

THE BRITISH MUSEUM POLICY  
ON  
HUMAN REMAINS

1. PREAMBLE

This policy should be read alongside the British Museum Policies on Acquisition, Storage, Conservation and Documentation and, in particular, the Policy on De-accession.

2. PURPOSE

This Policy sets out:

2.1 the principles governing the holding, display, curation and study of human remains in the Museum's Collection<sup>1</sup>;

2.2 the principles by which the Trustees of the British Museum will exercise their power to transfer human remains in the Collection under section 47 Human Tissue Act 2004; and

2.3 the procedures to be followed for the submission and consideration of a claim for the transfer of human remains.

3. DEFINITIONS

In this Policy the following words and expressions shall have the following meanings:

“Code of Practice” means *Guidance for the Care of Human Remains in Museums*, published by the Department for Culture Media and Sport in October 2004;

“Collection” means the whole or any part of the collection vested in the Trustees of the British Museum;

“Cultural Continuity” has the meaning provided by paragraph 5.14.3 of this Policy;

“Cultural Importance” has the meaning provided by paragraph 5.14.4 of this Policy;

“human remains” means parts of once living people from the species *homo sapiens sapiens* (defined as individuals who fall within the range of anatomical forms known today and in the recent past)<sup>2</sup>. In this policy human remains include:

- (i) osteological material (whole or part skeletons, individual bones or fragments of bone);

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1. As those terms are defined in this Policy

2. Sometimes, there is uncertainty whether a piece of worked bone was originally human or animal. This Policy will apply only where the Trustees believe it reasonable to think that material is human.

- (ii) soft tissue including organs and skin; and slide preparations of human tissue;
- (iii) any of the above, that may have been modified in some way by human skill and/or may be bound-up with non-human materials, to form an artefact composed of several materials; and
- (iv) artworks composed of human bodily fluids or soft tissue;

However, human teeth, hair and nails, being essentially body parts that may be shed naturally during a lifetime, are not normally considered by the Trustees to be subject to the principles set out in this policy, unless: forming part of other human body parts described in (i) and (ii) above; or, exceptionally, there is evidence to suggest they were removed without the consent of the deceased;

“mortuary disposal”	means any process (such as, for example, burial or cremation or any appropriate cultural equivalent of these processes) the purpose of which is the laying to rest of human remains in a context that is specific to a particular cultural or society;
“Museum”	means the British Museum;
“Public Benefit Test”	means the test set out in paragraph 5.16 of this Policy;
“Trustees”	means the Trustees of the British Museum

#### 4. LEGAL POWERS TO TRANSFER HUMAN REMAINS

4.1 The Trustees may transfer from the Collection any human remains which they reasonably believe to be remains of a person who died less than one thousand years before the day on which section 47 Human Tissue Act 2004 came into force (3<sup>rd</sup> October 2005).

4.2 The Trustees may also transfer from the Collection any other things that are mixed or bound up with such human remains, provided that it is undesirable, or impracticable, to separate them.

4.3 However, the Trustees may not transfer any human remains in the Collection in contravention of a trust or condition subject to which they hold them. This means there may be cases in which there are legal constraints in trust law which prevent a transfer of human remains from the Collection, which the Trustees might otherwise have been able to consider.

#### 5. PRINCIPLES

## *Public Benefits of Human Remains the Collection*

5.1 The primary legal duty of the Trustees is to safeguard the Museum's Collection for the benefit of present and future generations throughout the world. Therefore the Trustees' overarching presumption is that the Collection should remain intact.

5.2 The Trustees believe that the public benefits of the retention of human remains in the Collection include the following:

5.2.1 *Human remains in the Collection are a record of the varied ways that different societies have conceived of death and disposed of the remains of the dead:* The Collection ranges across millennia and attests the diversity of human cultural achievement. Human remains in various contexts and forms constitute an important part of the Collection: from Lindow Man, an ancient inhabitant of Britain, who may have been ritually murdered and his body then deposited in a bog in Cheshire, to the ancient mummies from Egypt, consistently voted among the Museum's most popular exhibits. Visitor surveys show that most Museum visitors are comfortable with, and expect to see, human remains as an element of Museum displays. The success of the British Museum 3D film *Mummy: the Inside Story* (2005) demonstrates the public's abiding interest in past lives, deaths and mortuary practices. The study of human remains provides one of the most direct and insightful sources of information on different cultural approaches to death, burial practices and belief systems, including ideas about the afterlife. The worldwide context of the Collection should be protected, because it provides an opportunity to look at the diversity of human ideas about death and the human body across cultures of vastly different times and places<sup>3</sup>;

5.2.2 *Human remains in the Collection help advance important research in fields such as the history of disease, changing epidemiological patterns, forensics and genetics.* Challenging theories about human evolution are being developed from the study of human remains in museum collections such as, for example, the likelihood that there is no genetic basis for modern concepts of race;

5.2.3 *Human remains, which have been physically modified by a person working within a cultural context, or which form part of an archaeological record, illuminate other objects in the Collection.* These remains may be very important and sometimes irreplaceable records and symbols of one or more of the world's cultures.

## *Management of the Collection*

5.3 In accordance with the Acquisition Policy the Museum will continue to acquire human remains<sup>4</sup> for the Collection. In doing this, the Museum shall ensure, as far as is

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3. As demonstrated by the Museum's Living and Dying Gallery (opened 2003) which investigates these themes through the material culture of societies across the world.

4. Principally from archaeological excavations conducted in the UK, which are subject to a Home Office licence or directions, and conducted in accordance with legal requirements and published professional standards of archaeological investigation. Similar standards apply to excavations overseas.

possible, that human remains are acquired and held lawfully<sup>5</sup>, that provenance has been clearly established, that there is no suspicion of illicit trade and that the remains are of potential public interest to the Museum's world audience.

5.4 The Museum shall maintain an inventory of human remains within the Collection. It will be published on the Museum's Website, in accordance with the Code of Practice. The Museum holds approximately nine thousand human remains, the majority of which were recovered during British excavations of later prehistoric and Roman archaeological sites, in the past century.

5.5 The Museum will obtain and maintain an assessment of the research carried out on human remains in the Collection. The assessment will identify both the current state of knowledge concerning them and their future research potential value.

5.6 In carrying out or permitting research on human remains in the Collection the Museum will remind researchers of their ethical obligations with regard to human remains. Researchers will be expected to follow the relevant principles of this Policy and the Code of Practice.

5.7 Human remains in the Collection shall be stored in conditions that are actively managed and monitored to meet standards of security, access management and environmental control proportionate to their age, ethnic origin and modern, cultural significance. In general, human remains less than 500 years old will be stored in separate storage units, and discrete areas, within larger stores of other objects from the same ethnic source, culture or period.

5.8 In the display of human remains at the Museum explanatory and contextual information will be provided. In any decision whether to display human remains, the public benefits of display will be balanced against the known feelings of

5.8.1 any individual with a direct and close genealogical link to the remains (where they are less than 100 years old); or

5.8.2 a community which has Cultural Continuity with the remains in question and for whom the remains have Cultural Importance (where they are more than 100 years old).

5.9 Before authorising any loan of human remains to other institutions the Museum will seek the assurance of the borrower that it is able to satisfy the legal, ethical and practical considerations set out in the Code of Practice.

5.10 Public access to any human remains in the Collection that are the subject of a claim for transfer shall not be permitted while the outcome of the claim is pending.

#### *Application of section 47 Human Tissue Act 2004*

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5. Any acquisition of human remains that are less than 100 years old will be subject to the legislation set out in the Human Tissue Act 2004 and the Museum will be guided by the Human Tissue Authority in this regard.

5.11 Applications under s.47 Human Tissue Act 2004 shall be determined by the Trustees. The Trustees consider that **the public interest is strongly in favour of the retention in the Collection of human remains that have been modified for a purpose other than mortuary disposal** (e.g. made into a Tibetan Buddhist thighbone trumpet) and will not accept claims for transfer in respect of them. Nor, save where there is evidence to suggest removal without consent, will the Trustees normally accept a claim for human remains that consist only of human teeth, hair or nails.

5.12 The Trustees will normally only consider a claim for the transfer of human remains:

5.12.1 from a community, when it is made through the **relevant national government or national agency**. In particular, the Trustees will expect the claimants to provide evidence that they have the support of the relevant national government or agency to submit the claim. Where the claimants do not make their claim through their relevant national government or agency the Trustees will take account of the reasons for that omission.

5.12.2 from representatives of a community, when it is demonstrated that the representatives have the **authority to submit** a claim on behalf of that community. Where there is more than one group of claimants, the representatives submitting the claim will be expected to demonstrate that they are fully supported by all the claimant groups.

5.12.3 from a national government or agency, when it is made on behalf of an identified community which has Cultural Continuity with the human remains in question, for whom the remains have Cultural Importance, and it is clear that the community wishes the human remains to be transferred<sup>6</sup>.

5.13 The Trustees are unlikely to accept any claim for the transfer of human remains unless they are satisfied that:

5.13.1 **the claim is for human remains that were originally subjected to mortuary disposal, or were intended for mortuary disposal;**

5.13.2 **the claimants have made the case described in paragraphs 5.14 -5.15;**

5.13.3 the Trustees have had the benefit of **independent advice** on any questions, which they formulate as needing an answer to help them to decide the claim; and that

5.13.4 **the Public Benefit Test** (described in paragraph 5.16) **is satisfied.**

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6. The Museum will provide all of the information that it has available with regard to its human remains to assist a national government in identifying the appropriate community

5.14 The case that the Trustees will expect the claimants to make is:

5.14.1 *either that* (where the human remains are **less than 100 years old**) the claimants have (a) a **direct and close genealogical link** to the remains; and that (b) there is a binding and comprehensive agreement between the claimants and any other genealogical descendants that the claim should be made by the claimants; *or that*

5.14.2 (where the human remains are **more than 100 years old**) the community making the claim (a) demonstrates Cultural Continuity with the remains in question; and (b) demonstrates that the remains have Culturally Importance for them.

5.14.3 For there to be **Cultural Continuity**, it must be demonstrated that there is a continuity of:

- (a) religious/spiritual belief; and/or
- (b) cultural customs and practices<sup>7</sup>

between claimants and the community from which the human remains originate; in the context of which:

5.14.4 For the human remains to have **Cultural Importance**, the claimants must demonstrate that:

- (a) the human remains and their treatment have particular significance to them (for example, because the human remains were removed in circumstances outside the normal customs and practices of the claimant community; or that the customary ceremonies for “laying to rest” of a deceased person were not followed); and that
- (b) the continued holding of the human remains by the Museum perpetuates strong feelings among the claimants’ community.

5.15 The Trustees will weigh the claimants’ case made under paragraph 5.14 on the **balance of probabilities**. However they shall presume that the balance will normally lie:

5.15.1 more strongly in favour of the retention of human remains in the Collection where a claim is made to human remains over 300 years old; and

5.15.2 very strongly in favour of the retention of human remains in the Collection where the human remains over 500 years old<sup>8</sup>;

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<sup>7</sup> This will sometimes, but not necessarily, be associated with land occupation

<sup>8</sup> This is because archaeological and historical studies show that in the vast majority of cases it is very difficult to demonstrate Cultural Continuity and Cultural Importance far into the past.

5.16 **The Public Benefit Test:** Having taken account of all the principles set out in part 5 of this Policy, the Trustees will then decide whether they believe that:

5.16.1 either, (in the case of human remains less than 100 years old) the significance of the direct and close genealogical link with the human remains demonstrated by the claimants outweighs the public benefit to the world community of retaining the human remains in the Collection; or

5.16.2 (in the case of human remains more than 100 years old) the significance of the Cultural Continuity and the Cultural Importance of the human remains demonstrated by the community making the claim outweighs the public benefit to the world community of retaining the human remains in the Collection.

5.17 The Trustees' consideration of claims will be **open and transparent**. The claim process will be consultative and negotiations will be conducted in a manner designed to be as equitable as possible.

## 6. PROCEDURE FOR MAKING A CLAIM UNDER SECTION 47 HUMAN TISSUE ACT 2004

6.1 Requests for the transfer of human remains in the Collection should be submitted in writing to the Deputy Director at the British Museum. The request should set out claim clearly and gives as much information and supporting evidence as possible about the human remains claimed, the individual or community submitting the claim and the reasons for the claim.

6.2 The Deputy Director will be the single point of contact for claimants and other interested parties throughout the process. All enquiries should be submitted to him/her.

6.3 The Deputy Director will formally acknowledge the claim in writing. The acknowledgement will indicate how long it is likely to take to process the claim. The Deputy Director will also explain who will be consulted, and on what matters<sup>9</sup>. The time taken will in part depend on the quantity and quality of the information submitted with the claim, and on the timing of Trustee meetings, which take place at intervals of approximately three months.

6.4 Each claim will considered by the Trustees. At their first meeting the Trustees will consider the information available. They may be able to make a decision based on that information. Alternatively they may request further advice from independent advisers, or further consultation with the claimants or other interested external parties (such as the national government or the diplomatic representatives of the country in which the claimants normally reside).

6.5 If the claim is not determined at the time of its initial consideration by the Trustees, the dossier of the case will be made publicly available giving an opportunity for all with an interest to comment. Any advice requested by the Trustees or comments made to them will also be made available publicly. In particular, an open and ongoing dialogue will take place

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9. As soon as this information is known

with the claimants with regard to the claim and the criteria against which the claim will be assessed.

6.6 After a decision has been made, the Trustees' minutes will record how the decision was reached. The claimants will be informed of the decision in writing and at the same time the decision will be published on the Museum's Website.

6.7 If a decision is taken to transfer the human remains claimed, the Deputy Director will begin discussions with the claimants as to when and how the transfer will take place.

## 7. ASSURANCE

7.1 This Policy shall be published on the Museum's Website.

7.2 The Deputy Director will report to the Trustees annually on the implementation and efficacy of this Policy.

## 8. REVIEW

This Policy will be reviewed from time to time and at least once every five years. In the event that significant changes to the Policy are made, every reasonable effort will be made to notify stakeholders, including the Museums, Libraries and Archives Council.

*This Policy was approved by the Trustees of the British Museum on 6<sup>th</sup> October 2006 and will be reviewed no later than 2011.*