

Royal Pavilion & Museums Human Remains Policy

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1. Introduction

- 1.1 This Policy covers collections held by Royal Pavilion & Museums (referred to as “the Service”).
- 1.2 Human remains have a unique status within museum collections. They have the potential to make a contribution to the public good, through research, teaching and, in appropriate cases, display. In many instances they also have a personal, cultural, symbolic, spiritual or religious significance to individuals and/or groups. This places a special responsibility on those museums that hold them.
- 1.3 The Service acknowledges the Department of Culture, Media & Sport’s (DCMS) Guidance for the Care of Human Remains in Museums (2005) (referred to as “the DCMS Guidance”) and this publication is used as a reference throughout this Policy.
- 1.4 The Service’s present position on the care and use of human remains is set out within this document. It will be reviewed at least every five years, in tandem with the Service’s Collections Development Policy (2018).

2. What does “Human Remains” mean?

- 2.1 The definition of human remains for the purposes of this Policy follows that given in the DCMS Guidance:

The term human remains is used to mean the bodies, parts of bodies and cremated remains, of once living people from the species *Homo sapiens* (defined as individuals who fall within the range of anatomical forms known today and in the recent past). This includes osteological material (whole or part skeletons, individual bones or fragments of bone and teeth), soft tissue including organs and skin, embryos and slide preparations of human tissue. This might also include bodily material from living people as well

In line with The Human Tissue Act 2004, the definition does not include hair and nails, although it is acknowledged that some cultural communities do give these a sacred importance. Human remains also include any of the above that may have been modified in some way by human skill and/or may be physically bound-up with other non-human materials to form an artefact composed of several materials. Another, but much smaller, category of material included within this definition is that of artworks composed of human bodily fluids and soft tissue. (Taken from DCMS Guidance, p9)

- 2.2 Where it is known that cultural communities give hair and nails sacred importance, this material will be treated in the same way as human remains according to the above definition and as outlined below.

3. Current scope of human remains in the collections

- 3.1 The Service holds more than 1,500 pieces of human remains in four of its collections: Natural Sciences, Archaeology & Local History (which includes Egyptology), World Art and Decorative Art. The remains fall into the following categories:

| Collection | Material |
|-----------------------------|----------------------------|
| Natural Sciences | Osteology |
| | Histology/pathology |
| Archaeology & Local History | Osteology |
| | Cremated remains |
| | Artefacts, including teeth |
| Egyptology | Mummified remains |
| World Art | Artefacts |
| Decorative Art | Artefacts |

Natural Sciences hold some prehistoric material but the vast majority of human remains are no more than 200 years old.

The material from Archaeology & Local History is almost exclusively from Sussex. The Sussex holdings include known human skeletal material (unmodified) from the Neolithic (e.g. Whitehawk) through to the AngloSaxon period (around 1200 BP [800 AD]). The majority is Anglo-Saxon. This material also includes cremated remains.

The ancient Egyptian mummified remains are around 3,000 years old.

Those human remains in the World Art collection are all modified in some way, often for secondary use and are probably no more than 200 years old.

Decorative Art material is around 120-200 years old.

- 3.3 The Service holds human remains by virtue of the historic collections it cares for, for the purposes of research, public and specialist education and the better understanding of humanity.
- 3.4 The Service believes in being open about the contents of the collection and making information available to all enquiries. It will work towards publishing full details of its holdings in a printable format and on the Service's website.

4. Legal

This Policy complies with a number of legal requirements.

- 4.1 The Service cannot legally own human remains except where these remains have been treated or altered „through the application of skill“. „Skill“ is not clearly defined but is likely to include a scientific preparation or the work of an artisan.
- 4.2 The 2005 Church of England and English Heritage joint publication Guidance for Best Practice for Treatment of Human Remains Excavated From Christian Burial Grounds in England (2005) notes that although there are no property rights in human remains, post-excavation processing (such as marking remains with date, site etc), may fall within the definition of the „application of skill“ and possibly

endow skeletal remains with property rights. In this regard, further recommendations are provided in the Society of Museum Archaeologists publication, Selection, Retention and Dispersal of Archaeological Collections (1993, 1997).

- 4.3 Human remains less than 100 years old (from the 1st September 2006) come under the statutory requirements of the Human Tissue Act 2004. If the Service holds such material it will be required by law to obtain a license from the Human Tissue Authority (HTA) to hold human remains that are less than 100 years old. In order to obtain a license, the Service will have to meet various requirements and adhere to the Code of Practice issued by the HTA as well as to the guidelines for good practice set out in the DCMS Guidance. For human remains less than 100 years old, the Service's HTA-approved „Designated License Holder“ will be the Head of Collections, Interpretation & Learning.
- 4.4 Under the Freedom of Information Act 2000 the Service has a requirement to provide information for enquiries received by Brighton & Hove City Council when requested to do so. All requests are considered on their own merits and the Service will provide information within 10 working days with due consideration being taken regarding the Data Protection Act 2018.
- 4.5 Under the provisions of the Data Protection Act 2018, the Service is required to safeguard the confidentiality of personal data. Should the case arise, appropriate consent will be sought regarding the disclosure of such information if it is necessary.
- 4.6 Under the Human Rights Act 1998, there are implications concerning the rights of indigenous peoples who might lay claim for the return of human remains. Specific Articles of the European Convention on Human Rights and its Five Protocols mean that the Service may have obligations to such claimants.
- 4.7 Unauthorised disinterment of a body is a common law offence. Human remains removed during archaeological excavations in the UK are subject to a Home Office license or directions. Church law requires the reburial of skeletal material excavated from an active church. The Service adheres to these requirements.

5. Ethical framework

- 5.1 The DCMS Guidance is not statutory, but it makes recommendations for best practice. In its approach to the care and treatment of human remains, the Service bases its principles on the ethical and procedural frameworks proposed in the DCMS Guidance.
- 5.2 In summary, the Service will, in handling human remains and claims relating to them, demonstrate:
 - Rigor (act rationally with appropriate knowledge, skill and care, and justify decisions)
 - Honesty and integrity (be worthy of trust by others, declare conflicts of interest, show honesty in communicating knowledge with all interested parties, act in a principled manner)

- Sensitivity and cultural understanding (show sensitivity and compassion for the feelings of individuals, show understanding of different religions, spiritual and cultural perspectives)
- Respect for persons and communities (show respect for individuals and communities, minimise any adverse effect had on people and communities, respect privacy and confidentiality)
- Responsible communication, openness and transparency (listen, inform and communicate openly and honestly)
- Fairness (act fairly, give due weight to the interests of all parties, act consistently).

(Taken from DCMS Guidance, p14)

5.3 The following ethical principles will guide and inform decision-making concerning the handling and care of human remains and in considering claims:

- Non-maleficence (doing no harm)
- Respect for diversity of belief (respect for diverse religions, spiritual and cultural beliefs and attitudes to remains, tolerance)
- Respect for the value of science (respect for the scientific value of human remains and for the benefits that scientific inquiry may produce for humanity)
- Solidarity (furthering the understanding of humanity through cooperation and consensus in relation to human remains)
- Beneficence (doing good, providing benefits to individuals, communities or to the public in general)

(Taken from DCMS Guidance, p14-15)

6. Policy Objectives

6.1 This Policy enshrines the procedural responsibilities and ethical principles outlined in the DCMS Guidance for the management and use of human remains in the Service's care. It also draws on additional professional guidelines and standards to inform policy and practice, including:

- Human Tissue Authority (HTA) Public Display Code of Practice (2006)
- Documentation Standard (updated 2005)
- Collections Trust, (DCMS 2005)
- Museums Association professional guidelines and standards (acquisition, disposal, access)
- Museums Association Code of Ethics, 2008, revised 2015
- Museums Libraries & Archives Council (MLA) Inspiring Learning for All (2006)
- Benchmarks in Collections Care for Museums, Archives and Libraries 2.0. London: Collections Trust, 2011
- SPECTRUM 5.0 The UK Museum Collections Management Standard
- Guidance for Best Practice for Treatment of Human Remains Excavated From Christian Burial Grounds in England Society of Museum Archaeologists Selection, Retention and Dispersal of Archaeological Collections, Guidelines for use in England, Wales and Northern Ireland (1993 & 1997)
- ICOM Code of Ethics, 2006 (<http://archives.icom.museum/ethics.html>)

- 6.2 The Service will work towards these in those areas where current policy and practice require improvement. Head of Royal Pavilion & Museums has overall responsibility for ensuring that the procedural responsibilities and ethical principles for the care of human remains in this Policy are properly adhered to, with delegated responsibilities to the relevant Keepers/Curators of Natural Sciences, Archaeology & Local History, World Art and Decorative Art.
- 6.3 Human remains should be treated with respect. Wherever possible, the Service will take account of the wishes of genealogical descendants, cultural communities and faith organisations in the care, management and use of human remains.
- 6.4 Reference is made below to the Service's Human Remains Group. This is made up of the Head of Royal Pavilion & Museums, Senior Keeper and relevant Keepers/Curators.
- 6.5 To keep abreast of good practice, we remain an active members of the Human Remains Specialist Subject Network

7. Collections care and management

Acquisition

- 7.1 The Service will acquire human remains in full and open consultation with appropriate communities. In addition to consent from genealogical and culturally affiliated groups, all acquisitions of human remains will be made in accordance with the Service's Collections Development Policy (2018). Human remains will be acquired responsibly and ethically in accordance with legal requirements and professional standards and so long as the Service is satisfied that it can hold the remains in a lawful manner; provenance has been clearly established; there is no suspicion of illicit trade; and the remains are of potential value to the Service or wider scientific community. Acquisition of remains under 100 years old will, additionally, fall within the remit of the Human Tissue Act 2004

De-accessioning

- 7.3 Human remains must be de-accessioned responsibly, with reference to the legal, ethical and professional principles and procedures set out in the DCMS Guidelines and in accordance with the Service's Collections Development Policy (2018).
- 7.4 Claims for the return of human remains are considered below. If the Service wishes to de-accession human remains in other circumstances it will be proactive in trying to establish whether any genealogical or cultural descendants exist who might wish to make a claim for return or reburial of historic human remains, although it is unlikely that the Service has material from known individuals. In respect of recent human remains that are identifiable, HTA advice is not to approach families proactively, but to comply with family requests for tissues or organs to be returned if claims are made.
- 7.5 At this time, the Service will only pro-actively dispose of human remains by transfer to another Accredited institution with an appropriate human remains policy.
- 7.6 The Service supports the view in The Guidance for best practice for treatment of human remains excavated from Christian burial grounds in England (Church of England/English Heritage, 2005) that reburial of remains after excavation, rather

than long-term retention for scientific research, denies a potentially valuable

research resource to future workers. Indiscriminate reburial of museum collections is therefore undesirable.

7.7 It also accords with Selection, Retention and Dispersal of Archaeological Collections”, Guidelines for use in England, Wales and Northern Ireland (Society of Museum Archaeologists, 1993 and 1997) that re-deposited, disarticulated and fragmentary remains will be retained for their potential contribution to the understanding of funerary and non-funerary practices and post-depositional disturbance, this being especially important for prehistoric sites where fragmented human remains may be recovered from contexts which are not primarily of funerary nature.

7.8 The Service’s Human Remains Group will produce a report and recommendations for the Director of Royal Pavilion & Museums to take to the Service’s governing body for any human remains the Service wishes to pro-actively de-accession, in accordance with the Service’s Collections Development Policy (2018)

Claims for return

7.9 The Service will be open and transparent when dealing with any legitimate claim. Full consultation and equitable negotiations will form the basis of any claim.

7.10 The Service considers that claims are unlikely to be successful for any remains over 300 years old, and are highly unlikely to be considered for remains over 500 years old, except where a very close geographical, religious, or cultural link can be demonstrated.

7.11 The Service will seek to establish the status of the „claimant community“. Broadly, this might be expected to fall into one of two categories: genealogical descendants⁶ or cultural communities of origin⁷.

Where the claim is being made by another party on behalf of the claimant community, wherever possible, the community’s support for the claim must be clear.

7.12 Requests must be in writing to the Head of Collections, Interpretation & Learning and be supported by appropriate documentation. All claims will be formally acknowledged in writing within 10 days, together with an indication as to how long the claim may take and the Service’s procedures for dealing with such claims.

7.13 If any such claim is made the Service will be proactive in helping to determine whether the claim is just and take all necessary steps to ensure the claim is properly processed in a sensitive and unbiased way. A full investigation will be undertaken openly and with the full co-operation of the claimant and any other interested parties. The Human Remains Group, working in consultation with claimants, will gather evidence relating to any claim. The Group will use this Policy and procedural guidance in the DCMS Guidelines (Part 3: Claims for the

⁶ “individuals (who) can demonstrate a direct and close genealogical link to the human remains...” (DCMS 2005: 26)

⁷ “For a community to be recognised...it would generally be expected that continuity of belief, customs or language could be demonstrated between the claimants and the community from which the remains originate.” (DCMS 2005: 26)

return of remains) as the basis for the production of a report and recommendations for the Head of Royal Pavilion & Museums to take to the Service's governing in accordance with the Service's Collections Development Policy (2018).

In undertaking the investigation the Service will, where necessary, engage relevant specialists to provide independent reports. Service staff will be responsible for collating evidence relating to any claim, including commissioning independent research.

In advance of the submission of the report to the Service's governing body, the report may be first considered by an advisory panel, formed of external specialists brought together for that sole purpose. Wherever possible, the Service will ensure that the panel reflects a broad spectrum of interests relevant to the case. The panel's role will be to assess whether the criteria for assessing a claim (as set out in 3.3.2 Evidence Gathering, Part 3: Claims for the return of remains, DCMS Guidelines) have been adequately addressed in the report. Only when this is found to be the case will the Service proceed with a recommendation to the governing body.

- 7.14 Once a decision has been made, a written report will be prepared that explains how the decision was reached. Claimants will be informed of the decision in writing and decisions will also be published on the museum website.
- 7.15 Where a decision is made to return remains, the Service will negotiate an agreement with the claimant representative concerning the arrangements for their return. The Service expects that normally claimants will bear the cost of transport for remains returned.

Storage

- 7.16 Each Keeper responsible for a collection containing human remains will, as a priority, audit storage provision, using Benchmarks in Collection Care, and report to the Human Remains Group on any improvements necessary to meet „Good“ practice classification.
- 7.17 Human remains will be kept in suitably safe and secure premises, with monitored environments, which are, as far as is practicable, kept clean and regularly checked for pests, damaged and leaking storage containers and other potential threats.
- 7.18 It will be the aim to place material in individual, marked boxes that also act as auxiliary supports to facilitate handling without direct physical contact. Physical contact will be kept to a minimum although, when absolutely necessary, direct contact with skin will be avoided through the use of conservation standard gloves.
- 7.19 Human remains will be stored so that access to them is allowed only to authorised staff and supervised visitors with specific permission. Where human remains comprise a small proportion of a larger collection, curators will identify a designated area where human remains will be stored, to create conditions supportive of respectful treatment.

Associated objects

7.20 The DCMS Guidance states that it will usually be acceptable to store objects found associated with human remains separately. However, where known, the wishes of descendants, cultural communities or relevant faith organisations will be taken into consideration. Objects associated with human remains in the care of the Service will be documented with reference to those remains.

7.21 In certain circumstances it may be deemed appropriate to store artefacts and animal remains found in association with the bodies of the dead with the remains they are related to. In such cases, in-house conservation advice will be sought to determine the required conditions and location (Historic Scotland The Treatment of Human Remains (1997)).

Conservation

7.22 The integrity of human remains is important in many belief systems and is also crucial to their future research and study.

7.23 Consent will be sought for any conservation work on material less than 100 years old and consultation undertaken with genealogical descendants or cultural communities for historic human remains.

7.24 A full record of treatment applied to the remains (e.g. washing and sieving of cremations) will be retained as part of the archive associated with any human remains. Appropriate health and safety regulations, such as those concerning the control of substances hazardous to health (COSHH), will be complied with.

Marking and Labelling

7.25 The Service will number the human remains in its care in such a way as to minimise the risk of loss or disassociation. Marking and labelling will, as far as is practicable, be in accordance with Collections Trusts' Guidelines and professional standards. Although the marking of skeletal remains is standard practice for English remains, this is not always acceptable for those from other cultures.

Documentation

7.26 In all circumstances, copies of all relevant paper or digital records (such as authorisation and funding agreements, correspondence, excavation records, specialist reports, letters etc.) must be retained. In addition, all information connected with conservation, sampling, loans, display, research, filming, photography and use of human remains must be properly documented and this data clearly linked with the remains concerned.

8 Use and access

Access and research

8.1 The Service will develop a research ethics policy (to include a consideration of sampling and other destructive analysis) and an application form for access to human remains. Applicants will be required to sign the application to show that they will abide by the policy and understand their ethical and legal obligations to treat human remains with dignity and respect. All requests to research human remains should be made through the relevant Keeper/Curator. Access to human remains will be granted only after the terms and nature of the access required

has been agreed and appropriate supervision is established. The relevant Keepers/Curators are responsible for ensuring proper handling, care, and security of items being examined by researchers.

- 8.2 The Service will keep a research register of all access granted to human remains.
- 8.3 It may be appropriate to restrict access to certain specified human remains where unrestricted access may cause offence or distress to genealogical or cultural descendants. The Service will not allow public access to any human remains while the outcome of a claim for their return by a source community is pending.
- 8.4 Requests regarding tissue (slides), and any other material less than 100 years old, require the approval of the Service's Human Tissue Authority approved license-holder.
- 8.5 Requests involving invasive or destructive samples for analysis will be assessed on a case by case basis by the Human Remains Group.
- 8.6 Research and sampling of contested or identifiable human remains will only be made after due process of consultation.

Teaching and learning

- 8.7 Provided due regard is given to sensitivities and the care of the objects, it is acknowledged that human remains in teaching sessions can have far more educational impact than using models or other media.
- 8.8 Any members of the public, including teachers, schoolchildren and students, need to be forewarned of any human remains in a museum-based or off-site teaching session. Prior to access to human remains, participants in the session will be told what is meant by dignified and respectful treatment of human remains.

Display

- 8.9 Visitor surveys in other museums have shown that most museum visitors are comfortable with, and often expect to see, human remains as an element of museum displays. The Service continues to display human remains for the purposes of education – for example, explaining burial practices and the use of human remains in the manufacture of artefacts, to bring visitors into physical contact with people of the past and to encourage reflection.
- 8.10 In accordance with the Museum Ethnographers Group Guidelines on Management of Human Remains (1991 and 1994), the Service will endeavor to "take a proactive rather than reactive position with regard to the display of human remains". Each display containing human remains will be assessed. The assessment will take into account a) the contribution made to the interpretation and whether this contribution could not be made equally through another medium, and b) whether the display is likely to cause offence to genealogical or cultural descendants. Sufficient and appropriate explanatory material should be provided for each display. Decisions on whether and how to include human remains in displays will take account of the intended audience, the display objectives, the method of display and interpretation, the visual and physical

impact of human remains and their fragility. Consideration will be given to how best to prepare visitors to view them respectfully, to explain the context in which they are being displayed, and to warn those who may not wish to see them at all. Wherever possible, consultation will take place to ensure human remains are displayed suitably and acceptably.

8.11 Each entry on the Service's collections website will be assessed in the same way as a display, taking into account the interpretation and value of placing the human remains material on the web.

8.12 Presentation (whether in museum displays or on the web) of contested or identifiable human remains will only be made after due process of consultation and consent.

8.13 As with all displays, light and environmental conditions as well as the safety and security of the display will be taken into account to ensure that the remains are shown respectfully and safely.

Loans

8.14 All loans will adhere to the Service's collections policies. Due regard to the respectful and sensitive handling of the material must be stressed and any loanee must adhere to guidance laid out in this Policy, the DCMS Guidance and the Guidance for best practice for treatment of human remains excavated from Christian burial grounds in England (Church of English/English Heritage, 2005). Likewise, these will be followed when the Service borrows human remains from other institutions. The Service's Human Remains Group will advise the Head of Royal Pavilion & Museums on any requests for incoming or outgoing loans of human remains from the collections.

8.15 Loans of contested or identifiable human remains will only be made after due process of consultation and consent.

Photography and film

8.16 It is generally acceptable to use photography and film of human remains for research, educational and general museum use. However, the views of relevant communities should be taken into account, and consideration should be taken of any sensitivities regarding the taking of pictures and / or how images might be used.

8.17 With any material less than 100 years, the appropriate sections of the Human Tissue Act 2004 will be taken into consideration.

8.18 Currently, photography and filming in the galleries are not prohibited. However, the Service will place labels in galleries with human remains on display, requesting visitors to use sensitivity in photographing or filming them and where appropriate, directing visitors to further information available at the Information Desk.

8.19 Researchers wishing to photograph or film human remains will need to note this on their application, describe the benefit to be gained from it and indicate how s/he intends to use the material in a sensitive and appropriate manner. Applications will be assessed on a case by case basis.

8.20 Requests for images will be assessed on a case by case basis. If/when image orders are agreed to, the images will be accompanied by a note of what is meant by dignified and respectful treatment of human remains.

8.21 Photography or film of contested or identifiable human remains will only be made available (or new images/footage taken) after due process of consultation and consent.

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