological Society  
 Tameside Archaeological Society  
 Templecorran Historical Society  
 Tempo Historical Society  
 Thoroton Society of Nottinghamshire  
 Ulster Archaeological Society  
 University of Bristol Archaeology Society  
 University of Wales: Bangor - Archaeological Society  
 Upper Nene Archaeological Society  
 West Tyrone Historical Society  
 Wiltshire Archaeological and Natural History Society  
 Wirral and North Wales Field Archaeology  
 Wolverhampton Archaeology Group  
 Yorkshire Archaeological Society  
 Yorkshire Vernacular Buildings Study Group

### **Metal Detecting Clubs (230)**

A list of metal detecting clubs was compiled using the NCMD and Detectorists.net websites.

### **Other contacts**

In addition to the groups listed above OA also contacted lots of individuals, both as follow up within the above organisations or private individuals as a result of recommendations received.

### **Publications searched**

#### ***Popular publications:***

Archaeology Today  
 British Archaeology  
 Current Archaeology  
 Past

Popular Archaeology  
 RESCUE News  
 Yesterday's World

***Local journals from:***

Berkshire  
Bucks  
Bristol and Glos  
Devon  
East Anglia  
East Midlands  
Essex  
Hertfordshire  
Isle of Wight  
Kent  
Lancashire

Lincolnshire  
London  
Middlesex  
Loughborough  
Northumberland  
Suffolk  
Surrey  
Sussex  
Wiltshire  
Worcestershire  
Yorkshire

***Newspaper archives***

Around 30 on-line archives from newspapers and newspaper groups across the country were searched. In addition searches were carried out for OA of the East Anglian Daily News archives and those held by The Sentinel in Staffordshire. A partial search of the microfilm archives of the Bucks Herald was also carried out, for the years 1995, 2000 and 2005.

## THE NIGHTHAWKING SURVEY

### PRESS RELEASE

#### Illicit Metal Detecting ('Nighthawking')

A partnership of leading Heritage organisations are conducting The Nighthawking Survey, a major investigation into the problem of nighthawking - the illegal search for and removal of antiquities from the ground using metal detectors, without the permission of the landowners - that is, theft. Nighthawking damages archaeological and historical sites, and can cause great distress and disruption to farmers and landowners, and in addition it blackens the reputation of law-abiding metal detectorists, who contribute much to the understanding of our past.

The practice of nighthawking has been around for more than three decades, but attempts to stop it have been hampered by a lack of hard information on the extent of the problem. How widespread a problem is it? Where does it occur? How often does it occur? How many people are involved? What happens to the stolen material?

The Survey covers the United Kingdom, Northern Ireland, and the Crown Dependencies of The Isle of Man, Guernsey and Jersey, and is being undertaken by Oxford Archaeology. The project is funded by English Heritage, Historic Scotland, Cadw, The National Museum of Wales and the Portable Antiquities Scheme, with support from Guernsey Museums, Jersey Heritage Trust, Manx National Heritage, National Museum of Scotland and Northern Ireland (Environment and Heritage Service).

The centrepiece of this Survey is an online questionnaire, open now and open until April 2008, aimed at members of the public, metal detectorists, archaeologists, landowners, antiquities dealers - anybody who may have information on nighthawking. The questionnaire will be backed up by voluntary personal interviews, and a review of the current legislation and its effectiveness. The aim of the Survey is to provide information that will help the political and law enforcement agencies to devise ways to combat nighthawking and help preserve our heritage. The questionnaire is available at:

**[www.nighthawking.thehumanjourney.net](http://www.nighthawking.thehumanjourney.net)**

The questionnaire will remain open until April 2008.

**For further information enquiries** should be directed to:

**[nighthawking@oxfordarch.co.uk](mailto:nighthawking@oxfordarch.co.uk)**





# The Nighthawking Survey

## Open letter from Oxford Archaeology and the Project's Funders

The Survey is trying to find out about nighthawking, the sale of illicitly recovered archaeological material, and the success or otherwise of prosecutions and convictions for this type of 'heritage crime'.

Nighthawking damages sites, it damages archaeology, and it damages the reputation of responsible metal detectorists. Everyone has heard stories of it happening, but nobody knows how big the problem is across the UK.

If we can find that out, and make the police aware of how much of it is going on, then the law enforcement agencies would be much more likely to target resources to combat it. No new laws are needed, just the will to apply the laws we already have.

But how to find out how much nighthawking is going on, without setting up round-the-clock surveillance on every bit of land in the country? The public survey is the best available option.

The Survey is aimed at everyone, not just responsible metal detectorists. We're not implying that responsible detectorists are involved in any instances of nighthawking, but you have the experience to know the signs on the land when sites have been attacked. Everyone has a stake in this issue, and it is everyone's heritage that is under threat from illegal metal detecting. That is why the term 'nighthawks' was used - to make a clear distinction between responsible detectorists like yourselves and the thieves.

Rest assured, The Nighthawking Survey is not a smokescreen for more legislation to ultimately ban metal detecting altogether, nor for introducing changes which will affect law abiding metal detectorists, nor do we hold responsible metal detectorists to blame in any way for the activities of 'nighthawks'. Suitable laws already exist to prosecute nighthawkers. The Survey aims to find out how often these laws are being broken, what the impact is on the nation's heritage and why the laws are not being successful in deterring nighthawkers. This will allow the development of more effective responses within existing legislation.

The online questionnaire is only part of the whole survey. Information that is given to us will be checked for validity and if it cannot be validated it will not be used. Some procedures have been put in place which will help to weed out any attempt to distort the results, but it is inevitable that any public survey runs the risk of some contamination from false information - but that doesn't make the survey worthless.

The law will always have its limits. Many people on all sides of the argument believe that education is the only long term way to combat illegal metal detecting. We hope that this survey will help raise awareness of the problem among the population as a whole, and by doing so reinforce the fact that illegal metal detecting is morally and ethically wrong.

The only detectorists that we are against are the same ones that you are against - the thieves.

[www.nighthawking.thehumanjourney.net](http://www.nighthawking.thehumanjourney.net)

all national  
amgueddfa  
Cymru



ENGLISH HERITAGE



HISTORIC SCOTLAND



Cadw




*Nighthawking is the use of metal detectors to steal objects from the ground, often to sell them on*

- it can seriously damage archaeological sites
- it is breaking the law
- it causes distress and disruption
- it blackens the name of legitimate Metal Detectorists

To tackle the problem we need information from you to tell us:

How widespread a problem is Nighthawking?  
 Where is it happening?  
 How often is it happening?  
 Is the law currently dealing with Nighthawks?

Help us to understand the problem -



**The Nighthawking Survey** - go to website [www.nighthawks.thehumanjourney.net](http://www.nighthawks.thehumanjourney.net) and take part in the online survey

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## The Nighthawking Survey

Open letter from Oxford Archaeology and the Project's Funders

On the 21st of June 2007 a partnership of leading Heritage organisations launched The Nighthawking Survey, a major investigation into the problem of nighthawking - the illegal search for and removal of antiquities from the ground using metal detectors, without the permission of landowners.

Most farmers are well aware of the fragile nature of the archaeology beneath their feet, and take care to follow the DEFRA guidelines to minimise farming's impact upon it, so its all the more frustrating when criminals armed with metal detectors trespass on their land and help themselves to whatever they find. Quite apart from the damage to the archaeological heritage, it causes disturbance and distress to farmers, their families and often to their livestock. It is no wonder that responsible metal detectorists also condemn nighthawks, because the illegal activity blackens their reputation,

Responsible metal detectorists take their hobby seriously, and obtain the farmer's / landowner's permission to search on their land and to record their finds which may provide vital clues to the activities of our ancestors. If they find potentially important objects, they know how to record them properly. They work/liase with archaeologists, not against them, and the country's heritage benefits.

Unfortunately, there are those that see metal detectors purely as a tool to illegally obtain potentially valuable remains and often sell them on. It is these whose activities deserve to be stopped.

Attempting to address this problem is made more difficult by the fact that there is not much hard information on the scale of the nighthawking problem. Before law enforcement agencies can be persuaded to take the problem more seriously, we need more information:

Where is it happening?

When is it happening?

How many people are involved?

What happens to the stolen material?

This survey is attempting to gather such information by means of a confidential online questionnaire, aimed at as wide a spectrum of the population as possible. We are asking for help from farmers, metal-detectorists, archaeologists, landowners, antiquities dealers, members of the public - anybody who may have information on nighthawking and the illegal trade of artefacts. The questionnaire will be backed up by voluntary personal interviews, and a review of the current legislation and its effectiveness.

So if you have suffered from nighthawking on your land, please go to The Nighthawking Survey website at [www.nighthawking.thehumanjourney.net](http://www.nighthawking.thehumanjourney.net) and take part in the survey. There is plenty of time - the website will stay open until April 2008. If you would rather give us a ring or email us with the information please do so (contact details are on our website). For further information email [nighthawking@oxfordarch.co.uk](mailto:nighthawking@oxfordarch.co.uk)

The survey is covering the United Kingdom, Northern Ireland, and the Crown Dependencies of The Isle of Man, Guernsey and Jersey and is being undertaken by Oxford Archaeology. The project is funded by English Heritage, Historic Scotland, Cadw, The National Museum Wales and the Portable Antiquities Scheme, with support from Guernsey Museums, Jersey Heritage Trust, Manx National Heritage, National Museum of Scotland and Northern Ireland (Environment and Heritage Service).

The only detectorists that we are against are the same ones that you are against - the thieves.

[www.nighthawking.thehumanjourney.net](http://www.nighthawking.thehumanjourney.net)



ENGLISH HERITAGE

HISTORIC SCOTLAND



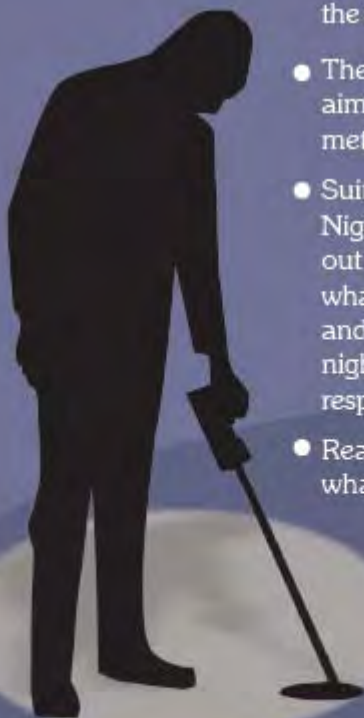
Portable Antiquities Scheme  
[www.wilding.org.uk](http://www.wilding.org.uk)





# The Nighthawking Survey

- The aim of this survey is to collect data on illegal metal detecting on archaeological sites and private land.
- The only detectorists that we are against are the same ones that you are against - the thieves.
- The Nighthawking Survey is not aiming to change the Law and ban metal detecting.
- Suitable laws already exist to prosecute Nighthawkers. The survey aims to find out how often these laws are being broken, what the impact is on the nation's heritage and why the laws are not being successful in deterring nighthawkers. This will allow the development of more effective responses within existing legislation.
- Read the open letter and find out what the survey is trying to do.



If you have any information on nighthawking,

- visit the website at:  
[www.nighthawking.thehumanjourney.net](http://www.nighthawking.thehumanjourney.net)  
and take part in the survey

- or talk to your Finds Liason Officer  
- or E-mail direct to [nighthawking@oxfordarch.co.uk](mailto:nighthawking@oxfordarch.co.uk)  
- or telephone 01865 263800

- or write to:  
Nighthawking  
Oxford Archaeology  
Janus House  
Osney Mead  
Oxford  
OX2 0ES



HISTORIC SCOTLAND



ENGLISH HERITAGE



Portable  
Antiquities  
Scheme  
[www.pas.org.uk](http://www.pas.org.uk)



APPENDIX 10: QUESTIONNAIRE TO COSMIC LANDOWNERS



Oxford Archaeology  
 Janus House  
 Osney Mead  
 Oxford  
 OX2 0ES  
 t: (01865) 263800  
 f: (01865) 793496  
 e: mail@oxfordarch.co.uk  
 w: thehumanjourney.net

**Nighthawk Query**

Please send this tick box back in the stamped addressed envelope provided.

Even if your response is 'no' to Nighthawking then please send it back to us as this will enable us to gain some insight into the overall problem - negative responses are just as important as positive ones.

Also it is also fine if you tick 'yes' to nighthawking but 'no' to further contact with OA - a 'yes' answer will help gain an insight into the overall problem. Any further details you can supply us through further communication would be appreciated but we understand if you do not wish to be bothered further.

Name: (This information will be treated in confidence - identification details are for our reference only)		
Have you been the victim of Nighthawks:		
Please tick	yes	no
in the last 5 years		
in the last 5-10 years		
in the last 10-20 years		
previous to 20 years ago		
If yes can we contact you to talk about it?	Yes	No
If no thank you for your help		
If you are happy to talk to us about it which is the best method to contact you ?		
letter		
phone number (please provide preferred phone number) (no more than 10 minutes of your time needed)		
email (please provide email address)		
If you would rather - please feel free to fill in our questionnaire on line: <a href="http://www.nighthawking.thehumanjourney.net">www.nighthawking.thehumanjourney.net</a> (there is a separate section for farmers/landowners to fill in) or email us direct - <a href="mailto:nighthawking@oxfordarch.co.uk">nighthawking@oxfordarch.co.uk</a> or phone us - 01865 263800 or write to us (details above)		
Had you heard about this survey before this letter	Yes	No
If so where from?		

and finally thank you once again for ALL your help

Director and Chief Executive:  
 David Jennings BA MIFA FSA.  
 Private Limited Company Number: 1818597  
 Registered Charity Number: 285627  
 Registered Office: Oxford Archaeological Unit Ltd,  
 Janus House, Osney Mead, Oxford OX2 0ES

## APPENDIX A MEMORANDUM OF UNDERSTANDING

To: [British Museum]  
Portable Antiquities Scheme  
[Museum, Libraries and Archives Council]  
[] ("you")  
[Date]

Dear Sirs

This Memorandum of Understanding ("MOU") serves to set out the understanding between eBay International AG ("eBay" or "we/us") and you whereby each of us agrees to act in good faith concerning the establishment and implementation of a notice and takedown procedure to discourage illegal trade in antiquities on eBay. The terms you and we have agreed for this process are set out below.

1. You agree to assist us with the prompt identification of objects that are listed on eBay.co.uk ("the Website") in respect of which you believe with reasonable cause and in good faith that an offence may be or may have been committed under section 8 of the Treasure Act 1996, the Dealing in Cultural Objects (Offences) Act or other relevant legislation), and we agree to comply with the following procedure:

1.1. you will review the relevant categories of the Website on a regular basis;

1.2. where you identify an object in respect of which you believe with reasonable cause and in

**GOOD FAITH FROM THE INFORMATION CONTAINED IN THE RELEVANT LISTING THAT AN OFFENCE MAY BE** or may have been committed under section 8 of the Treasure Act 1996 or section 1 of the Dealing in Cultural (Offences) Act 2003, or under any other relevant legislation, then you may contact the eBay seller using the Website in accordance with the procedure set out at schedule 1 with a view to you collecting certain information to enable you to ascertain whether there is a reasonable cause for concern that such an offence may be or may have been committed and whether the provisions of paragraph 1.3 should apply.

1.3. where you identify an object in respect of which you believe with reasonable cause and in good faith that an offence may have been or may be committed, you will notify in writing to the Metropolitan Police (Art and Antiques Unit) or the relevant law enforcement authority (the "Authority") and clearly set out (a) details of the object, including its item number as listed on the Website; (b) the relevant legal provisions; (c) the facts insofar as they are known;

1.4. if the Authority believe there to be a reasonable suspicion that an offence has been or may be committed, they will notify us in writing that the matter is under investigation and we will remove the object from the Website in accordance with our existing policies, copying such notice to you. Such notice shall clearly set out (a) details of the object, including its item number as listed on the Website; (b) the relevant legal provisions; (c) the facts insofar as they are known; (d) the action requested; and (e) the authorising officer;

1.5. once a notice has been received from the Authority in accordance with paragraph 1.4 above, the object will be removed from the Website as soon as reasonably practicable and in any event within 48 hours; and

1.6. following receipt of notice under 1.4 above and the removal of the object from our Website

we agree to send a confirmatory email to the Authority, copied to you, which shall clearly set out the action taken in respect of a notice received from them under paragraph 1.4 above.

2. All notices to be sent to us under this MOU to us shall be addressed to:

2.1. [ ] at eBay;

2.2. [ ] at the British Museum; and

2.3. [ ] at the Museums, Libraries and Archives Council; and

2.4. to such other person as may be notified to us, you and the Authority by another party from time to time.

3. Both you and we acknowledge that to the extent reasonably practical the Metropolitan Police (Art and Antiques Unit) will act as the principal point of contact for issuing notices requesting eBay to take down from the Website listings of archaeological material from the soil of England and Wales. The archaeological community and other interested parties will be encouraged by both parties to register any concerns about specific objects via you in the first instance. These roles will be reviewed by all relevant parties concerned at the end of the term of this MOU.

4. We have based our decision to enter into this MOU on your representation to us that initial review of the eBay site suggested that the number of objects in respect of which you may have reasonable cause for concern that an offence may have been committed or may be committed is likely to be around 2-5 per week.

5. This MOU continues until terminated by either you or us. Either you or we may terminate this MOU at any time, for any reason, by providing written notice to the representative of the other party set out at clause 2 above. Such termination is effective upon receipt by the other party of written notice (including email notice) of such termination.

6. The parties shall meet after three months and thereafter annually to review the content and implementation of this MOU.

7. The parties shall work together and agree a joint press release to announce the signature of this MOU. Prior to any press release or other media information including without limitation any statistics or facts and figures about any party ("Press Release") being issued, the Press Release must be approved by the parties.

8. Nothing contained in this MOU shall be construed, by implication or otherwise, as an obligation on either you or us to enter into any further agreement relating to the subject matter of this MOU. Furthermore, this MOU is a non-binding statement of procedure only and the parties do not intend that they are legally bound to comply with its terms.

9. This MOU shall be governed by and construed in accordance with the law of England and Wales. You and we each irrevocably submit to the non-exclusive jurisdiction of the courts of England and Wales over any claim, dispute or matter arising under or in connection with this MOU. Please confirm your acceptance of the terms set out in this MOU by signing, dating and returning the enclosed copy of this MOU.

Yours faithfully

**For and on behalf of eBay International AG**

Accepted and agreed:-

For and on behalf of the British Museum

Signed: ..... Name: .....

Date: ..... Title: .....

Accepted and agreed:-

For and on behalf of the Museums Libraries and Archives Council

Signed: ..... Name: .....

Date: ..... Title: .....

## SCHEDULE 1

### **Preventing the Illicit Trade in Antiquities on eBay Procedure for Contacting Sellers**

1. Wherever possible the Portable Antiquities Scheme (PAS) or the Treasure Section of the British Museum (BM) will contact 'sellers' via contact details that are publicly available (i.e. not via their eBay account).
2. In cases where PAS/BM believe with reasonable cause and in good faith from the information contained in the item listing on eBay that an object may be unreported Treasure (i.e. the object fulfils all the criteria of Treasure, but has no record it has been reported) PAS/BM will contact the seller advising them of their legal obligations.
3. In cases where PAS/BM believe with reasonable cause and in good faith that they have identified an object of potential Treasure but require further information from the seller to confirm this (e.g. the object is gold or silver and 300 years old, but PAS/BM don't know when or where it was found) PAS/BM will contact the seller asking for further information.
4. Where a seller responds to a question, PAS/BM will offer advice as appropriate (i.e. advise them of their legal obligations and offer to help them report the item).
5. Where a seller chooses not to respond or where PAS/BM believe with there is reasonable cause and in good faith for concern that a seller may have failed to report Treasure, and PAS/BM believe that in good faith that an offence will be committed, PAS/BM will forward any information they have about the object to the Metropolitan Police and request the sale is ended (as set out in the Memorandum of Understanding) as appropriate. PAS/BM will not contact the seller again when he chooses not to respond to their first request.



## APPENDIX B

eBay guidance - already quoted in Appendix 3.

## APPENDIX C

### ADVICE FOR PEOPLE BUYING ARCHAEOLOGICAL OBJECTS FOUND IN THE UNITED KINGDOM

#### Five things to ASK:

- Have you legal title to sell?
- Where was the object found?
- When was the object found?
- Was there a legal obligation to report the find?
- Has the object been recorded?

#### ASK - have you legal title to sell?

With the exception of Treasure finds (see below) all archaeological finds found in England, Wales or Northern Ireland are normally the property of the landowner. If the object has been recently discovered and the person selling the object is the finder, then they will need to have the permission of the landowner on whose land the object was found before they can sell it.

In Scotland there is a legal obligation to report all archaeological objects under Treasure Trove (see below). All objects belong to the Crown, unless disclaimed.

If the person selling the object is not the finder or landowner, then can you satisfy yourself that they have legal title to sell? It is a good idea to ask the seller to sign a statement verifying their account of the item's provenance and their legal title to sell. Ask for a copy of all appropriate documentation if there was a legal obligation to report the find.

#### ASK - where was the object found?

There is a legal obligation to report archaeological finds found in England, Wales or Northern Ireland that qualify as Treasure (see further information, below). Non-Treasure finds found in England or Wales may have been recorded with the Portable Antiquities Scheme (a voluntary scheme to record archaeological objects found by the public – see contacts) and therefore documentation may exist to show where an object was reported as being found and whether it has been properly recorded.

There has been a legal obligation to report the discovery of all archaeological objects found in Northern Ireland since 1926 (restated in the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995). It is also an offence to excavate any land while searching for archaeological objects without a licence, which requires appropriate reporting of all archaeological findings. Northern Ireland finds should not be purchased without appropriate documentation proving that they have been reported.

There is a legal obligation to report all archaeological finds found in Scotland under Treasure Trove. Scottish finds should not be purchased without documentation proving that they have been disclaimed (see below).

If the object was found outside the UK then you need to know whether it has been imported legally. Ask for documentation to prove this. Most countries have very tough export laws and will not allow archaeological material to be exported.

All UK archaeological objects found in the ground and at least 50 years old need an Export Licence before they can be sent overseas. If you live abroad and wish to buy an object found in the UK ask for a copy of the Export Licence. For further information contact the Export Licensing Team (see contacts).

#### [ASK - when was the object found?](#)

For finds found in England or Wales it is important to know when the object was found. All finds of gold or silver found before 24 September 1997 should have been reported as Treasure Trove. All Treasure finds (see further information) found after that date should have been reported under the Treasure Act 1996.

In Scotland there is a legal obligation to report all archaeological finds, no matter when they were found. Likewise in Northern Ireland there is the legal requirement to report all archaeological finds found after 1926.

#### [ASK - was there a legal obligation to report the find?](#)

In England and Wales there is a legal obligation to report Treasure finds: under Treasure Trove if found before 24 September 1997 or under the Treasure Act 1996 if found after that date (see further information). Only Treasure finds that have been disclaimed on behalf of the Crown can be legally sold, so ask to see proof that the find was disclaimed (i.e. the Crown Disclaimer). Most gold and silver objects (and some other classes of finds) found in England and Wales should have been reported Treasure, even if the seller says they 'come from an old collection'!

If there is any doubt whether an object has been reported Treasure or not then it is best to contact the Treasure Section at the British Museum for English finds or the National Museum of Wales for Welsh finds (see contacts).

In Scotland there is a legal obligation to report all archaeological finds Treasure Trove (see further information). Only disclaimed finds can be legally acquired. When buying archaeological material you should ask to see the appropriate disclaimer certificate. For further information and advice contact the Treasure Trove Secretariat at the National Museums of Scotland (see contacts).

In Northern Ireland there is a legal obligation to report the discovery of all archaeological finds and these should not be purchased without proof that the discovery has been reported. For further information and advice contact the Environment and Heritage Service, Northern Ireland (see contacts).

It is also illegal to metal detect on, or remove any archaeological finds from, a Scheduled Ancient Monument without the permission of English Heritage (in England), the Environment & Heritage Service (in Northern Ireland), Historic Scotland (in Scotland) or Cadw (in Wales). In Northern Ireland it is illegal even to be in possession of a metal-detector on a scheduled or State Care site without permission. You should not buy finds removed from such sites!

#### [ASK - has the object been recorded?](#)

In England and Wales the Portable Antiquities Scheme is a voluntary scheme to record archaeological objects found by the public. Whilst therefore there is no legal obligation to record finds with the Scheme, finders who do so are adding to our understanding of the past. It is current UK Government advice that finders of all archaeological objects (found in England and Wales) should have them reported and recorded. Contact your local Finds Liaison Officer for more information (see contacts).

In Scotland there is a legal obligation to report all finds of archaeological objects under Treasure Trove. Finds may be recorded, even if they are disclaimed.

In Northern Ireland as well as the legal obligation to report all discoveries of archaeological objects, such objects may be held by the Environment & Heritage Service or the Ulster Museum for up to 3 months to permit proper examination and recording, after which they are returned to the depositor.

**IF A SELLER CAN NOT SATISFACTORILY ANSWER ALL OR ANY OF THESE QUESTIONS OR YOU HAVE DOUBTS WHETHER AN OBJECT IS ILLICIT OR NOT THEN OUR ADVICE IS DO NOT BUY!**

## **FURTHER INFORMATION**

### [Treasure Trove](#)

All finds discovered in England, Wales and Northern Ireland before 24 September 1997 were subject to the Common Law of Treasure Trove. Treasure Trove was defined as gold and silver objects, which had been deliberately hidden with the intention of recovery and where the original owner/s or heirs are unknown. Under arrangements established in 1886 finders of Treasure who acted properly and lawfully by reporting their finds and handing over anything they had found to their local Coroner received a reward (based on the market value of the find) if any items were retained by a museum. Otherwise the finds were disclaimed and returned to the finder.

In Scotland all newly discovered archaeological objects, whether they are precious metal or not and regardless of whether they were hidden or lost, belong to the Crown under the legal principle of bona vacantia. All items which are claimed under Treasure Trove are allocated specifically to museums within Scotland and the finder receives a reward. Otherwise finds are disclaimed and returned to the finder.

### [Treasure Act 1996 and Treasure \(Designation\) Order 2002](#)

Since 1997 the Common Law of Treasure Trove has been replaced by the Treasure Act 1996 in England, Wales and Northern Ireland. Under the Act, extended by the Treasure (Designation) Order 2002, the following finds are Treasure, if found after 24 September 1997 (or, in the case of category 2, if found after 1 January 2003):

1. 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.
2. Any group of two or more metallic objects of any composition of prehistoric date that come from the same find (see below)
3. Two or more coins from the same find provided they are at least 300 years old when found and are composed of at least 10 per cent gold or silver (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: (a) hoards that have been deliberately hidden, (b) smaller groups of coins, such as the contents of purses, that may be dropped or lost, and (c) votive or ritual deposits.
4. Any object, whatever it is made of, that is found in the same place as, or had previously been together with, another object that is Treasure.
5. 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, that have been deliberately hidden with the intention of recovery and whose owners or heirs are unknown will come into this category. Note: An object or coin is part of the 'same find' as

another object or coin if it is found in the same place as, or had previously been together with, the other object. Finds may have become scattered since they were originally deposited in the ground.

## **LAW ENFORCEMENT**

Treasure Act 1996: There is a legal obligation for all finders of Treasure to report these to a coroner within 14 days of making the find, or realising the find was Treasure. Penalty: imprisonment for up to 3 months and/or a fine up to £5,000.

Dealing in Cultural Object (Offences) Act 2003: It is illegal to knowingly sell, buy or deal in tainted cultural objects (objects of historical, architectural or archaeological interest) illegally excavated or removed after 30 December 2003. Penalty: imprisonment for up to 7 years and/or an unlimited fine (in the Crown Court).

The Theft Act 1968 and Trespass may also be applicable.

## **CONTACTS**

### [England](#)

Department of Portable Antiquities & Treasure, British Museum, London, WC1B 3DG. Tel: 0207 323 8546/8611.

Portable Antiquities Scheme, British Museum, London, WC1B 3GD. Tel 0207 323 8611/8618.

### [Wales](#)

National Museums & Galleries of Wales, Cathays Park, Cardiff, CF10 3NP. Tel: 02920 573226.

### [Scotland](#)

Treasure Trove Secretariat, National Museums of Scotland, Chambers Street, Edinburgh, EH1 1JF. Tel: 0131 247 4082/4355.

### [Northern Ireland](#)

Environment & Heritage Service, Waterman House, 5-33 Hill Street, Belfast, BT1 2LA Tel: 028 9054 3034.

### [Export Licences](#)

The Acquisition, Export & Loans Unit, MLA, 83 Victoria Street, London, SW1H 0HW. Tel: 0207 078 6280.

**Examples of archaeological development control briefs with metal detecting clauses**

**Suffolk County Council**

Sample clauses from Suffolk evaluation/excavation briefs and specifications re detecting

“A finds recovery policy is to be agreed before the project commences. It should be addressed by the Project Design. Use of a metal detector will form an essential part of finds recovery. Sieving of occupation levels and building fills will be expected.”

“Metal detector searches must take place at all stages of the excavation by an experienced metal detector user.”

See also David Gurney (with contributions by Stewart Bryant, Jenny Glazebrook, Andy Hutcheson, Peter Murphy, Ben Robinson and Jonathan Smith), *Standards for Field Archaeology in the East of England, East Anglian Archaeology Occasional Paper 14*, 2003, page 10.

Contact: Jude Plouviez, Suffolk County Council Archaeology Service, jude.plouviez@et.suffolkcc.gov.uk

**Kent County Council**

“The ploughsoil, all stripped areas and the spoil heaps are also to be investigated throughout the excavation work by metal detector according to a programme to be agreed with the County Archaeologist. The metal-detecting survey will also include the systematic recovery of non-metal artefacts. The detecting work will be closely supervised by the archaeological contractor in order to secure recording and conservation of finds. An on site presence can be arranged through contact with the Kent Archaeological Metal Detecting Support Unit (KAMSU) via Dr Andrew Richardson (Tel 01622 221544). The applicant will arrange for 24 hour security at the site if required.”

Contact: Andrew Richardson, Kent County Council, andrew.richardson@kent.gov.uk

**Milton Keynes Council**

The clause most commonly appears in evaluation or excavation briefs and is as follows:

“All surfaces and spoil heaps will be scanned for metal finds by competent detectorists using suitable equipment. Local metal detectorists may be used provided that they work under archaeological supervision and enter into a written agreement that the metal items recovered will form part of the site archive.”

It is then followed by contact details for the 2 local detectorist groups. In my experience the local units seem to have established relationships with trusted detectorists and I have been particularly impressed by artefact recovery from

excavations using enthusiasts (perhaps due to the better equipment and experience of the users?), as opposed to detecting by archaeologists.

Contact: Nick Crank, Archaeological Officer, Design & Conservation, Milton Keynes Council, [Nick.Crank@Milton-keynes.gov.uk](mailto:Nick.Crank@Milton-keynes.gov.uk)

### **West Yorkshire Archaeology Service**

#### 7.4 Use of Metal Detectors

7.4.1 Spoil heaps are to be scanned for non-ferrous metal artefacts using a metal detector capable of making this discrimination, operated by an experienced metal detector user (if necessary, operating under the supervision of the contracting archaeologist). Modern artefacts are to be noted but not retained (19<sup>th</sup>-century material and earlier should be retained.)

7.4.2 If a non-professional archaeologist is to be used to carry out the metal-detecting, a formal agreement of their position as a sub-contractor working under direction must be agreed in advance of their use on site. This formal agreement will apply whether they are paid or not. To avoid financial claims under the Treasure Act a suggested wording for this formal agreement with the metal detectorist is: "In the process of working on the archaeological investigation at [*location of site*] between the dates of [*insert dates*], [*name of person contributing to project*] is working under direction or permission of [*name of archaeological organisation*] and hereby waives all rights to rewards for objects discovered that could otherwise be payable under the Treasure Act 1996."

Contact: Andrea Burgess, Senior Archaeologist (Development Control) , West Yorkshire Archaeology Advisory Service

### **Durham County Council**

Condition in relation to development on site of Neville's Cross Battlefield:

"26 No development shall take place until the applicant has secured the implementation of an agreed programme of archaeological works to include a metal detecting survey in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the County Planning Authority.

*Reason: The site is within an area of archaeological potential within the Neville's Cross Battlefield Site (Policy E25 City of Durham Local Plan)."*

Contact: Rob Collins, North East FLO, [robert.collins@ncl.ac.uk](mailto:robert.collins@ncl.ac.uk)

## NCMD additional information on Artefact Erosion

### A. *Ploughing*

The destructive capabilities of the modern plough are immense depending on its purpose, which varies with type of crops grown and soils it is used upon. Subsoilers in particular can penetrate to considerable depths, damaging both stratification and artefacts. Soil compaction through the frequent use of heavy machinery on susceptible soils increases the need for subsoiling. Similar machinery is used to break the surface compaction of some soils where direct drilling cultivation techniques are used.



**Plate 1: Copper alloy Gunmoney 30 pennies of James II. Patina flaking. ©MC/Coventry Heritage Detector Society**

The main damage seen to metal artefacts are abrasions to the patina as well as physical damage, particularly to larger items. Non metallic remains are also susceptible to physical damage. Some soils are particularly abrasive, such as those derived from flint-rich chalk and glacial tills found in East Anglia, the South of England and the East Midlands. The annual toll of damage to the long-term condition of an item is noticeable: for example most copper alloy Roman coins are being reduced to barely discernible disks, their denomination identifiable only from their size.



**Plate 2: Recent finds of corroded and illegible copper alloy Roman coins. ©SRC**

### B. *Powerharrows/rotivators*

Towed disc harrows, chain harrows, rollers or presses are relatively benign, but the necessities of agricultural economics, including a move to winter sowing of cereals and rapeseed on most soil types, have led to the development of the power harrow. The primary use is to prepare a suitable seed bed prior to drilling in soil conditions/types which are often too dry or problematic to work with normal equipment. Harvest can be followed by ploughing, harrowing and drilling in a matter of days. Some high-yield soils such as in those areas where vegetables predominate (i.e. East Anglia), can suffer the use of power harrows two or three times in one year.



**Plate 3: Lead alloy object damaged by cultivation machinery. © MC/Coventry Heritage Detector Society**

This equipment is notoriously efficient at its job and as a by-product destroys by fragmentation any contained metal, ceramic or lithic archaeological material it comes into contact with. The damage is well known to detectorists with the result being an increase in fragmentary, bent, and distorted metal artefacts along with freshly broken pottery sherds. There are many examples of freshly broken metalwork and occasions where two halves of the same Roman/Saxon brooch have been recovered in different parts of the field. The general penetration of the harrow is around 4 to 6 inches and consequently over a relatively few years following each ploughing the bulk of the plough soil can be so treated.



**Plate 4: Romano-British copper alloy brooch. Found in the wake of power harrow with two pieces located some distance apart. ©SRC**



### C. *De-stoning*

De-toning is carried out prior to the intensive growing of root crops such as carrots, parsnips and, to an increasing extent, potatoes to supply supermarket chains. The growing of such crops on traditionally unsuitable soils is an economic choice, so additional soil treatments are undertaken to remove stones which can damage or increase the wear on expensive harvesting equipment, distort the crop or encourage wastage, especially when trying to meet the stringent supermarket specifications for vegetables of precise dimensions.



**Plate 5: Copper alloy BA axe with surface abrasions to patina and general erosion of edges. © MC/Coventry Heritage Detector Society**

The practice incrementally introduces a negative bias into the archaeological resource by removing the larger artefacts such as lithics, (especially axes both stone and metal) as well as pottery. Extracted material is often dumped in a convenient place such as an old pond or ditch so creating a "site of the future". The bulk harvesters for these crops and for sugar beet also remove archaeological and natural material as a part of the crop which is then transported to processing factories. Once removed during the washing stage the archaeological material is deposited elsewhere, so again creating a "site for the future".

From a metal detecting point of view de-stoning and harvesting removes items as waste and sometimes damages larger items that come into contact with moving parts of harvesters. There are many reports of dumped material being searched successfully, recovering bronze or stone axes located far from their original place of loss, thereby unwittingly distorting the archaeological record when recorded. Washing residues spread over fields from the potato/sugar beet harvest have proved to be productive locations for some searchers, with examples of Celtic and Roman coins "found" in an area with no previous record of such material. The dangers of creating these new sites are very real.

### D. *Agrochemical*

Chemicals used in modern agriculture are inextricably tied to farming economics and the action of some is directly detrimental to metal artefacts (and other archaeological remains), with a steady decrease in metal quality as patinas are compromised. Ground water and soil water chemistries have been artificially modified by past chemical overuse, an oft-quoted example being nitrate and phosphate levels within watercourses as well as aquifers, some of which, when used for public water supplies need substantial treatment to attain a potable quality. Another example is the increase in eutrophication of wetlands allied to the general lowering of water tables,

which has compromised many archaeological remains by increasing bacterial and fungal populations.



**Plate 6: Silver penny Short Cross issue. Surface deposits from chemical degradation and also physical damage from impact. © MC/Coventry Heritage Detector Society**

Detectorists have long observed the degradation, particularly of the complex base metal alloy used in Roman coins over time attributable to increasing and sustained use of agro-chemicals and fertilisers.



**Plate 7: Spoon bowl in a ternary alloy of a pewter type showing degradation from burial. © MC/Coventry Heritage Detector Society**

Tin, copper, antimony pewter type alloys and especially poorer quality pewter alloys with additional lead are inherently unstable in a soil environment, and this degradation can be accelerated by aggressive soil/ground waters.

Normally stable silver coins can be affected by the use of slurried animal/abattoir wastes as a fertiliser, leading to a build up of ammonia in the soil which reacts with the metal surface. The practice of spraying sulphuric acid as a defoliant on potatoes before harvesting has an obvious visible effect on metal work with bright green verdigris forming on exposed copper alloy items.



**Plate 8: 1797 copper coin found with two silver coins. The difference in corrosion levels between that protected by the silver coins and the unprotected areas is a remarkable testament to the effect of acidic soils and/or agrochemical in less than 200 years. © MC/Coventry Heritage Detector Society**

### **E. Drainage**

Depletion of groundwater resources and the consequent effects on base flow to river systems as well as direct abstraction has increased the seasonal variation of ground water levels in many areas of the UK. This has aggravated a situation created by the local and regional drainage schemes carried out during the preceding centuries. Such fluctuations have a detrimental effect on previously waterlogged archaeological resources and the metal artefacts within them.



**Plate 9: Iron objects recovered from one field showing corrosion levels as well as some physical damage. © MC/Coventry Heritage Detector Society**

The process of drying out with the subsequent introduction of oxygen to previously anaerobic horizons quickly affects the stability of any corrosion products on the surface of metals.

Atmospheric oxygen or oxygenated water allows the oxidation of the iron sulphide component of anaerobic soils producing soluble iron sulphate and sulphuric acid. With enough iron sulphide oxidised the soil pH falls as the soil is gradually acidified. Below pH 4.5 acidiphilic soil bacteria begin to catalyse the oxidation process thereby increasing the rate of reaction and further lowering the pH.



**Plate 10: Roman copper alloy coin corroded from burial in acidic soils. © MC/Coventry Heritage Detector Society**

Metal objects including silver quickly degrade in this process and detectorists have reported finds of copper alloy coins encased in an iron deposit or corroded beyond recognition. Silver artefacts are often coated with black silver sulphide, a legacy from previous anaerobic conditions while those affected by saline infiltration during low groundwater levels are coated with grey silver chloride. The latter process produces a variable coverage and actively eats into the metal surface.



**Plate 11: Celtic silver units fragmented by agricultural machinery. The dished form of these coins makes them particularly vulnerable to damage. Some also show a build up of iron deposits on the surface. Rare finds surviving intact for some 2000 years only to be broken in the last decades. ©SRC**

A common observation in many Fenland areas is of watercourses filled with iron coloured water and sediments as a result of this process. Modern groundwater chemistries are dependant upon the underlying geologies, pollution loads, recharge mechanism or hydraulic transmissivity within an aquifer thereby adding much variability to the water chemistries experienced by buried metals over time.

#### **F. Metals**

Few metals are stable and when the opportunity arises they will try to revert to stable compounds such as the ores from which they were derived. Burial in soils results in the formation of corrosion products often referred to as a patina, which forms on the surface allowing an equilibrium stasis with its environment to be achieved (Examples

are known where copper alloy Roman coins look perfect, yet have been fully converted to patination products with no detectable metal content remaining). Such a coin will remain stable in general terms until this equilibrium is altered by anthropogenic inputs. For example, by incorporation into plough soil or changing the ground water chemistry or levels this stasis is lost, degradation begins and the once stable patina is compromised.



**Plate 12: Obverse and reverse of a copper alloy sestertius of Antonius Pius. Surface deposits from burial plus degradation of patina and active bronze disease. ©SRC**

Different soils have different effects and detectorists frequently report on the problems of acidic or alkaline soils. Both have differing effects, with the acidic soils quickly destroying the metal surface reducing copper alloy coins and artefacts to corroded remnants. Alkaline soils are kinder, but degradation can be profound on some complex alloys, no doubt exploiting the susceptibility of some components in preference to others. Neutral pH soils seem to be the best and detectorists report on the quality of patinas which remain on even complex alloy items. The whole process is a complex one and dependant upon the soil water chemistry, its pH and water content: sandy and gley soils are a problem with iron deposition on the surface of metal artefacts common, as well as the amount/frequency/intensity of invasive mechanical input and agrochemicals.



**Plate 13: Tin-copper-antimony-lead alloy pewter military buttons, early 19th Century. Damaged and flaking from burial in ploughsoil in less than 200 years. Most recoveries are worse than this making their long term survival as identifiable artefacts of our military past slim. ©SRC**

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## APPENDIX 14: EBAY: GERMAN AND SWISS AGREEMENTS

### GERMANY

#### Trading archaeological artefacts

This webpage supplies information on legal regulations of dealing with archaeological artefacts in Germany. From 1st July 2008 trading archaeological artefacts on the eBay marketplace will only be possible if the trader can provide a certificate, a so called "Provenance". In the following we will define the term "Provenance" and explain how to obtain a certificate.

In close partnership with eBay Germany, a group of experts will assess the authenticity of "Provenances" issued with any archaeological object offered on eBay. The experts will cancel offers if the "Provenance" fails the authenticity assessment.

#### What is a Provenance?

The Provenance is a comprehensible document, issued for each archaeological artefact. It has to provide clear proof that the archaeological artefact is offered according to particular laws for dealing with archaeological artefacts in Germany. If no Provenance exists, if it is incorrect, incomprehensible or incomplete - which is equivalent to the item not complying with particular laws in dealing with archaeological artefacts - it is not permitted to list the archaeological artefact on eBay Germany.

#### Digging for archaeological artefacts

You will need permission to dig for archaeological artefacts. If an archaeological artefact is uncovered you have to inform an archaeological organisation/legal administration, see table below (*not available*).

#### Convention on archaeological artefacts

It is generally illegal to offer archaeological artefacts. Only under special circumstances and by complying with the requirements below can archaeological artefacts be offered:

- the trader is in possession of all documents (Provenance) of the offered archaeological artefact, which have to comply with the legal specifications for archaeological artefacts

- all documents must be legible and displayed together with the archaeological artefact.

### **What is an archaeological artefact?**

An archaeological artefact is an object of historical, artistic or scientific importance, which at one point has been buried in the soil or under water.

Below is a small selection of types of archaeological artefacts, which explicitly does not aim to be complete, but is to be seen as a guide.

- Coins
- Weapons
- Grave goods
- Pottery
- Jewellery
- Tools
- Sacred objects
- Floral or faunal remains (Fossils)
- Minerals

*Note: According to specific laws the finder of archaeological artefacts is obliged to report finds immediately and if required, to hand over the archaeological artefacts to the authorities.*

In most German states archaeological artefacts are automatically owned by the state they are found in as soon as they are uncovered. Therefore offering or buying these archaeological artefacts can be a criminal or administrative offence.

### **What is a Provenance?**

The Provenance is a comprehensible document, issued for each archaeological artefact. It has to prove clearly that the archaeological artefact is offered according to particular laws for dealing with archaeological artefacts in Germany.

Only if a correct Provenance is issued and displayed can one be sure that the archaeological artefact may be legally offered. It is not permitted to list archaeological artefacts without a Provenance.

## **What does the Provenance for my offer look like?**

Generally it is a copy of the find-report that you received when you reported the find to the authorities. It is sufficient to provide the find reference number provided by the authorities. If you do use a copy of the find-report for data protection reasons you can cover your name, address, corridor reference and find co-ordinates.

However, the following details have to be clearly readable: state, county, district, time of discovery, object description, inventory number, name of authority that received the find-report.

## **My object is out of an old collection**

Normally, old collections of archaeological artefacts are registered by the authorities or museums. An abridgement of an official document will be sufficient as a Provenance. If such a document is not available, contact the appropriate authorities. If you do not know the place where the archaeological artefacts were discovered and therefore do not know which authority to contact, simply contact your local authorities. Provided you are the lawful owner the authorities will then issue a confirmation.

## **I bought my object**

If you bought it at an auction, an abridgement of the auction catalogue is sufficient to confirm you acquired the object in good faith, as the liability of the legal origin is with the trader. An official receipt would also be sufficient - you can blackout the price if desired.

## **My object comes from within the European Union**

In the EU the same laws apply as in the Germany. If in doubt contact the appropriate authorities in the EU member state.

## **My object comes from a non-EU country**

You will need the name of the authority that issued the export licence and the authority's reference number for your object. A customs certificate is not sufficient.

**For more information** on the trade in archaeological finds and pedigrees, please visit the [About Me page](#) of the National Association of archaeologists in the Federal Republic of Germany (VLA).



## **Breach of policy**

Breaches of these policies may result in a range of actions, including:

- Listing cancellation
- Limits on account privileges
- Account suspension
- Forfeit of eBay fees on cancelled listings
- Loss of Power Seller status

## SWITZERLAND

### Memorandum of understanding

Between eBay international AG and Swiss ministry of culture

With regard to responsible handling of cultural remains.

In the knowledge that the internet can provide an illegal platform for dealing with cultural artefacts and that an appropriate risk management is necessary.

Acknowledgement that it is a problem of international scale.

Aiming to help against illegal misuse of internet platforms by their users.

In the knowledge that by (Swiss) law antiquities are property of the state and that equivalent laws apply for other countries.

Under consideration of regulations to protect the cultural heritage of mankind and to prevent theft, plunder and illegal import and export of antiquities as stated in Swiss law and the in the UNESCO Convention of 1970 (SR 0.444.1).

Under the consideration of INTERPOL recommendations on stolen antiquities from 4<sup>th</sup> and 5<sup>th</sup> March 2008.

In the understanding that archaeological artefacts in particular are vulnerable to illegal processes

With the ambition of cooperation between eBay and the Swiss authorities in combating illegal trades of archaeological artefacts

Having established that work is to be done, the involved parties will carry out the following pilot-project:

1. Changes of eBay policies that regulate dealing with archaeological artefacts

eBay will change the part of their terms and conditions (which applies to all eBay members) for the German-speaking sites that refer to archaeological artefacts by the 3<sup>rd</sup> quarter of 2008. From then on, only archaeological artefacts with a legal certificate (Provenance) can be listed on eBay. Also, the certificate has to be displayed in the listing and has to be legible.

2. Controlling the regulations

During the pilot project eBay, the Swiss police, state archaeologists and FEDPOL together will control compliance of these new regulations, as explained above.

### 3. Raising public awareness

EeBay will contribute to help raise the awareness of the public in dealing with archaeological artefacts. Swiss police and state archaeologists will provide specialist information which eBay will link to their section of terms and conditions that refer to archaeological artefacts which as well will help sensitising the public.

At the end of the pilot project, the participating parties will analyse and evaluate the project. It will also be examined if combined follow-up projects in the sense of the UNESCO Convention of 1970, the protection of cultural heritage, should be advised.



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