

British Museum Policy

Human Remains in the Collection

1. Preamble

This Policy should be read alongside the British Museum Policies on Acquisition and Deaccession.

2. Purpose

This Policy sets out:

- 2.1 the principles governing the holding, display, care for and study of human remains in the Museum Collection; and
- 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 of the Human Tissue Act 2004.

3. Definitions

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

“Code of Practice”	means <i>Guidance for the Care of Human Remains in Museums</i> , published by the Department for Culture, Media and Sport in October 2005;
“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 5.15.3 of this Policy;
“cultural importance”	has the meaning provided by paragraph 5.15.4 of this Policy;
“human remains”	means parts of once living people from the species <i>Homo sapiens</i> (defined as individuals who fall within the range of anatomical forms known today and in the recent past). ¹ In this Policy human remains include:

- (i) osteological remains (whole or part skeletons, individual bones, teeth, or fragments of bone or tooth);
- (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;
- (iv) artworks composed of human bodily fluids or soft tissue;
- (v) human hair and nails, although essentially body parts that may be shed naturally during a lifetime, will be considered by the Trustees to be subject to the principles set out in this Policy due to their cultural significance in some societies.

“mortuary practice” means any culturally-specified process (such as, for example, burial, cremation or excarnation) the purpose of which is to progress towards the final disposition of human remains;

“Museum” means the British Museum;

“Public Benefit Test” means the test set out in paragraph 5.17 of this Policy;

“Trustees” means the Trustees of the British Museum or, where the context requires, their employees and authorised representatives.

Mindful of ethical obligations, the Museum ensures that the human remains held in its care are always treated and displayed with respect and dignity.

4. Legal Powers to Transfer and Retain Human Remains

4.1 The Trustees may transfer from the Collection any human remains which they reasonably believe to be the remains of a person who died less than 1000 years before the day on which section 47 Human Tissue Act 2004 came into force (3 October 2005).

4.2 The Trustees may also transfer from the Collection any other objects 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 that prevent a transfer of human remains from the Collection, which the Trustees might otherwise have been able to consider.

5. Principles

Public Benefit of Human Remains in the Collection

- 5.1 The primary legal duty of the Trustees is to safeguard the 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 public benefits of the retention of human remains in the Collection include the following:
- 5.2.1 Human remains are a record of the varied ways that different societies have conceived of death and disposed of remains of the dead;
 - 5.2.2 Human remains in the Collection help advance important research in fields such as archaeology, human biology, the history of disease, palaeoepidemiology, bioarchaeology, biological anthropology, forensics and genetics;
 - 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, provide context for other objects in the Collection.

Management of the Collection

- 5.3 The Director of Collections shall ensure that Museum staff operate and maintain written rules of guidance for the care and display of human remains to make certain that, whether during handling, storage or display, human remains are treated with respect, care and dignity, whether they are part of the Collection or held on loan. In ensuring that staff operate and maintain written rules of guidance for the care and display of such human remains, the Director of Collections will follow the Code of Practice and this Policy.
- 5.4 The Trustees will continue to add to the Collection² and lawfully hold³ human remains on the condition that, as far as is possible, provenance has been clearly established, there is no suspicion of illicit trade and that the remains are of potential public benefit to the Museum's worldwide audience.

- 5.5 The Trustees 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.
- 5.6 The Trustees will be kept informed 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 potential future research value. The Trustees will continue to improve information on human remains in the Collection by conducting an on-going programme of data collection and documentation for inclusion in inventories and databases.
- 5.7 In carrying out or permitting research on human remains in the Collection, the Trustees will remind researchers of their ethical and legal obligations. Researchers will be required to follow the relevant principles of applicable law, this Policy and the Code of Practice.
- 5.8 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 and appropriate to their age, origin and cultural significance.
- 5.9 In the display of human remains at the Museum, including images and reproductions, explanatory and contextual information will be provided. A written justification for any decision to display human remains shall be retained by the Trustees and shall balance the public benefit of display against the known feelings of:
- 5.9.1 any individual known to the Trustees as having a direct and close genealogical link to the human remains (where these are less than 100 years old); or
- 5.9.2 a community which has *cultural continuity* with the remains in question and for whom the human remains have *cultural importance* (where they are more than 100 years old).
- 5.10 Before authorising any loan of human remains to other institutions the Trustees 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 and assure compliance with this Policy.
- 5.11 Public access to any human remains in the Collection (or to electronic or photographic images of them, as well as any data derived from their analysis) will be subject to the conditions of any applicable licence under the Human Tissue Act 2004 and having regard to applicable guidance contained in the Code of Practice, this Policy and the Museum's relevant digital procedures.

- 5.11.1 When considering requests to use or create images or other reproductions of human remains, the Museum shall have due regard to, and shall only grant requests which do not contravene, the principles set out in this Policy.
- 5.11.2 The Museum will consider requests for the genetic analysis of human remains in the collection under Section 45 of the Human Tissue Act 2004, which permits genetic analysis of human remains without consent where the remains comprise “excepted material” or the genetic analysis is being undertaken for an “excepted purpose”. “Excepted materials” include: (i) bodily materials taken from an individual who died at least 100 years ago and before the Human Tissue Act 2004 came into force (3 October 2005); and (ii) materials which were part of existing holdings before section 45 Human Tissue Act 2004 came into force, provided that the person from whom these materials were taken is not likely to be identified by the person undertaking the research. The Museum will not conduct or permit genetic analysis in relation to any human remains in the Collection where it does not reasonably believe that the remains are “excepted material”, or the analysis is being undertaken for an “excepted purpose”.

Management of relevant material in the Collection within the scope of the Human Tissue Act

- 5.11.3 Some human remains in the collection are considered ‘relevant material’ as defined by the Human Tissue Act 2004. Relevant material is defined as material, other than gametes, which consists of or includes human cells, not including embryos outside the human body, or hair and nail from a living person.
- 5.11.4 Human remains of anyone who died more than 100 years ago (and before the entry into force of the Human Tissue Act 2004) are not subject to the Human Tissue Act 2004⁴.
- 5.11.5 In addition to the legal, ethical and practical requirements set out elsewhere in this Policy that apply to all human remains in the Collection, the Museum must hold and use relevant materials in accordance with the Human Tissue Act 2004 and associated guidance from the Human Tissue Authority. In this regard, the Museum’s storage, research and display of relevant materials is subject to the terms of a licence granted by the Human Tissue Authority. In some cases, the Museum may also require the consent of the person from whose body the relevant materials were taken to store and/or use the relevant materials.
- 5.11.6 The Museum holds a licence granted by the Human Tissue Authority. The Director of Collections is the corporate license holder for the purposes of that licence and, as such, the person responsible for compliance with the Human Tissue Act 2004. The Director of Collections reports to the Director.

5.11.7 Where the Museum acquires human remains for the Collection, it will assess whether these remains:

(i) constitute “relevant materials” under the Human Tissue Act 2004 (the Museum will seek specialist advice where there is any reasonable doubt about whether human remains comprise “relevant materials”) and, if so

(ii) if they also constitute “existing holdings” under section 9 of the Human Tissue Act 2004, which are exempt from the consent requirements of the Act.

Where relevant materials do not constitute existing holdings, the Museum will only store and use those relevant materials in accordance with the written consent of the person from whose body they were taken. The Museum will maintain records of its conclusions on these assessments and will also keep under review whether any human remains in the Collection have ceased to be subject to the requirements of the Human Tissue Act 2004 by virtue of their age.

5.11.8 Where the Museum provides external parties with access to relevant materials in the Collection, it will obtain written assurances from the party seeking access that it will comply with the Human Tissue Act 2004, the terms of the Museum’s human tissue licence, and the terms of any applicable consent. Where access is provided for research purposes, the Museum will additionally obtain assurances from the researcher that they have obtained any necessary ethics committee approvals to conduct their research. Where relevant materials are loaned to external parties (including overseas), the Museum will additionally obtain assurances that the recipient institution holds any necessary human tissue licence from the Human Tissue Authority and will enter into a written agreement with the recipient institution to ensure safe handling, appropriate use and addressing adverse events.

5.11.9 In line with best practice, the Museum will treat imported or loaned in human remains (which are outside the scope of the Human Tissue Act 2004) in the same manner as human tissue sourced from within the UK.

Application of section 47 Human Tissue Act 2004

5.12 The Trustees consider that the public interest is strongly in favour of the retention in the Collection of human remains. Requests for the transfer of human remains, including modified human remains, under s.47 Human Tissue Act 2004 should be submitted for consideration in accordance with the Trustees’ published procedure (see Appendix One). Requests will be considered by the Trustees on a case-by-case

basis. The Trustees have no power to consider requests for the transfer of human remains that are more than 1000 years old pursuant to this Policy (therefore, requests for the transfer of human remains that are more than 1000 years old would be subject to the requirements of the British Museum Act 1963 and the Museum's De-accession Policy).

5.13 The Trustees will normally only consider a request for the transfer of human remains:

5.13.1 from a community which has *cultural continuity* with the human remains in question, for whom the remains have *cultural importance*, when it is made through the relevant national government or national agency. In particular, the Trustees will expect the applicants to provide evidence that they have the support of the relevant national government or agency to submit the request. Where the applicants do not make their request through their relevant national government or agency the Trustees will take account of the reasons for that omission.

5.13.2 from representatives of a community which has *cultural continuity* with the human remains in question, for whom the remains have *cultural importance*, when it is demonstrated that the representatives have the authority to submit a request on behalf of that community. Where there is more than one group of applicants, the representatives submitting the request will be expected to demonstrate that they are fully supported by all the applicant groups.

5.13.3 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.⁵

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

5.14.1 the applicants have made the case described in paragraphs 5.15;

5.14.2 the Trustees have had the benefit of independent advice on any questions, which they formulate as needing an answer to help them to reach a decision; and

5.14.3 the Public Benefit Test (described in paragraph 5.17) is satisfied.

5.15 The case that the Trustees will expect the applicants to make is:

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

applicants; and that (c) the remains have *cultural importance* for the applicants; *or that*

5.15.2 (where the human remains are between 100 and 1000 years old) the community making the request (a) demonstrates *cultural continuity* with the remains in question; and (b) demonstrates that the remains have *cultural importance* for them. The Trustees will expect an application for transfer of human remains which is made by a nation to be made along these lines.

5.15.3 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 practices⁶

between applicants and the community from whom the human remains originate.

5.15.4 For the human remains to have *cultural importance*, the applicants 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 applicant 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 Trustees perpetuates strong feelings among the applicants’ community.

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

5.16.1 more strongly in favour of the retention of human remains in the Collection where a request is made for human remains over 300 years old; and

5.16.2 very strongly in favour of the retention of human remains in the Collection where a request is made for human remains over 500 years old;⁷

5.17 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 the weight of the applicant’s claim outweighs the public benefit to the world community of retaining the human remains in the Collection, taking into account: (i) the scientific, educational and historical value of the remains to the Museum and the public; (ii) how the remains have been stored, used, curated and cared for in the past; (iii) whether a record of

the remains exists or can be made prior to return; and (iv) whether the Trustees have the right to make decisions regarding the fate of the remains.

5.18 The Trustees may be guided in their deliberations by the approach they have adopted in previous applications for the return of remains in analogous circumstances. The Trustees may also take into account the approach that would be adopted in the applicant's country of origin, if a comparable claim for the return of human remains were made there.

5.19 The Trustees' consideration of requests will be open and transparent. The request process will be consultative and negotiations will be conducted in a manner designed to be as equitable as possible.

6. Review

This Policy will be reviewed at least 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 Department for Culture, Media and Sport.

This Policy was approved by the Trustees of the British Museum in 20th of March 2025 and will be reviewed no later than 2029.

Notes

1 Sometimes, there is uncertainty whether a fragment of worked bone is human or animal. This Policy will apply only where the Trustees believe it reasonable to think that the remains are human.

2 Any additions to the Collection 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, the Faculty of Jurisdiction and Ecclesiastical Law in this regard.

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

4 In other words, human remains will in time cease to be subject to the licensing requirements of the Human Tissue Act.

5 The Trustees will provide all of the information that they have available with regard to the human remains to assist a national government in identifying the appropriate community.

6 This will sometimes, but not necessarily, be associated with land occupation.

7 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.

Appendix One

The British Museum

Procedure for making a request for the transfer of human remains under Section 47 Human Tissue Act 2004

1. Requests for the transfer of human remains in the Collection should be submitted in writing to the Director of Collections at the British Museum.
2. Applicants should set out requests clearly and give as much information and supporting evidence as possible about:
 - the human remains requested;
 - the individual or community submitting the request; and
 - the reasons for the request.
3. The Director of Collections will be the single point of contact for applicants and other interested parties throughout the process. All enquiries should be submitted to them.
4. The Director of Collections will formally acknowledge the request in writing. The acknowledgement will indicate how long it is likely to take to process the request. The Director of Collections will also explain who will be consulted, and on what matters.
5. The time taken to process a request will in part depend on the quantity and quality of the information submitted by the applicant, and on the timing of Trustee meetings, which take place at intervals of approximately three months.
6. Each request will be 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 ask for further advice from independent advisers, or further consultation with the applicants or other interested external parties (such as the national government or the diplomatic representatives of the country in which the applicants normally reside).
7. If a decision for the request is not determined at the time of its initial consideration by the Trustees, the dossier of the case will be made publicly available in order to provide an opportunity for all with an interest to comment (however, any personal data included within the dossier will be processed in accordance with the British Museum Privacy Notice and the rights and freedoms of data subjects will be protected). Any advice requested by the Trustees or comments made to them will also be made available publicly. In particular, an open and on-going dialogue will take place with the applicants with regard to the request and the criteria against which it will be assessed.

8. After a decision has been made, the Trustees' minutes will record how it was reached. The applicants will be informed of the decision in writing and at the same time the decision will be published on the Museum's Website.
9. If a decision is taken to transfer human remains in response to a request, the Director of Collections will begin discussions with the applicants as to when and how the transfer will take place.

Approved by the Board of Trustees on 20 March 2025