

1 Policy Scope & Intent

- 1.1 This policy is intended to provide clear guidance on UCL's position in relation to the ownership and management of cultural property including its acquisition, use, protection and disposal within UCL's risk management framework.
- 1.2 For the purposes of this policy, cultural property is defined as *'individual objects, collections, specimens, structures, or sites identified as having artistic, historic, scientific, religious, or social significance, whether or not they are held and maintained principally for their contribution to knowledge and culture'*.
- 1.3 The scope of this policy extends beyond the substantial holdings of cultural property held in UCL's Museums and Library Collections, and includes any items that meet the above definition located on UCL premises, whether or not UCL is the legal owner of those premises.
- 1.4 This policy applies to all UCL sites and activities whether in the UK or elsewhere.

2 Policy Rationale

- 2.1 From its foundation in 1826, UCL's international outlook has enabled it to establish a reputation not only as 'London's global university' but as one of the world's leading institutions of higher education.
- 2.2 A consequence of this long and distinguished history is that it has an inheritance of cultural property representative of its interests in the arts, humanities, sciences and medicine. Contemporary scholarship and research continues to enhance that legacy as well as supporting UCL's work in both teaching and research.
- 2.3 UCL acknowledges the role of cultural property in scholarship, in promoting innovation, and in supporting the dissemination of knowledge for public benefit. It recognises that it is a significant and valuable asset which must be responsibly managed, both to support UCL's mission and to optimise the benefit for the communities it serves.

- 2.4 At the same time, UCL acknowledges that other parties may have rights or interests in respect of that property. It also has obligations to ensure the maintenance of academic freedom to pursue research and publish its findings. It also recognises that its international status carries the responsibility of fulfilling internationally-recognised standards of conduct, as well as meeting the requirements of United Kingdom legislation, and that there is a risk to its reputation if it fails to meet those standards.
- 2.5 The major relevant international and national conventions, protocols and legislation are listed as an Annex to this policy.

3 Principles

3.1 The Policy is based on the following principles:

- the acknowledgment by UCL of its obligations under international and national laws relating to cultural property;
- its intention that those obligations will be discharged by UCL as a body corporate and its employees and students;
- that to fulfil this intention it has a duty of care to inform and advise staff and students so that they are able to exercise due diligence in the acquisition of cultural property for any purpose, whether for corporate or personal interests;
- the process of acquisition and disposal of cultural property should be fully documented; and
- UCL will make available adequate resources to enable the Policy to be implemented.

4 Identification of Cultural Property

4.1 UCL will prepare a Cultural Property Register which will include summary details of:

- the buildings it occupies that are of architectural or historic importance;
- its museum and library special collections;
- collections or individual moveable items of cultural property that are held in academic departments for the purposes of teaching or research;
- moveable items of cultural property (including fittings) within UCL's corporate property.

- 4.2 The forms of cultural property represented on the Register may include (without limit to these categories) scientific specimens, works of art, photographs, archives, historically-important books, artefacts, scientific specimens, geoarchaeological, organic, botanical and zoological material, and equipment, sculpture, textiles, furniture and ceramics.

5 Acquisition of Cultural Property

- 5.1 Cultural property may be acquired by purchase, exchange, legacy, gift, loan or laboratory or clinical procedure, in the following ways:

- for inclusion in the UCL's museum or library collections;
- for the purpose of illustration or comparison in teaching;
- for the purposes of research (including the analysis of the results of fieldwork);
- to furnish or decorate UCL premises;
- for use in UCL's day-to-day operations;
- as a memorial, memento or souvenir of some event or person in UCL's history; and
- through material acquired for other purposes in the past achieving a cultural significance by virtue of its survival.

- 5.2 UCL and its staff are authorised to acquire cultural property on behalf of UCL for teaching, research or other purposes, whether by gift or loan, subject to their exercising due diligence to ensure that:

- (a) UCL can acquire valid title, or the person offering an item on loan has valid title;
- (b) moveable items have not been acquired in, or exported from, their country of origin (including the United Kingdom), or any intermediate country in which they may have been legally owned, in violation of the originating country's laws;
- (c) the items have not been illicitly traded in any other way;
- (d) biological and geological material has not been collected, sold or otherwise transferred in contravention of any national or international wildlife protection or natural history conservation law or treaty of the

United Kingdom or any other country, except with the express consent of a competent authority¹;

- (e) archaeological material has been recovered following the appropriate legal procedures of the country of origin, and has not involved unauthorised destruction of, or damage to, ancient monuments or other known archaeological sites or places of special scientific or historic interest.

subject to the following exceptions:

- (f) a competent authority may approve UCL as a repository of last resort for material of UK origin; and/or
- (g) authorities with the requisite jurisdiction in the country of origin may grant their formal permission; and/or
- (h) the item is of minor importance and, though lacking a secure ownership history has, in the best judgment of experts in the field concerned, not been illicitly traded.

5.3 In exercising due diligence, UCL and its staff shall:

- (a) only accept items that are accompanied by adequate documentation as to their origin and method of collection;
- (b) comply with guidance² issued by the Department of Culture, Media & Sport; and
- (c) ensure that both UCL and the persons from which the cultural property is acquired are aware of any Data Protection or Freedom of Information issues;
- (d) take such internal and external advice as is necessary;
- (e) be open and transparent in the way decisions about cultural property are made.

5.4 In addition:

- (a) where the acquisition or loan would result in significant financial implications in respect of care, maintenance, insurance, storage or

¹ A competent authority is a person or agency that has been invested with the powers, or is otherwise legally delegated, to perform the specified function.

² *Combating Illicit Trade: Due Diligence Guidelines for Museums, Libraries and Archives on Collecting and Borrowing Cultural Material*, Department for Culture, Media & Sport, October 2005

display, the matter should be referred to UCL's Council for decision, accompanied by a recommendation from the Museums, Heritage & Cultural Property Committee;

- (b) items offered as gifts, or bequests, will not normally be accepted if they are subject to any restrictive covenant or special conditions other than those intended to assure their permanent preservation; and
 - (c) any loan should be agreed for a specified purpose and a fixed (renewable) term, and the written agreement of those terms by both parties should be obtained before delivery of the item to UCL - no item may be accepted on indefinite or 'permanent' loan.
- 5.5 All cultural property entering UCL premises will be documented as part of a procedure that will automatically require that appropriate insurance, security and disaster/emergency responses are in place.
- 5.6 UCL staff engaged in fieldwork or exploration in connection with their employment shall ensure that these activities meet the legal requirements of the nations in which the work is being undertaken, and respect local custom and practice.

6 Working With Non-Acquired Cultural Property

- 6.1 Staff and students can sometimes be invited to collaborate on projects that involve cultural property but which do not lead to that property coming onto UCL premises, or to acquisition by UCL or by the member of staff or student concerned. Examples of some such (but not all) activities might be:
- (a) publication, both scholarly or public;
 - (b) curation of a public exhibition;
 - (c) a programme for broadcast or audiovisual distribution;
 - (d) condition reports, of the type undertaken prior to conservation, for the possessor of an object;
 - (e) fieldwork, excavations and exploration.
- 6.2 Before agreeing to collaborate or participate in such activities, staff and students should be mindful of the reputational risks, both to them as individuals and to UCL as an institution, that arise from working with material of questionable provenance. This risk is present even when the potential collaborators may be *bona fide* researchers or represent reputable public institutions in the UK or elsewhere.

- 6.3 In deciding whether to participate in such a collaboration, and before signing any binding agreements, the staff member or student should:
- (a) be aware of the nature and extent of all the cultural property involved; and
 - (b) give consideration as to whether:
 - (i) that cultural property would be likely to be acceptable for acquisition under the due diligence principles in para 5.2 above;
 - (ii) it has been in a public collection since before 1970;
 - (iii) it is in private ownership, is well-known and is not subject to any claim relating to illicit export or spoliation;
 - (iv) the collaborators would include, or would be acting on behalf of, a competent authority of a nation that has a legitimate interest in respect of the property; or
 - (v) in the case of fieldwork, excavation and exploration, the activity is legal and that all finds and discoveries are reported to the authorities through the appropriate official channels in the countries concerned;
- 6.4 Where none of these circumstances apply, or where there is doubt, the presumption should be that the scale of the reputational risk would be so great that participation in the collaboration would be imprudent. Where the staff member or student believes that the risk is outweighed by some other significant factor, specific to the specific circumstance of the cultural property concerned, they should seek guidance from the Director of Museums & Collections or the Director of Library Services, as appropriate.

7 Staff Working in a Personal Capacity

- 7.1 The commitment of UCL staff to their field of activity is typically profound, to the extent it is sometimes difficult to distinguish between what are 'official duties' and work undertaken in personal time. The following guidance is provided:
- (a) the scope of the duties as a staff member are limited to those set out in the contracts of employment and other agreements between individual staff members and UCL, and specified in UCL's general terms and conditions of employment;

- (b) staff should be aware of the risk of potential conflicts of interest between their obligations as UCL employees and the activities they undertake in their private time;
 - (c) they must not compete with UCL to acquire items of cultural property from private individuals or organisations;
 - (d) they must not acquire cultural property owned by, or on loan to, UCL unless such transactions are available through a disposal process that is totally public in nature and subject to a formal disclosure procedure by both the individual and UCL; and
 - (e) staff who, in their own time, participate in fieldwork, excavations and exploration in countries outside the UK, must take great care to determine in advance that such activity is legal and that all finds and discoveries are reported to the authorities through the appropriate official channels in the countries concerned.
- 7.2 Only cultural property owned by, or loaned to, staff that is of trivial academic or financial value may be kept on UCL premises without written permission from the Vice Provost (Academic & International) (or a person nominated by them), and they will be expected to undertake to indemnify UCL against loss or damage arising from such items being on UCL premises.

8 Disposal of Cultural Property

- 8.1 There is a presumption against the disposal of cultural property held in UCL's Museum and Library Special Collections. Any disposal from those collections will be undertaken as specified in their respective disposal policies, and subject to the consent of the appropriate governing committee.
- 8.2 UCL acknowledges that the intellectual and cultural property rights of indigenous peoples of all countries should be respected and preserved and will be taken into account in any dealings with cultural property under this policy.
- 8.3 UCL's Council, on the recommendation of the Museums, Heritage & Cultural Property Committee, may take a decision to return items to a country, people or person. Such decisions will be taken on a case by case basis, within its legal position and taking into account the ethical implications, on the basis of a published procedure.
- 8.4 Otherwise, disposals of items on the Cultural Property Register will take place in accordance with the procedures in the UCL's financial regulations after, in the case of moveable items, consultation with the UCL's Museums & Collections and UCL Library Services as to whether they should be retained as part of those collections.

9 Accounting for Cultural Property

- 9.1 Cultural property having a material financial value shall be accounted for as specified in the *Statement of Recommended Practice: Accounting for Further & Higher Education*, and any applicable Financial Reporting Standard relating to heritage assets.

10 Implementation, Interpretation and Authorisation

- 10.1 The Museums, Heritage & Cultural Property Committee is responsible for the oversight and implementation of this Policy and for dealing with any disputes arising from it.
- 10.2 The Vice Provost (Academic & International) is responsible, through the Director of Finance, for the maintenance of the Cultural Property Register and, through the Director of Museums & Collections and Director of Library Services, for the management of the university's cultural property and for providing assistance on the interpretation of this Policy.
- 10.3 The Vice Provost (Academic & International) will, in consultation with the relevant Dean or Head of Department, nominate a staff member in each Faculty or Department from whom advice may be sought about the operation of this Policy and its associated procedures.

11 Sanctions

- 11.1 Failure by members of staff to adhere to this Policy could result in disciplinary action being instigated in line with UCL's Disciplinary Procedure.
- 11.2 Failure by students to adhere to this Policy may be dealt with in line with the Disciplinary Code and Disciplinary Procedures in Respect of Students.

12 Review

- 12.1 This policy will be reviewed every five years by the Museums, Heritage & Cultural Property Committee and revisions recommended to Council.

13. Related Policies

- 13.1 The following UCL policies underpin or have informed this Cultural Property Policy:
- 'Guidelines for Responsible Practice in Research' (*Academic Manual* Section E20)
 - *Financial Regulations*

- *Data Protection Policy*
- *Policy on the Care & Treatment of Human Remains*
- *Conflicts of Interest Policy*
- *Freedom of Information Policy*

13.2 The policies below apply in the specific circumstances to which they refer:

- *the Petrie Museum of Egyptian Archaeology Acquisition and Disposal Policy*
- *the Grant Museum of Zoology Acquisition and Disposal Policy*
- *Institute of Archaeology Acquisition & Disposal Policy*
- *UCL Art Collections Acquisition and Disposal Policy*
- *UCL Geology Collections Acquisition and Disposal Policy*
- *UCL Library Services Collection Management Policy*
- *UCL Library Services Special Collections Collection Development Policy*

Annex

The *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (1963) was ratified by the UK in August 1976. It is the main international convention governing natural history material. Since 1 January 1984, CITES has been implemented throughout the European Union by EC Regulations, supported by the Customs and Excise Management Act 1979 and the *Control of Trade in Endangered Species (Enforcement) Regulations 1997* (COTES).

The 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* was ratified by the UK in August 2002. It is the main international convention governing art, antiquities and scientific material. Its provisions have been applied to the United Kingdom by the *Dealing in Cultural Objects (Offences) Act 2003*, which deal dishonestly in tainted cultural property from anywhere in the world a criminal offence. The Department for Culture, Media & Sport published *Due Diligence Guidelines* on collecting and borrowing cultural material in 2005.

The *Return of Cultural Objects Regulations 1994* implemented the UK's obligations under Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State of the European Union. It confers a right of action on a member state to recover cultural objects unlawfully removed from its territory.

The *Iraq (United Nations Sanctions Order) 2003* prohibits the illegal exportation or importation of any cultural property from Iraq since 6 August 1990.

The *Human Tissue Act 2004* requires the prior consent of the individual from whom the tissue is taken to activities that are regulated by the Act but existing holdings, imported remains and human remains that are older than 100 years fall within exemptions to this requirement for consent.

The *Human Rights Act 1998* makes it unlawful for 'public authorities' to act in a way which is incompatible with a Convention right, some of which have relevance to the treatment of human remains and claims for their repatriation.

The *Theft Act 1968* and the *Treasure Act 1996* are both relevant to the theft of cultural objects and the illicit trade in UK archaeological material.

Other Conventions

The Unidroit Convention on Stolen or Illegally Exported Cultural Objects (1995)

The UNIDROIT Convention recommends regulations for restitution and return of cultural objects between two nation states, and covers the return of stolen or

illegally-excavated cultural property to its owners, a requirement to return illegally exported material to the country of origin where the object is of essential scientific or cultural value to that nation.

Other Relevant Codes

Professional Guidelines concerning the Storage, Display, Interpretation and Return of Human Remains in Ethnographical Collections in United Kingdom Museums (Museum Ethnographers Group 1994)

Spoilation of Works of Art during the Nazi, Holocaust and World War II period (Department for Culture, Media & Sport 1999)

Restitution and Repatriation: Guidelines for Good Practice (Museums and Galleries Commission 2000)

Code of Ethics for Museums (Museums Association 2008)

Code of Ethics for Archivists (International Council on Archives 1996)

Code of Conduct (Society of Archivists 1994)

Data Protection Code of Practice (National Archives *et al* 2007)