

HUMAN REMAINS IN COLLECTIONS POLICY

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HUMAN REMAINS IN COLLECTIONS POLICY

1. Introduction

1.1 This policy should be read alongside National Museums Scotland's acquisition and disposal policy: the *Collections Development Strategy (2022-27)* and the Procedure for Considering Requests for the Permanent Transfer of collections Objects.

1.2 It identifies collections made from or containing human remains as worthy of special consideration in regard to acquisition, curation and disposal (transfer).

1.3 It also outlines the procedures and processes to be followed with regard to requests or demands for the permanent transfer of such material from the permanent collection, on the basis of claims made by communities and National Governments/recognised National Agencies (Museums).

2. Definition

2.1 National Museums Scotland adopts the definition of 'human remains' as found within the UK *Human Tissue (2004) Act* and the *Human Tissue (Scotland) 2006 Act*.

2.2 Human remains are therefore understood to mean parts of once living people from the species *Homo sapiens sapiens*. Human remains in this document are given to mean:

- (i) osteological material (whole or part skeletons, individual bones or fragments of bone);
- (ii) soft tissue including organs and skin and slide preparations of human tissues;
- (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.

Human teeth, hair and nails are parts of the human body that can be shed during a lifetime. Such human remains will not normally be considered to be subject to the requests for transfer according to the principles set out later in this policy, unless attached to other body parts identified in i) and ii).

3. Scope of National Museums Scotland human remains collections

3.1 As set out in the *National Heritage (Scotland) Act 1985* the purpose of the National Museums Scotland is to:

- Care for, preserve and add to the objects in the collection;
- Secure that the objects are exhibited to and interpreted for the public;
- Secure that the objects are available to persons seeking to inspect them in connection with study or research;

- Generally promote the public's awareness, appreciation and understanding of matters agricultural, archaeological, architectural, artistic, cultural, environment, historical, industrial, military, scientific and social both by means of the Board's collections and by such other means, including collaboration with other institutions as they consider appropriate;
- Provide education, instruction and advice, and carry out research.

3.2 The distribution of human remains across the collections reflects the Museum's diverse collections' history and its multidisciplinary nature, spanning the arts, humanities, natural and social sciences. Human remains are present across the following Departments:

- Natural Sciences. This part of the collection includes the Scottish anatomy collection;
- Global Arts, Cultures and Design. This part of the collection includes all human remains from outside Scotland (except for some European archaeological remains) including mummified human remains from Egypt and Peru;
- Scottish History and Archaeology. This part of the collection includes Scottish and a small number of European archaeological human remains, including a few that had been humanly modified in antiquity. Also included are a small number of pieces containing materials such as human hair. The Scottish archaeological collection contains the largest group of human remains spanning the Mesolithic to the seventeenth century.

3.3 National Museums Scotland is responsible for material concerning the whole human species and supports access for appropriate research. Human remains in the care of the Museum are preserved with great care and respect, and any loans or displays of such items must guarantee their treatment with such care and respect. In all aspects of the care of human remains, National Museums Scotland is guided by such documents as the Department for Culture, Media and Sport's *Guidance for the Care of Human Remains in Museums* (2005), Historic Environment Scotland's *Treatment of Human Remains in Archaeology* (2006) and the Museums Galleries Scotland (MGS) *Guidelines for the Care of Human Remains in Scottish Museums* (2011).

3.4 Research on human remains collections will be balanced against the requirements of National Museums Scotland's duty of responsible care, taking advice where appropriate as to the potential significance of the outcomes. This includes the taking and publishing of images of human remains. Researchers will be asked to specify their credentials, articulate their research questions, proposed methodology, sampling strategy, and anticipated outcomes, as well as intended publication location and date. Researchers will be expected to follow the relevant principles of this Policy and the relevant guidelines cited above (3.3). The Museum may subject this research to review.

3.5 In approving outgoing loans (for research or display) National Museums Scotland will seek the assurance of the borrower that it is able to satisfy the legal, ethical and practical considerations set out in the relevant guidelines/guidance.

4. Legal Framework

4.1 National Museums Scotland is bound by the specific restrictions on the ownership, transfer and disposal of items as set out in the Act which founded National Museums Scotland, the *National Heritage (Scotland) Act 1985* as amended by the *Museums and Galleries Act 1992*.

4.2 The legal instrument and terms for the transfer of human remains out of the permanent collection are those set out in the Act which founded National Museums Scotland, the *National Heritage (Scotland) Act 1985* as amended by the *Museums and Galleries Act 1992*. Specifically section 8(3)(d) of the 1985 Act as revised in 1992 8(3)(d) can be used in special circumstances, on a case-by-case basis, to allow the transfer of human remains to another appropriate body beyond those listed in Schedule 5 of the 1992 Act. This is subject to recommendation by the Board of Trustees and approval by the relevant Scottish Minister.

4.3 As regards display of human remains, National Museums Scotland is exempted under the Statutory Instrument 2006 No 328 - *The Anatomy (Specified Persons and Museums for Public Display) (Scotland) Order 2006* from the requirement to be licensed by Scottish Ministers for the display of human remains. In cases of loans for research and display, however, the borrower may be subject to the need to hold a license depending on the age of the human remains requested to be loaned.

5. Policy regarding permanent transfer

5.1 The stated policy with regard to requests made for permanent transfer out of the National Museums Scotland's collection is to consider each request on a case-by-case basis.

5.2 Each request will be assessed on its own merits by the Board of Trustees of National Museums Scotland.

5.3 In applying this policy, the Board of Trustees will work within the legislative framework which includes the *National Heritage (Scotland) Act 1985*, *Museums and Galleries Act 1992*, the *Human Tissue Act (2004)* and the *Human Tissue (Scotland) Act (2006)*.

5.4 All direct costs associated with the transfer, including transport, will be the responsibility of the claimants, although National Museums Scotland may offer specialist advice without charge.

6. Procedures for making a request to transfer human remains

6.1 The Board of Trustees will work to consider requests within the legislative framework noted above (5.3). They will evaluate the cases with rigour, respect for communities and transparency.

6.2 Requests regarding human remains that were originally collected or excavated in the UK will be treated on a case-by-case basis and will first be referred to the Director.

6.3 For requests for transfer by non-UK claimants, the Board of Trustees will only consider a request submitted by a National Government or recognised National Agency (Museum) supported by a National Government, with clear endorsement from a community descended from those to whom the remains are ancestral. All three parties must endorse any claim. However, see also clause 6.5.4.

6.4 For requests for transfer by non-UK claimants, the Board of Trustees will not accept a claim from a community or any National Agency (Museum) directly, unsupported by a National Government, nor from a level of Government below National Government.

6.5 Any request for the transfer of human remains should be submitted to the Director. This request should set out the claim clearly and give as much information and supporting evidence as possible. In particular:

6.5.1 For requests for transfer by non-UK claimants, full endorsement from the National Government and recognised National Agency (Museum) would need to be provided.

6.5.2 The community of claimants would need to demonstrate that it is a direct genealogical descendant of the community whose remains are under claim and/or that it continues to share the same culture (spiritual beliefs, cultural practices) attributed to the community whose remains are under claim. It would also need to provide evidence of cultural importance, including cultural and spiritual relevance, to the community making the claim and identify the strength of the connection of the community to the remains, and the consequences of their return.

6.5.3 The community of claimants or representatives acting for this community would be expected to demonstrate that they are fully supported by all the potential claimant groups.

6.5.4 For requests for transfer by non-UK claimants, where there is no known community with direct genealogical descent or shared culture with the community whose remains are under claim, then the National Government with jurisdiction over the area where they once lived and the recognised National Agency (Museum) will be treated as acting on their behalf.

6.6 The Board of Trustees of National Museums Scotland will only consider eligible for transfer out of the existing permanent collections:(i) osteological material (whole or part skeletons, individual bones or fragments of bone); (ii) soft tissue including organs and skin and slide preparations of human tissues. In special circumstances the Board of Trustees will in addition consider human remains modified by human skill as eligible if it is clear that they were subjected to mortuary practice or intended for mortuary practice. National Museums Scotland's Procedure for Considering Requests for the Permanent Transfer of Collection Objects to Non-UK Claimants should be followed where grave goods associated with human remains are requested.

6.7 The Director will acknowledge the request, provide an initial response and tentative timetable. The Director will then be the single point of contact and correspondence should be directed to him.

6.8 The request will undergo a preliminary evaluation overseen by the Director of Collections with advice from the Keeper of the relevant Department. This will assess the nature of the request and the current evidence. Subsequent to this preliminary review further additional information may be sought. National Museums Scotland may consider the use of outside experts to help evaluate the claim.

6.9 The request and evidence will be brought to the Board of Trustees for rigorous evaluation and decision.

6.10 If a decision is made to transfer the human remains out of the collection, agreement will be sought from the relevant Scottish Government Minister.

6.11 The Board of Trustees decision will be conveyed to the parties in writing, and the minutes of the meeting will subsequently record the decision. Should a decision to transfer the human remains out of the collection be agreed, discussions will take place as to how the transfer can then be best effected. This may include discussions as to future protocols on access to the National Museums Scotland's archival resources and research data which the Museum will retain. The decision will be published online.

6.12 Access to any human remains that are the subject of a request for transfer shall not be permitted while the outcome of the request is being deliberated.