

University Library and Collections Human Remains Policy

Draft subject to approval by Collections Committee March 2023

The policy specifies the standards that University Library and Collections (ULC) will adhere to with respect to the acquisition, storage, management, research upon, access to, and display of the human remains held in all Durham University collections managed by ULC, the procedures which will be followed when claims are made for the repatriation of human remains, and the circumstances in which the University may accede to claims.

This policy was originally developed following the publication of Department of Culture, Media and Sport's Guidance for the Care of Human Remains in Museums, 2005 (hereafter referred to as "Guidance"), and in line with its recommendations.

It has been updated to take into account the British Association of Biological Anthropology and Osteoarchaeology (BABA) Recommendations on the ethical issues surrounding 2D and 3D digital imaging of human remains, 2019.

1. Introduction

1.1 Two of Durham University's museums, the Museum of Archaeology and the Oriental Museum, hold small collections of human remains. There are also small amounts of human remains within the University's Archives and Special Collections.

1.2 These collections are a most important resource for teaching and research, both to the University and to visiting scholars from around the world. Wherever possible and appropriate, the collections are also made widely accessible to members of the public by means of display, through educational programmes and through loans to other collections and via the web.

1.3 The collections include human remains, whether unmodified or turned by human skill into artefacts or parts of artefacts. These include samples of hair and tissue, mummified bodies, skeletal remains, and artefacts made from or incorporating human remains.

1.4 Whether modified or unmodified, these human remains are of considerable significance for the understanding of biological processes, of disease and its history, of diet and population movements over time.

1.5 Human remains and artefacts made from or incorporating human remains also illustrate the variety of cultural practices world-wide, ranging from cultural ideas to do with bodily attractiveness, to indigenous medical practices, to burial customs and ideas about the afterlife. In addition to their significance for scholarship and teaching, such remains are also of wide public interest.

1.6 For these reasons, the presumption is that human remains and artefacts made from or incorporating human remains in the University's collections, like the University's collections more generally, will remain intact for future generations. As the Guidance (p. 8) observes, the vast majority of work on human remains in the United Kingdom is uncontroversial and has wide popular and academic support.

1.7 At the same time, the University recognises that certain human remains and artefacts made from or incorporating human remains have come in recent years to be regarded as of especial cultural

sensitivity. The research and display value of human remains has to be balanced against the claims of genealogical descendants and cultural custodians. Those holding human remains have to evaluate these potentially conflicting interests.

2. Definition of human remains

2.1 The definition of 'human remains' used in this policy derives from that of the DCMS Guidance. 'Human remains' comprise the bodies, and parts of bodies, 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.

2.2 Human remains also include any of the above that may have been modified in some way by human skill/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 materials included in this definition is that of art works composed of bodily fluids and soft tissue.

3. Types of 'human remains' in the collections of the University's museums

The University's museums hold an array of unmodified and modified human remains. Human remains held include excavated skeletal material from the UK, Egyptian mummies, Tibetan artefacts fashioned from human bone and Christian relics.

4. Inventory of collections

Details of the material held by Durham University's museums, archives and special collections may be accessed via the Discover web portal.

5. Human remains policy

5.1 Acquisition

ULC may in certain circumstances consider acquiring further human remains—either unmodified or modified depending on the scope of the individual institution—e.g. because of their value to research or to the completeness of the existing collections. In this event, ULC staff must satisfy the University Acquisitions and Disposals Panel that the remains can be lawfully held, i.e. their provenance must be clearly established and there must be no suspicion whatsoever of illicit trade.

In the event of future acquisition of human remains, the receiving collection will be subject, as appropriate, to the legislation set out in the Human Tissue Act 2004 and will, where relevant, be guided by the Human Tissue Authority in that respect.

5.2 Loans

With the agreement of the University's Collections Committee, human remains may be loaned to other institutions for display and/or research, provided that the borrowing institution meets the legal, ethical and practical considerations set out in the DCMS's Guidance or equivalent.

5.3 De-accessioning

Notwithstanding the University's general presumption that its collections should remain intact for the benefit of present and future generations, human remains may on occasion be de-accessioned, for instance (a) in response to approved claims for repatriation submitted in accordance with the

University's procedure for the consideration of claims, or (b) in accordance with agreed inter-institutional policies for the location of certain types of material.

On such occasions the de-accessioning museum will need to be satisfied that the remains will be appropriately dealt with within the accepted framework of legal, ethical and practical considerations and in conformity with the procedures required by the relevant Arts Council for England Accreditation and/or Designation Scheme.

5.4 Claims for return

The procedure for the consideration of claims for the repatriation of human remains is set out below in sections 6 and 7.

5.5 Storage, conservation and collection management

ULC's museums, archives and collections will store human remains professionally and respectfully. Regular audits of storage provision are made using the most up to date version of Benchmarks in Collections Care to identify any improvements necessary to meet good standards.

Human remains will be kept in suitably safe, secure, watertight premises, with stable, monitored environments, which are kept clean and regularly checked for pests.

Handling will be kept to a minimum, and, where appropriate, direct contact with skin avoided through the use of conservation standard gloves.

Access to human remains will be allowed only to authorised staff and visitors with specific permission under agreed supervisory arrangements.

Where unmodified human remains comprise a small proportion of a larger collection, curators will wherever practical identify a designated area where human remains will be stored, to create conditions likely to engender respectful treatment. Wherever possible, the remains of each individual will be stored in a separate storage box (or osteological storage box if appropriate) or container.

Where human remains require conservation, the principle of minimum intervention and reversibility will always be applied, avoiding treatments that will contaminate or damage human remains.

The request of any member of staff not to participate in any work directly involving the handling of human remains will be respected.

5.6 Display

The DCMS's Guidance cites the finding of visitor surveys that the vast majority of museum visitors are accustomed to the inclusion of human remains, usually skeletal, as an element in museum display. The University's museums display human remains only after sensitive consideration of the reasons for, and circumstances of, such displays, which will always be accompanied by explanatory and contextual information. As with other displays, the need for the display of human remains is kept under active review by the individual museums. Individual museums will give consideration as to how best to prepare visitors to view remains on display respectfully, and to warn those who may not wish to see them at all.

There are currently no human remains displayed within Archives and Special Collections. Any future displays would follow the same procedures currently in use within the museums.

5.7 Access for research and educational purposes

Access to the human remains in ULC collections for research and educational purposes is provided through displays, inventory and documentation or, in appropriately supervised contexts, for the purpose of teaching or research.

As the Guidance observes, research on human remains may benefit from analysis requiring sampling, which in some cases may be destructive. Such actions will only be undertaken to the highest standards by appropriately qualified staff and students. Consideration of requests for scientific analysis of human remains, whether modified or unmodified, will take account, inter alia, of the condition of the item from which sampling is proposed, the credentials of the applicant(s), the merits of the project and whether due academic value can reasonably be expected to accrue, and other known reservations that there might be to such analysis.

Those afforded access for these purposes will be reminded of the ethical obligations with regard to human remains. It is a condition of access that the results of any research investigation will be deposited with the relevant museum and be in the public domain.

ULC will not normally allow access to unmodified human remains if the outcome of any claim for their return to a source community is pending.

5.8 2D and 3D imaging of human remains

The British Association of Biological Anthropology and Osteoarchaeology (BABAO) 'Recommendations on the ethical issues surrounding 2D and 3D digital imaging of human remains' are used to guide the creation and use of 2D and 3D images of human remains within ULC collections. These guidelines recognise that all those working with human remains have an ethical responsibility when dealing with images of human remains.

Digital imaging can offer a recording mechanism that can be non-contact and non destructive. There is an advantage to imaging human remains; however there must always be a justified value to this form of documentation. This value must be for education and/or research; it also serves to create a record the human remains. Taking and using images (especially in the public domain such as on social media) with no good valid reason is not justifiable.

3D images or prints can be used to minimise access and handling of remains, avoid public exhibition of the original remains, and can be used for teaching and for public events, however ULC staff will consider context and permission to establish whether they should be used in this context.

Imaging and 3D printing will not be considered a substitute for the original remains, but imaging can be used prior to destructive analysis as part of record keeping.

5.9 Compliance

It shall be the responsibility of the Head of Museums, Galleries and Exhibitions to ensure compliance with these policies in consultation with the relevant staff members.

6. Claims in the return of human remains

6.1 As the Guidance observes, it is unquestionable that human remains had in the past, and continue to have, a key role in museum research and practice, and have the potential to make major contributions to the furtherance of knowledge. It is equally clear that some were obtained in ways

that would now be deemed unacceptable and that some individuals and communities wish to see the return of those remains or to gain some control over their future.

6.2 While Durham University generally presumes that its collections should remain intact for the benefit of present and future generations throughout the world, it will on a case-by-case basis give serious consideration to repatriating human remains that were buried or were intended for burial[1], if

(a) they are less than 100 years old and a claim for their return is being made by a genealogical descendant; or

(b) they are less than 300 years old, and

- the claim is normally made by a source community which displays a cultural continuity with the remains in question, *and*
- the claim is made through a national government, national agency, or equivalent, *and*
- where, after taking any relevant independent advice on questions which the University formulates as needing an answer to help it make a decision, it is in its view likely that the cultural and religious importance of the human remains to the community making the claim outweighs any other public benefit.

6.3 Durham University regards objects made from human remains that have been modified for a secondary purpose (e.g. made into a musical instrument) or are 'separable' (e.g. made from hair or nails) as falling into a different category from human remains that were intended for burial, and so is unlikely to agree to any claim for their repatriation.

6.4 Durham University 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 and cultural link can be demonstrated.

6.5 Durham University will normally only consider a claim for repatriation from a community if it has been made officially through a body generally recognised as responsible for the governance of the claimant community. The University will not normally consider a claim from a national government unless it is made on behalf of an identified source community.

6.6 For any claim to be considered, the claimant would have to establish a sound evidential base for a prima facie claim.

7. Procedures for making a claim

7.1 Durham University wishes to be open and transparent with regard to approaches from claimants wishing to see the return of human remains to communities of origin, and will try to ensure throughout the process that its actions are consultative and that negotiations are as equitable as possible.

7.2 Requests should be submitted in writing to the Vice Chancellor of the University. The request should include as much information as possible about the human remains being claimed, the individual or community submitting the claim, the reasons for making the claim, and the evidence that substantiates the claim.

7.3 The Vice-Chancellor will be the single point of contact for claimants and other interested parties throughout the process and all enquiries should be submitted to him/her.

7.4 The claim will be formally acknowledged in writing and will include an indication of how long it is likely to take the University to process the claim and of who will be consulted during this process. The time taken will in part depend on the quantity and quality of the information submitted with the claim, and on the timing of meetings, respectively, of the governing body of the relevant museum or collection (which will advise the University Council on the claim) and of the University Council itself, with which the final decision will rest.

7.5 Each claim will initially be considered by the Collections Committee at its first meeting following the receipt of the claim. At this meeting the Collections Committee body will consider the information available and may either make a recommendation to the University Executive Committee based on that information; or may request advice from independent advisers or further consultation with the claimants and other interested external parties (including the national government and diplomatic representatives of the country in which the claimants normally reside) before formulating a recommendation.

7.7 The University Executive committee will be responsible for reaching a final decision on the recommendation submitted by the governing body of the museum or collection.

7.8 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 at the same time the decision will be published on the University's Website site in order to provide all interested parties with access to the information.

7.9 If the decision is taken to return the human remains then the Head of Museums, Galleries and Exhibitions will begin discussions with the claimant as to when and how this will take place.

Updated November 2022

Appendix: the criteria that the University will consider in making a decision

A. The status of those making the request

Genealogical descendants. Under normal circumstances the wishes of claimants will be seriously considered if they can demonstrate a direct and close genealogical link to the human remains being claimed. However, claimants should do everything that they can to ensure that they are the only possible claimants, and, if they are not, that there is agreement over who has the right to make the claim.

There may be exceptional cases where remains would not be returned to genealogical descendants, for example if the remains are deemed to constitute evidence in a criminal investigation. However, it is expected that in the majority of cases human remains would be returned to demonstrated genealogical descendants.

In practice, individuals who died more than 100 years ago may have many descendants from more than one community, such that genealogical descent alone may not be a sufficient criterion.

Community of origin. Where a claim is submitted by a cultural community the University will seek to consult to verify that the claimants have the authority to submit a claim for the return of the human remains; or where there is more than one group of claimants that they are fully supported by the other claimants. In particular, the University will normally seek the advice of the relevant national government as to the authority of those submitting the claim, and so will ask claimants to make their claim through their relevant national government or agency.

For a group to be recognised and their claim for human remains considered the University would expect claimants to be able to demonstrate a continuity of belief, location and customs between themselves and those of the community from which the remains originate.

It would be unusual for the University to consider a claim from a community which did not either occupy the land from which the remains came, or practise the same religious beliefs, or share the same culture.

The country of origin. In some cases a nation may make a claim for remains, either on behalf of a particular community or for all of its nationals. The University will only normally consider claims made through a national government where the community from which the human remains originated has been clearly identified and where it is clear that the community wishes to see the human remains returned.

The University will provide all the information that it has regarding the relevant human remains to assist a national government in identifying the appropriate community.

B. The cultural and spiritual significance of the human remains

It would be expected, but not regarded as essential, that the claimant group should demonstrate that the human remains and their treatment have a particular cultural or spiritual significance to their community. Examples might include the fact that the human remains were removed outside the laws and normal practices of the community at the time, or that the correct 'laying to rest' of remains was not followed. Demonstration of a very strong cultural or spiritual significance of the

human remains, whose continued holding by the University perpetuates a strong feeling of grief amongst claimants, will be duly considered by the University when making a decision.

C. The age of the human remains

Archaeological and historical studies have shown that in the vast majority of cases it is very difficult to demonstrate clear genealogical, cultural or ethnic continuity far into the past. For these reasons the University accepts the view of the DCMS Guidance that it is unlikely that a claim will be successful if the human remains being claimed are more than 300 years old, and highly unlikely if the human remains being claimed are more than 500 years old.

D. How the human remains were originally acquired

It is not normally the case that there is evidence that the deceased gave consent for his/her remains to be transferred to a University museum or collection. However, if there is evidence one way or the other then it would strengthen or weaken the claim for return accordingly.

E. The potential public benefit of the human remains

As noted in the Introduction to the policy, human remains have the potential through teaching, research and display to inform us about cultural differences, including approaches to death, burial practices and belief systems in addition to advancing research in the fields of history of disease, changing epidemiological patterns, forensics and genetics.

When considering a claim the University will assess the research potential and public benefit of the human remains in question. This assessment will include a review of the research on the human remains that has taken place in the past and an assessment of the potential contribution that the human remains can make in the future based on the current understanding of the appropriate research field.

Notes

[1] The phrase 'human remains that were buried or were intended for burial' includes (1) human remains that were modified for this purpose (e.g. cremated) and (2) human remains that were used or intended for any other form of mortuary disposal, as appropriate to different societies