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| Ministry of Culture and Heritage’s decision regarding artefact was reasonable |
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| Legislation Ombudsmen Act 1975, Antiquities Act 1975Agency Ministry of Culture and HeritageOmbudsman Beverley WakemCase number(s) W53830 (previously unpublished)Date 2006 |

*Ministry of Culture and Heritage—custody of bone artefact*

The Ministry of Culture and Heritage granted custody of a worked bone artefact found by the complainant to the local Runaka. The Ministry considered all the views of all interested parties and appeared to work through the decision-making process in a proper manner and in accordance with the Antiquities Act, which deems artifacts to be the property of the Crown unless a legitimate claim for actual or traditional ownership is made to the Maori Land court.

The Ombudsman considered that this was not an unreasonable basis for decision.

Sections 11(3) and (4) of the Antiquities Act 1975 provide as follows:

‘11(3) Every person who, after the commencement of this Act, finds any artifact anywhere in New Zealand or within the territorial waters of New Zealand shall, within 28 days of finding the artifact, notify either the Chief Executive or the nearest public museum, which shall notify the Chief Executive of the finding of the artifact:

11(4) Upon receipt of a notification in accordance with sub-section (3) of this section, the Chief Executive shall take such action as he deems appropriate to provide for the examination of the artifact, its recording and its custody, either by the finder or otherwise, and on such conditions as the Chief Executive deems fit.’

If after any such determination by the Chief Executive of the Ministry, a party is dissatisfied and wishes to challenge that determination or action, such as the custody of an artifact, that party may apply to the Maori Land Court under section 12 of the Act for a determination of the matter.

*This case note is published under the authority of the* [*Ombudsmen Rules 1989*](http://legislation.govt.nz/regulation/public/1989/0064/latest/DLM129834.html?src=qs)*. It sets out an Ombudsman’s view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*