



POLICY, PRINCIPLES AND PROCEDURES  
FOR THE CARE AND TREATMENT  
OF HUMAN REMAINS  
AT UCL

UCL Human Remains Working Group

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## EXECUTIVE SUMMARY

<b>I</b>	UCL holds nearly <b>7,000 human remains</b> from people of both European and non-European origin. Some died less than 100 years ago, others as long ago as several thousand years.
<b>II</b>	UCL holds human remains for the purposes of <b>research</b> , public and specialist <b>education</b> and the <b>better understanding of humanity</b> .
<b>III</b>	This policy complies with the statutory requirements of the <b><i>Human Tissue Act 2004</i></b> (DoH, 2004) in respect of human remains less than 100 years old; and with the Government's advisory standards set out in the <b><i>Guidance for the Care of Human Remains in Museums</i></b> (DCMS, 2005) for material from people who died more than 100 years ago; and draws on these published sources.
<b>IV</b>	To comply with the requirements of the <i>Human Tissue Act 2004</i> , UCL will appoint a <b>Designated Individual</b> , approved by the Human Tissue Authority, to ensure compliance with the Act and shall designate the institutional <b>Licence Holder</b> .
<b>V</b>	<b>All enquiries regarding any human remains at UCL will be routed through the designated licence-holder</b> , who will delegate to the Director of Museums and Collections all necessary actions related to human remains older than 100 years or those that entered UCL less than 100 years ago from outside the UK.
<b>VI</b>	<b>'Appropriate consent'</b> forms a cornerstone of this Policy, uniting UCL's approach to the treatment of both historic and recent human remains, and informing UCL's commitment to resolve claims around the former.
<b>VII</b>	UCL will apply <b>high ethical standards</b> to its treatment of human remains and the interest of society in them. UCL is committed to: <ul style="list-style-type: none"> <li>a) be <b>accountable</b> to society in its holding and treatment of human remains</li> <li>b) act <b>consultatively</b> in relation to the treatment of human remains</li> <li>c) <b>acquire</b> human remains <b>responsibly</b></li> <li>d) <b>dispose</b> of human remains <b>responsibly</b></li> <li>e) <b>respond promptly to claims</b> for the return of contested human remains and engage constructively with claimants</li> <li>f) <b>be open about its holdings</b> of historic human remains, provided that publicising such holdings does not violate known cultural sensitivities</li> <li>g) <b>safeguard the confidentiality of information</b> about tissue samples and remains of living people and the recently deceased</li> <li>h) <b>store</b> human remains professionally and <b>respectfully</b></li> <li>j) <b>conserve</b> human remains with the <b>minimum of intervention</b></li> <li>k) <b>use</b> human remains for <b>appropriate research</b></li> <li>l) <b>use</b> human remains appropriately in support of <b>teaching and learning</b></li> <li>m) <b>display</b> human remains with respect and sensitivity</li> <li>n) <b>lend</b> human remains where appropriate provided that their treatment on loan accords with UCL's own standards</li> </ul>
<b>VIII</b>	UCL will <b>regularly review</b> this Policy to ensure continued compliance and the maintenance of high standards of conduct by its staff charged with the care and treatment of human remains.

## 1 POLICY CONTEXT

### 1.1 Current context

- 1.1.1 UCL holds a total of nearly 7,000 human remains. These range from the remains of people who lived several thousand years ago to tissue and organs donated very recently for medical research and teaching.
- 1.1.2 Some remains are publicly accessible on display, whilst access to others is strictly controlled.
- 1.1.3 The human remains held by UCL include whole bodies, and parts of bodies as small as a single tooth or bone, or tissue samples for histological study, and artefacts made from or including body parts. Some of these remains can be identified to individuals, but most now cannot.
- 1.1.4 UCL holds these remains in furtherance of its core purposes of learning and research as a higher education institution, as a museum authority to provide public benefit and through its role as a repository for human material acquired by a public healthcare trust. The remains contribute to disciplines as diverse as medicine, archaeology and the study of human evolution.
- 1.1.5 Over the period 2004-2006, the UK Government introduced two separate but connected regimes that substantially redefined and increased the responsibilities of institutions that hold human remains:
  - i. The first, sponsored by the Department of Health, is statutory; the ***Human Tissue Act 2004*** (DoH, 2004), which came fully into force in 2006, lays quite specific legal obligations on UCL in respect of human remains that are from people who died less than 100 years ago - see also para. 4.1 below.
  - ii. The second, sponsored by the Department of Culture Media and Sport, sets non-statutory standards for holding human remains more than 100 years old; these are set out in the ***Guidance for the Care of Human Remains in Museums*** (DCMS, 2005) – see also para. 4.5 below.
- 1.1.6 In response to these changing circumstances, in 2005 UCL established a Working Group on Human Remains to:

*“... draft a policy, a set of procedures and criteria to govern the care and treatment of historic and recent human remains held by UCL, aiming to reflect a balance of consideration between the values of the scientific and indigenous communities and the needs of users.”*
- 1.1.7 The terms of reference and membership of the Working Group, which were agreed by UCL’s Museums and Heritage Committee (Minute 13A, 23/11/04) are set out at Annex 1.

### 1.2 Historic context

- 1.2.1 UCL has acquired human remains from the very early years of its foundation and continues to do so today.
- 1.2.2 Methods of acquisition have varied widely. Some of the remains now at UCL were willingly donated or bequeathed by individuals or donated by their families, some were acquired through archaeological excavation, whilst others were transferred from other institutions, or donated by collectors. In many instances human remains were acquired without the consent of the deceased, or their family, or community, and sometimes in circumstances which society would now regard as unacceptable.
- 1.2.3 The nature and degree of consent in respect of historic human remains is not clear cut. The standard of documentation available to us today rarely provides unequivocal evidence of consent. Even where a degree of consent may have been forthcoming, the conditions that obtained in the colonial era were such that negotiations were not conducted between parties enjoying parity of power. The issue of consent is discussed in further detail in paragraphs 5.1 *et seq.* below.

## 2 DEFINITIONS

- 2.1 UCL adopts the definition of human remains used in the publication *Guidance for the Care of Human Remains in Museums* (DCMS 2005, p.9). In UCL's policy,  
"the term **human remains** is used to mean 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.**
- "In line with the Human Tissue Act, **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."
- 2.2 DNA is also excluded from the definition, although the Human Tissue Act makes it an offence to hold human tissue with the intention of its DNA being analysed without the consent of the individual from which it came, or of those close to them if they have died.
- 2.3 In this policy, the term **recent human remains** applies to remains less than 100 years old (covered by the *Human Tissue Act* 2004: see 4.1 below); and **historic human remains**, which applies to remains from people who died more than 100 years ago (falling outside the provisions of the *Human Tissue Act* 2004).
- 2.4 In addition, human remains from overseas, which may be the subject of claims and are less than 100 years old, will be treated in the same way as historic human remains, in consultation with the Human Tissue Authority (HTA).
- 2.5 **Contested human remains** are those which are the subject of a claim from outside UCL.

## 3 HUMAN REMAINS HELD AT UCL

- 3.1 UCL does not yet have a complete record of its holdings of human remains. Records of individual departmental collections have been kept in those departments, and exist in several manual and digital formats.
- 3.2 Surveys carried out by Cressida Fforde in 2004 and 2005 found records of 735 human remains dating from before 1948<sup>1</sup>. Copies of these reports by Fforde are lodged with the UCL Records Office, where they can be inspected.
- 3.3 Of the 735 human remains recorded as dating from before 1948, the majority are currently unprovenanced, while 234 are associated with provenanced material or have an inferred but unverifiable provenance. Some of these remains are on loan to UCL from other institutions. For some records the matching human remains are unlocated, suggesting that they may have been transferred elsewhere.
- 3.4 Of the remains with associated or suggested provenance, the majority are from the UK but a significant number are non-European.
- 3.5 This survey excluded any material acquired via surgery or post-mortem. UCL's medical collections include much larger holdings of human remains, some dating back to the 1880s, but including many recent remains.
- 3.6 UCL's more recent remains were surveyed in 2000 in order to prepare a return to the Retained Organs Commission, and the information in the table below is partly based on

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<sup>1</sup> The date of the foundation of the UK's National Health Service, 1948, was taken by the Retained Organs Commission (whose work resulted in the *Human Tissue Act* 2004) as being the start of their remit and the latest cut-off for the DCMS Working Group on Human Remains.

information gathered for this survey. Material enters UCL on a continuing basis as a result of post-mortem examination, surgery and as part of the routine diagnostic service provided by UCL for the National Health Service. Notwithstanding its role as service-provider, UCL has responsibilities as holder of human remains acquired under such circumstances.

- 3.7 UCL carries out around 350 post-mortems each year, and handles around 22,000 surgical requests. The specimens from these are routinely kept for 4-6 weeks after they have been reported, while the blocks and slides may be kept for 30 years. Around 40 people each year donate their bodies for anatomical examination and biomedical research.
- 3.6 The following is a summary of UCL's holdings of human remains based on data available in March 2006.

<i>UCL Department</i>	Total number of items	Number pre-1948	Number 1948 and later	UK/Europe	Africa	America	Asia	Australasia	Unprovenanced
Anatomy	1,093	93	1,000	✓	✓	✓	✓	✓	✓
Biological Anthropology	91	91	0	✓	✓	✓	✓	✓	✓
Eastman Dental Institute	195	1	194	(✓)					
Obstetrics and Gynaecology	80	0	80	(✓)					
Ethnography	1	1	0			✓			
Grant Museum of Zoology	89	89	0	✓	✓	✓	✓	✓	✓
Galton Collection	2	2	0	(✓)					
Institute of Archaeology	405	405	0	✓	✓	✓	✓	✓	✓
Institute of Neurology	430	0	430	(✓)					
Parasitology	20	0	20	(✓)					
Petrie Museum: Egyptian Archaeology	52	52	0		✓				
Records Office	1	1	0	✓					
Temporal Bone Collection (blocks/slides only, no pots)	1,621	0	1,621	(✓)					
Pathology Museum (Hampstead and Bloomsbury campuses combined)	2,305	0	2,305	(✓)					
Uropathology	c.400	0	c.400	(✓)					
<b>TOTAL holdings of human remains</b>	<b>c.6,785</b>	<b>735</b>	<b>c.6,050</b>	<b>(✓)</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>

#### KEY

Known to be present

✓

Likely to be present, but unconfirmed

(✓)

## 4 LEGAL AND REGULATORY FRAMEWORK

### 4.1 *Human Tissue Act 2004 (HTAct)*

- 4.1.1 The law in relation to human remains has recently changed following the Human Tissue Act, the primary purpose of which is to regulate the removal, storage and use of tissue for listed activities, which include research, anatomical examination and public display. The Act requires that regulated activities are undertaken only with the prior consent of the individual from whom the tissue is taken, and requires institutions undertaking such activities to be licensed by the **Human Tissue Authority** (HTA), a new public body established under the Act, charged with informing the public and the Secretary of State for Health about:
- the storage and use of human bodies and tissue, and removal of tissue from human bodies, for scheduled purposes;
  - the import and export of bodies and human tissue for scheduled purposes; and
  - the disposal of human tissue, including imported tissue, following its use in medical treatment or for scheduled purposes.<sup>2</sup>
- 4.1.2 Imported remains and human remains older than 100 years are exempt from the legal requirement for consent and licensing. Nonetheless, it should be noted that UCL recognises that such a distinction is likely to be hard to justify on ethical grounds concerning the issue of appropriate consent, particularly as far as contested human remains from overseas are concerned (see para 5.1.3 below).
- 4.1.3 Most of UCL's collections fall within the remit of the HTA. The HTA has issued draft codes of practice on: Consent; The Donation of Organs, Tissues and Cells for Transplantation; Post-Mortem Examinations; Anatomical Examinations; The Removal/ Collection, Retention and Disposal of Human Organs and Tissue.
- 4.1.4 The HTAct makes **non-consensual use of DNA** a criminal offence (DoH 2004, Section 45), although there are several exemptions from the offence, including the analysis of existing holdings (but only where the remains are of an unknown person who cannot be identified) and the analysis of the remains of people who died over 100 years ago (DoH 2004, Schedule 4, Section 45; Supplementary, Part II).
- 4.1.5 The HTAct sets out the **licensing requirements** (DoH 2004, Section 16) that cover, *inter alia*, anatomical and post-mortem examinations, the removal of specified tissues from a dead person, and the storage and display of bodies or body parts. **UCL must designate an individual** who must be approved by the HTA.
- 4.1.6 The HTAct describes **the authority vested in the designated person** (DoH 2004, Section 17) to whom the licence applies. This includes:
- a) the **Designated Individual**,
  - b) any person who is designated as a person to whom the licence applies by a notice given to the Authority by the Designated Individual, and
  - c) any person acting under the direction of either the Designated Individual, or a person designated as mentioned in paragraph b).
- 4.1.7 The characteristics of the **Designated Individual** are not defined in the HTAct, but are clarified in guidance published by the HTA (HTA 2006a): 'The person might be a Head of Department or a clinician, a scientist or a manager. What is important is that it is a person who is in a position to secure that the activities are conducted properly by people who are suitable to carry out those activities and that all necessary requirements are complied with.' (HTA 2006, para.48).
- 4.1.8 The term **Licence Holder** is not used or defined in the HTAct, but is defined by the HTA (HTA 2006a). The Licence Holder may be either the institution (UCL corporately) or an individual, such as its chief executive (UCL President and Provost) or other senior person with 'managerial links to the establishment' (HTA 2006a, para.57).

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<sup>2</sup> Source: <http://www.hta.gov.uk/aboutus/whatis/>

- 4.1.9 Schedule 3 of the HTAct details **the terms of licences** granted for the purposes of Section 16 of the Act. The Licence Holder 'must have the consent of the Designated Individual to apply for the Licence' (HTA 2006a, para.54).
- 4.1.10 The chain of responsibility at UCL arising from these statutory requirements is set out at 6.2.2 below and at Annex 3.
- 4.2 ***Freedom of Information Act 2000 (FoIA)***
- 4.2.1 Under the provisions of the FoIA, UCL has a legal obligation to disclose to any enquirer recorded information that it holds. However, there are exemptions which could prevent UCL from disclosing some types of information, including personal data held as health records. Under Section 36 of the Act, information is exempt from the FoIA if a qualified person believes that releasing it is not in the public interest. The HTA is listed as a public authority as having such a qualified person.<sup>3</sup> Every request is considered on its own merits and UCL is obliged to reply within 20 working days, whether or not the information requested can be supplied.
- 4.3 ***Data Protection Act 1998 (DPA)***
- 4.3.1 Under the provisions of the DPA, UCL is required to safeguard the confidentiality of personal data about living individuals, and to ensure that if data is released about the deceased this does not cause damage or distress to others. Appropriate consent for disclosure of personal data regarding human remains will be obtained at the time of collection.
- 4.4 ***Human Rights Act 1998 (HRA)***
- 4.4.1 A DCMS report (DCMS 2003, Appendix 3: 5-235) discusses in some depth the implications of the rights of indigenous communities under the HRA, in relation to the submission of claims for the return of human remains. The obligations of UCL to claimant groups may fall under certain Articles of the European Convention on Human Rights and its Five Protocols, by virtue of the HRA. Although it is hitherto untested in an English Court, UCL should nonetheless be aware of its obligations under the Convention Articles.
- 4.5 ***DCMS standards***
- 4.5.1 The Department for Culture, Media and Sport (DCMS) has published *Guidance for the Care of Human Remains in Museums*, 2005. This guidance is non-statutory but applies to the care of human remains from people who died over 100 years ago, and is therefore applicable to many of UCL's collections. This policy draws upon the DCMS *Guidance* in many areas.
- 4.5.2 The DCMS *Guidance* draws attention to the need for institutions intending to de-accession human remains to ensure that they have the constitutional powers to do so.
- 4.4.3 The *Guidance* notes that the laws of England and Wales do not recognise the concept of property (i.e. legal title) in human bodies or tissue except where remains have been treated or altered through the application of skill. It may therefore be difficult to assert rights of ownership in a legal sense.
- 4.4.4 The *Guidance* states that institutions holding human remains may need to consider the *Human Rights Act 1998* (see 4.4.1 above). Finally it advises that institutions holding human remains should be aware that their decisions may be subject to judicial review.
- 4.4.5 In 2006, DCMS established a Human Remains Advisory Service (HRAS) to provide expertise particularly in respect of dealing with claims for return of human remains, to assist non-national museums to meet the requirements of Section 3 of the DCMS Guidelines (see Annex 2 of this UCL Policy). It is considered that UCL has sufficient expertise in-house, or has access to such expertise directly, for use of the HRAS to be unnecessary.

<sup>3</sup>

Source: <http://www.dca.gov.uk/foi/guidance/exguide/sec36/annex-d.htm#h>



## 5 ETHICAL FRAMEWORK

### 5.1 The principle of consent

- 5.1.1 The Human Tissue Act makes '**appropriate consent**' the fundamental principle underpinning the lawful retention and use of body parts, organs and tissue from the living or the deceased for specified health-related purposes and public display. It also covers the *removal* of such material from the deceased.
- 5.1.2 The Act defines the person who can give 'appropriate consent' as:
  - i. adults or children who are both competent and willing to make a decision
  - ii. those with parental responsibility
  - iii in the case of the deceased, a qualifying relative.
- 5.1.3 The issue of consent is less easily definable where contested historic human remains are concerned, and is discussed extensively in a DCMS report (DCMS 2003, pp.105-126). As noted above (para 4.1.2), UCL will be sensitive to its ethical obligation to apply the principles of appropriate consent both in evaluating historic context and present-day sensibilities where historic and overseas human remains are the subject of a claim by genealogical or cultural communities of origin.
- 5.1.4 Foremost considerations revolve around an assessment of whether acquisition in the past was made with the individual's or the source community's consent and whether continued retention by a Western institution is with the consent of living communities descended from or culturally affiliated to the people of origin.
- 5.1.5 UCL returned the remains of a Maori individual to New Zealand in 1987. More recently still, it has returned the human tissue of identifiable individuals of UK origin to their families for burial, and has established protocols for such returns in future.
- 5.1.6 It should be noted, however, that the great majority of the human remains held by UCL are not currently the subject of any claim.

### 5.2 Other ethical principles

- 5.2.1 In taking decisions about human remains, UCL bases its principles on the ethical framework proposed in the DCMS *Guidance* (DCMS 2005, pp.13-14). In summary, UCL and its staff will, in addressing every aspect of the care and treatment of human remains and claims relating to them, demonstrate:
  - i. **Rigour** (act rationally with appropriate knowledge, skill and care, and justify decisions)
  - ii. **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)
  - iii. **Sensitivity and cultural understanding** (show sensitivity and compassion for the feelings of individuals, show understanding of different religions, spiritual and cultural perspectives)
  - iv. **Respect for persons and communities** (show respect for individuals and communities, minimise any adverse effect had on people and communities, respect privacy and confidentiality)
  - v. **Responsible communication, openness and transparency** (listen, inform and communicate openly and honestly)
  - vi. **Fairness** (act fairly, give due weight to the interests of all parties, act consistently).
- 5.2.2 The following ethical principles will guide and inform decision-making concerning the handling and care of human remains and in considering claims:
  - i. **Non-maleficence** (doing no harm)

- ii. **Respect for diversity of belief** (respect for diverse religions, spiritual and cultural beliefs and attitudes to remains, tolerance)
- iii. **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)
- iv. **Solidarity** (furthering the understanding of humanity through co-operation and consensus in relation to human remains)
- v. **Beneficence** (doing good, providing benefits to individuals, communities or to the public in general)

## 6 STEWARDSHIP

### 6.1 Standards and accountability

- 6.1.1 Every aspect of the treatment of human remains will be consistent with the highest professional and ethical standards. UCL will be open and accountable in its practice. This applies whether or not the remains are subject to a claim for their return or a request for special treatment.
- 6.1.2 UCL is a place of learning in which scientific enquiry and spiritual nourishment are both fostered within a culture of enlightened and rigorous scholarly values. Therefore, the stewardship of human remains at UCL must serve the interests of a range of cultural interests, including those of the scientific community and those of originating peoples<sup>4</sup>, in a way that is balanced and just.

### 6.2 Collections management and decision making

- *UCL will be accountable in its holding of human remains.*

- 6.2.1 Lines of delegated responsibility for all aspects of the stewardship of human remains at UCL are shown at Annex 4 to this Policy.
- 6.2.2 Overall responsibility for human remains and their proper management at UCL begins with the designated licence-holder approved by the HTA (see 4.1.6 above). The designated licence-holder is accountable to the HTA and to UCL Council for compliance within UCL with the regulatory requirements of the HTAct. UCL will provide the level of training and support necessary to enable the licence-holder to fulfil his/her legal responsibilities effectively.
- 6.2.3 The designated licence-holder will delegate responsibility for historic human remains, wherever they are held in UCL, to the Director of UCL Museums and Collections. (See also section 6.6 of this Policy, below).
- 6.2.4 Each department holding human remains will have a designated, suitably skilled and trained curator, formally appointed to be responsible for their care. A list of relevant named individuals is given at Annex 3 to this Policy. A suitable induction programme will be developed and delivered for all staff responsible for caring for human remains.
- 6.2.5 It is the responsibility of the Council of UCL to allocate the resources required to ensure the effective implementation of this Policy.

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<sup>4</sup> "It is unquestioned that human remains had in the past and continue to have, a key role in museum research and practice. They have the potential to make major contributions to the furtherance of knowledge, something of value for all humanity.

There is also no question that some human remains in museum collections were acquired in ways that would be deemed unacceptable. In many of these cases, individuals and communities have been left deeply distressed and wish to see the return of such remains or to gain some control over their future." (DCMS 2005: 23)

### 6.3 Consultation

- ***UCL will act consultatively***

- 6.3.1 In respect of historic human remains that are likely to be claimed, UCL will, wherever possible and practical, inform relatives, descendants, cultural communities of origin and other potentially interested parties of the presence of human remains in the collections, and will involve them in decisions about how they are cared for. Such consultation may result in variations to the standards set out below. 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.

### 6.4 Acquisition

- ***UCL will acquire human remains responsibly***

- 6.4.1 All decisions to acquire historic human remains will be the responsibility of the Museums and Heritage Committee, acting on the advice of the Director of UCL Museums and Collections. The acquisition of recent human remains will be undertaken by appropriately qualified and authorised staff, acting in accordance with the provisions of the HTA and following the Human Tissue Authority codes of practice.
- 6.4.2 All acquisitions will be conducted in accordance with legal requirements and professional standards, and will be justified in terms of:
- i) UCL's ability to house and curate them properly; and
  - ii) their value for research, teaching, display and interpretation.
- 6.4.3 UCL may acquire human remains by transfer of existing holdings from another museum or institution. In such instances, all documentation relating to the source of the remains, their history, copies of related archival material, provenance information and all other relevant attendant circumstances as far as they are known will also be acquired. Particular care will be exercised in cases of proposed transfer in which contested human remains are involved; only exceptionally, and with the agreement of the claimant community, will such transfers be accepted.
- 6.4.4 UCL may acquire human remains by donation. In such instances, appropriate consent will be obtained for all purposes to which the remains may be put, and this authorisation will be fully documented in accordance with the requirements of the *Human Tissue Act 2004*.
- 6.4.5 UCL may acquire human remains via excavation. UCL will acquire human remains only in circumstances in which it can be satisfactorily demonstrated that their excavation and removal have been conducted in compliance with the relevant secular and ecclesiastical regulations and guidance, (e.g. C of E/ EH 2005).
- 6.4.6 Where excavations take place outside England and Wales, UCL will only acquire human remains in circumstances where it can be proved that the excavation, removal and export of the human remains have been conducted in accordance with legal requirements of the country concerned, with the consent of relevant religious authorities, and that they comply with published professional standards of archaeological investigation.
- 6.4.7 All authorisations will be fully documented. All documentation related to the authorised excavation, removal, export and import of human remains will be kept securely, and be linked securely to the remains concerned and be accessible for inspection.

### 6.5 Disposal

- ***UCL will dispose of human remains responsibly***

- 6.5.1 All decisions to dispose of historic human remains will be the responsibility of the Museums and Heritage Committee, acting with the delegated authority of UCL's Council and on the advice of the Director of UCL Museums and Collections. The disposal of recent human remains will be undertaken by appropriately qualified and authorised staff, acting in

accordance with the provisions of the Human Tissue Act and following the HTA codes of practice.

- 6.5.2 All such disposals will be conducted in accordance with legal requirements and professional standards and will take place wherever it can be shown either that they can be better cared for or used in another institution, or by another community, which is willing to accept them by transfer, or where it can be demonstrated that it is not in UCL's interests to continue to hold them.
- 6.5.3 Where the remains are those of an identified individual, the act and method of disposal must comply with the wishes of the deceased or the deceased's closest surviving relative, genealogical or cultural descendant.
- 6.5.4 In the case of remains which are geographically provenanced to a source area outside Europe and likely to be claimed, but are not identifiable to an individual, and UCL wishes to dispose of them, it will be proactive in establishing whether any genealogical or cultural descendants exist who might wish to make a claim for return or reburial.
- 6.5.5 Where human remains have been excavated under a Department for Constitutional Affairs Licence or Church of England faculty, the guidance on disposal specified in these documents will be followed (Church of England and English Heritage, 2005).
- 6.5.6 Where no mode of disposal is specified, UCL will dispose of human remains safely and respectfully in a sealed container, following the HTA codes of practice.

#### 6.6 Dealing with claims

- ***UCL will respond promptly to claims for the return of contested human remains and engage constructively with claimants***

- 6.6.1 UCL will be proactive in seeking out potential claimants for historic human remains where UCL has good reason to believe they may be contested (see also para 6.7.6). UCL expects to receive claims for the return of human remains removed during the colonial era from overseas without the consent of communities of origin. UCL expects to engage constructively with claimants as the basis for future partnerships, exchanges and shared research. Notwithstanding the fact that such remains fall outside the regulatory framework of the HTAct, UCL will accord to family members comparable rights of consent (consistent with the provisions set out in paras 4.1.2, 5.1.3 above and 6.6.11 below).
- 6.6.2 UCL will seek to establish the status of the 'claimant community'. Broadly, this might be expected to fall into one of two categories: genealogical descendants<sup>5</sup> or cultural communities of origin<sup>6</sup>. In instances in which it is possible to identify a country of origin, but not a particular community, UCL will consult and negotiate with relevant institutions which are nationally recognised in the country of origin as representing the indigenous interest.
- 6.6.3 UCL will seek to establish common ground through dialogue, based on mutual respect and understanding. Where remains can be identified as having come from a claimant community which contests their removal and possession by UCL and now request their return, UCL recognises the pre-eminent rights of the recognised representatives<sup>7</sup> of those communities to claim their ancestors' remains. Negotiations between UCL and claimant

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<sup>5</sup> "individuals (who) can demonstrate a direct and close genealogical link to the human remains..." (DCMS 2005: 26)

<sup>6</sup> "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: 25)

<sup>7</sup> For UCL, a recognised representative of a community of origin will be one whose rights to negotiate on behalf of a claimant community are validated either by the Government in the source State or by the consensus of the indigenous peoples concerned.

representatives will normally proceed from a stance that is sympathetic to the case for return when evidence of consent is non-existent, unproven or equivocal.

- 6.6.4 UCL will establish and adhere to a clear chain of delegated responsibility for dealing with claims. All actual or potential claims shall be notified, whether initiated within UCL or from outside, in the first instance, to the UCL designated licence-holder under the Human Tissue Act (see 4.1.6 above), who will determine, in consultation with the HTA if necessary, whether the subject of the claim falls within the provisions of the Human Tissue Act 2004.
- 6.6.5 If the human remains concerned fall outside the Human Tissue Act, the matter will be delegated by the UCL designated licence-holder to the Director of UCL Museums and Collections to deal with in accordance with this Policy.
- 6.6.6 A claim that is made in writing to UCL, which has been delegated to the Director of UCL Museums and Collections, will be formally acknowledged, and the claimant will be sent details of UCL's procedures for dealing with such claims. The Director of UCL Museums and Collections will then seek from the claimants clarification of the nature and scope of the request, including: the identity of the claimant and any representatives; the connection between the claimant and the deceased; the basis for the claim; the specific remains being claimed; the claimant's wishes for the future of the remains<sup>8</sup>; any information regarding other potential claimants.
- 6.6.7 The Director of UCL Museums and Collections will then, working in consultation with claimants, gather evidence concerning the claim. UCL will use this Policy and the procedural guidance given at Annex 2<sup>9</sup> as the basis for the production of a report and recommendations to the UCL Museums and Heritage Committee (MHC). The Council of UCL, as the university's Governing Body, vests in the MHC full authority to determine such claims on its behalf.
- 6.6.8 The ratified decision and the reasons for it will be fully minuted, and copies of the Minute and all salient documentation retained by UCL and also given to the claimant representative.
- 6.6.9 In cases where agreement cannot be reached between UCL and the claimant representative, an appeal will be heard by a member of Council appointed by the Provost, to whom evidence will be presented by both the claimant representative and the Chair of the Museums and Heritage Committee.
- 6.6.10 Where a decision is made to return remains, UCL will negotiate an agreement with the claimant representative concerning the arrangements for the return and their associated costs.
- 6.6.11 UCL will not be proactive in seeking out potential claimants for recent human remains of UK origin but if family members request that tissues or organs be returned or disposed of such requests will always be complied with. In cases of unresolved dispute within the family, the matter will be referred to the HTA for resolution.

## 6.7 Documentation and publication

- ***UCL will be open about its holdings of historic human remains, provided that publicising such holdings does not violate known cultural sensitivities***
- ***UCL will safeguard the confidentiality of information about tissue samples and remains of living people and the recently deceased***

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<sup>8</sup> Once the legitimacy of a claim has been established to the satisfaction of UCL, the future of the remains after return becomes a matter for the claimant group to determine, in which UCL has no rights of influence or knowledge.

<sup>9</sup> This is drawn from the DCMS 2005, Section 3.

- 6.7.1 Publication will take into account the sensitive nature of the remains and associated data to living people. Normally, the publication policy will reflect three categories of human remains:
- i) **No public disclosure:** strictly controlled access to information about and images of tissue samples from living people and from the recently deceased;
  - ii) **Restricted disclosure:** access to information about and images of human remains of known individuals restricted to representatives of the family or community of origin (UCL to be proactive in contacting the community concerned);
  - iii) **Open disclosure:** unrestricted access to information about and images of historic human remains published on the internet.
- 6.7.2 The following will be included in the UCL's open publication scheme, subject to the requirements and exclusions of the Human Tissue Act:
- this Policy on human remains;
  - surveys and inventories of historic human remains at UCL
  - numbers of remains (normally the number of individuals, but sometimes by group or series)
  - date (estimated date of death)
  - their condition
  - Provenance (where the remains originated from and if known the context of their recovery and subsequent history)
  - where relevant, record of consent
  - details of the treatment and usage of the remains, including a research framework and research register.
  - their physical nature and condition
  - their status within a UCL collection (for example whether fully accessioned<sup>10</sup> or on loan from another institution)
- 6.7.3 Each curator responsible for a collection of human remains will, as a matter of priority, audit the documentation of that collection and devise and publish a timetable for creating a complete catalogue, prioritising work on remains that are likely to be subject to claims.
- 6.7.4 Each curator responsible for a collection of human remains will compile a report on their level of use to date, and potential level of use, in research, teaching and display within UCL. These reports will identify any collections of human remains that are unused and unlikely to be put to good use. In such cases, the Director of UCL Collections may recommend to the Museums and Heritage Committee that these should be transferred to another museum or institution, or that return or reburial be initiated. The Committee will reach its decision on the basis of a thorough assessment all the evidence available and the results of consultation which takes into account the sensitivities of interested communities.
- 6.7.5 The documentation on identified human remains may sometimes contain linked information about particular individuals or their families, and this sensitive personal information will normally be held securely, and always in accordance with the provisions of the current legislation affording protection to such data. UCL will honour the wishes of the deceased and/or their next of kin.
- 6.7.6 Where UCL is found to hold human remains from outside the UK, which are likely to be contested, the Director of UCL Museums and Collections will notify cultural descendants where known and/or the Governments of the countries concerned (see also para 6.6.1 above).

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<sup>10</sup> For human remains, UCL recognises that the term **accession** attests to responsibilities of possession, but not its rights of ownership under English Law.

- 6.7.7 Where accurate documentation requires further research, for example in order to ascertain cultural and geographical provenance, it may be appropriate to work in partnership with members of likely source communities and, where relevant, national government agencies in helping to research and document collections.
- 6.7.8 There may be instances in which information is held about unidentified individuals who can nevertheless be traced and linked with living relatives, or a particular cultural community or faith. UCL will consult with cultural descendants and/or relevant governments and/ or relevant faith organisations to establish whether there are certain categories of information to which access should be restricted (see 9.7.2 ii) above). For example, some indigenous groups may wish to restrict access to photographs of human remains. Where this is the case, and UCL decides to honour such sensitivities, UCL will publish the reasons and criteria for such decisions.
- 6.7.9 The HTA regards photographs and filming of human remains as equivalent to public display, which requires the witnessed, written consent of the deceased. Although this is not required for existing holdings, UCL will follow HTA guidance and obtain consent of the deceased's family or community of origin wherever possible.
- 6.8 **Storage and preventative conservation**
- ***UCL will store human remains professionally and respectfully.***
- 6.8.1 Each curator responsible for a collection of human remains will as a priority audit storage provision, using the document *Benchmarks in Collections Care* (Re:source/MLA 2002), and report on any improvements necessary to meet good standards. Curators should take into account cultural sensitivities in the use of storage materials (see 6.8.3 below).
- 6.8.2 Human remains will be kept in suitably safe, secure, watertight premises, with stable, regularly-monitored environments, which are kept clean and regularly checked for pests, damaged and leaking storage containers and other potential threats. Appropriate health and safety regulations, such as those concerning the control of substances hazardous to health, will be complied with.
- 6.8.3 Applying experience gained elsewhere (e.g. Besterman, T. 2003, p.5), culturally sensitive human remains will be stored in natural materials (wood, card, paper), avoiding the use of plastics or metal as far as possible. Handling will be kept to a minimum, and direct contact with skin avoided through the use of conservation standard gloves.
- 6.8.4 Human remains will be stored so that access to them is allowed only to authorised staff and supervised visitors with specific permission. These will include academics undertaking bona fide research (see para 7.1.5 below), representatives of claimant communities and students involved in recognised courses of study (see para 7.2.3 below). 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 likely to engender respectful treatment. Wherever possible, the remains of each individual will be stored in a separate storage box or container.
- 6.8.5 UCL will number the human remains in its care in such a way as to minimise the risk of loss or disassociation, but will refrain from applying numbers directly onto the remains unless absolutely indispensable to the prevention of loss of association.
- 6.9 **Remedial conservation**
- ***UCL will conserve human remains with the minimum of intervention***
- 6.9.1 The integrity of human remains is important in many belief systems and is also crucial to their future research and study. Except where consent has been given for intervention – such as in surgery, post- mortems and anatomical examinations – the principles of minimum intervention and reversibility will always be applied, avoiding treatments that will contaminate or damage remains. For wet specimens it is essential that spirit levels are maintained. Remedial conservation will be carried out only by suitably trained conservators.

- 6.9.2 A record will be maintained on all conservation treatments, consistent with currently accepted standards for remedial and preventative conservation. Such records will be the responsibility of the relevant collection curator, who will ensure their secure association with the human remains involved, keep them up-to-date and make them accessible subject to any constraints (see 6.7.1).

## **7 USE, ACCESS AND ENGAGEMENT**

### **7.1 Research and destructive analysis**

- ***UCL will use human remains for appropriate research***

- 7.1.1 In its role to foster research that is expected to test, challenge or extend existing boundaries of knowledge, UCL recognises the use of historic human remains as a finite and irreplaceable resource and the use of recent tissue subject to the codes and practices of the HTA.
- 7.1.2 Each curator responsible for a collection of human remains at UCL (see Annex 3) will maintain a publicly accessible research register including a record of the following:
- project name
  - research objectives
  - date of research
  - outputs – publications and data holdings
  - research involving destructive analysis
- 7.1.3 UCL will consult on and publish a set of protocols, principles and procedures governing the treatment and destructive sampling of human remains in the service of research, which all researchers will be required to observe as a condition of access and use. Procedures will be applied consistently across all areas of biomedical research, where applications are routinely submitted to the scrutiny and approval of Research Ethics Committees.
- 7.1.4 All applications for destructive sampling of human remains will be assessed by the responsible curator against the research criteria of UCL's published protocols.
- 7.1.5 Applications will only be approved where they are submitted by appropriately-qualified staff and students intending to undertake responsible research which cannot be done in other ways. A key principle will be the removal of the minimum quantity of material suitable for the research purpose. Human remains sampled will be fully recorded prior to sampling. Each curator responsible for a collection of human remains will maintain a record of applications and approvals for destructive analysis, including the reasons for approval, details of sample location and size, description of sampling process, and eventually the full results of the analysis, including copies of the publications that result from the research.
- 7.1.6 Research will not normally be permitted on contested human remains or those which might reasonably be expected to be the subject of a claim.
- 7.1.7 Prior to handling human remains, researchers will be required to sign the UCL protocol, which will, *inter alia*, state clearly the researcher's understanding of their ethical and legal obligations to treat human remains with dignity and respect.

### **7.2 Teaching and learning**

- ***UCL will use human remains appropriately in support of teaching and learning***

- 7.2.1 UCL will consult on and publish a set of protocols, principles and procedures governing the treatment of human remains in the service of teaching and learning, which all lecturers and students will be required to observe as a condition of access and use.



- 7.2.2 Destructive use of historic human remains will not be permitted in support of teaching and learning programmes.
- 7.2.3 Each curator responsible for a collection of human remains will identify, together with teaching staff, those remains that can be most usefully employed in teaching, whether in higher education, with school groups or the general public. Such decisions will take into account the age and ability of the students, the learning objectives of the course or session, the appropriateness of the material to support such objectives, the methods of teaching and the rarity and fragility of the material.
- 7.2.4 Prior to access to human remains, lecturers and students will be required to familiarise themselves with UCL's protocols, including the ethical and legal obligations involved, and demonstrate an awareness of what is meant by dignified and respectful treatment of human remains.
- 7.3 **Display**
- ***UCL will display human remains with respect and sensitivity***
- 7.3.1 Each curator responsible for collections of human remains will review display provision and report on improvements necessary to meet good standards.
- 7.3.2 The written, witnessed consent of the deceased is required in order to display recent human remains acquired from 2006. Although this is not required for existing holdings, UCL will follow HTA guidance and obtain the consent of the deceased's family or community of origin wherever possible.
- 7.3.3 All displays of human remains, whether open to the general public or not, must be justified in terms of interpretative impact and learning outcomes, which should be amenable to standard evaluative techniques.
- 7.3.4 Decisions on whether and how to include human remains in displays will take into account the intended audience, the display objectives, the method of display and interpretation, the visual and physical impact of the human remains, their fragility and the sensitivities and wishes of the community of origin where appropriate.
- 7.3.5 Consideration will be given to how best to prepare visitors to view them respectfully, and to warn those who may not wish to see them at all.
- 7.3.6 Display conditions will be designed and monitored to safeguard the human remains against the physical deterioration to which organic materials are vulnerable. This will involve ensuring that the appropriate levels of light, temperature and relative humidity are regularly monitored and controlled, and that security and the exclusion as far as possible of pests, particulates and other pollutants from the display case is assured.
- 7.3.7 Appropriate health and safety regulations, such as those concerning the control of substances hazardous to health, will be complied with.
- 7.3.8 At the time of publication of this policy by UCL, the HTA was consulting on a draft *Code of Practice on Public Display* 'of human bodies, body parts and human tissue', which 'sets out the standards the HTA expects to be met' (HTA 2006b, p.3). This places consent at the heart of the Code, sets display in the context of the licensing regime, and cross-references to the DCMS Guidance (DCMS, 2005, p.20). This Code is enforceable for human remains younger than 100 years old.
- 7.4 **Loans**
- ***UCL will lend human remains where appropriate provided that their treatment on loan accords with UCL's own standards***
- 7.4.1 Recent human remains subject to the HTA will only be loaned to other licenced premises and subject to the HTA codes of practice.

- 7.4.2 UCL will approve loan requests for historic human remains on condition that they will be treated by the borrower with the same standard of respect, level of care and for purposes that meet the standards set and followed by UCL. Such requests will be considered by UCL's Museums and Heritage Committee, which may impose additional conditions on top of its standard loan conditions. Where loans are approved, this will be subject to satisfactory site checks/ facilities reports in advance of the loan, condition reporting at agreed stages, and receipts signed by the curator and authorised staff at each venue.

## **8 MONITORING, COMPLIANCE AND IMPLEMENTATION**

- 8.1 The Council of UCL discharges its governance responsibilities in respect of this Policy through lines of accountability set out at Annex 4
- 8.2 Implementation of this Policy should be supported by a programme of awareness-raising and staff development for those charged with its implementation; and users of human remains held by UCL should have undertaken an appropriate level of induction training as a condition of access.

## **9 POLICY CONSULTATION, APPROVAL AND REVIEW**

- 9.1 This Policy, in an earlier draft form, was discussed by the UCL Museums and Heritage Committee (MHC) on 20 February 2006, authorised by Council to act on its behalf on these matters (MHC Minute 3A, 20.02.06).
- 9.2 That earlier draft of this Policy was sent out in late 2005 for consultation to a wide range of interested groups and individuals, which included all UCL Deans of Faculty and Heads of stakeholder UCL Departments, as well as to external bodies that included the HTA and indigenous groups in Australia and New Zealand. Responses from that consultation were summarised for the MHC and were, where appropriate, incorporated in this final version.
- 9.3 The MHC *resolved* (MHC Minute 3A.8, 20.02.06) to delegate to the Chair of MHC, Professor Michael Worton, authority on behalf of the MHC to sign off the policy (after redrafting in the light of the consultation), which was effected on 26 May 2006, prior to its being forwarded to UCL Council for formal approval.
- 9.4 Following discussion with the Provost, the recommendation to Council was that Council be designated the **Licence Holder** and that Professor Richard Frackowiak, Vice-Provost (Special Projects) and formerly Dean of the UCL Institute of Neurology be nominated the **Designated Individual** as required under the provisions of the *Human Tissue Act 2004* and as subsequently defined by the HTA (see Section 4, pp.7 - 8 above for further detail).
- 9.5 **UCL Council formally approved this policy on 14 June 2006.**
- 9.6 This Policy will be subject to periodic review, at least every five years, and more frequently if changes to the relevant legal or ethical context necessitate it.
- 9.7 Any substantive change to the Policy will be submitted to the UCL Museums and Heritage Committee for consideration, will be submitted to external consultation where appropriate, and when necessary, be subject to formal approval by Council. All such approvals will be formally minuted.

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## **UCL museums and collections: Human Remains Working Group**

### **Terms of Reference**

1. To consider the implications of recent Government initiatives relating to the possession of human remains for UCL Collections, which include both historic and recent human remains (particularly the Human Tissue Act 2004, the recommendations of the Government's Working Group on Human Remains 2003 and subsequent consultation by DCMS in 2004 on those recommendations).
2. To draft a policy, a set of procedures and criteria to govern the care and treatment of historic and recent human remains held by UCL, aiming to reflect a balance of consideration between the values of the scientific and indigenous communities and the needs of users.
3. Such a policy and procedures to be developed consultatively and to include measures for determining claims regarding the return, disposal or retention of human remains, and for determining requests and appropriate use for research, teaching and learning, conservation, display or other interventions.
4. To submit the policy and procedures to the UCL Museums and Heritage Committee for approval, and to make recommendations for further action by UCL as necessary.

### **Membership**

<b>Tristram Besterman</b>	Chair (member of UCL Museums and Heritage Committee)
<b>Dr Ian Johnson</b>	Department of Anatomy and Developmental Biology
<b>Dr Charles Lockwood</b>	Department of Anthropology
<b>Sally MacDonald</b>	Institute of Archaeology
<b>Professor Bill Richardson</b>	Wolfson Institute for Biomedical Research
<b>Professor Mike Rowlands</b>	Department of Anthropology
<b>Professor Peter Ucko</b>	Institute of Archaeology
<b>Ana Doria Buchan</b>	Institute of Archaeology

January 2005

## Procedures for responding to claims for the return of human remains held in UCL<sup>11</sup>

### 1 Introduction

*"The express recognition that the concerns of various ethnic groups, as well as those of science, are legitimate and to be respected will permit acceptable agreements to be reached and honoured".* (From the Vermilion Accord, World Archaeological Congress, 1989)

This part of the document provides a framework for handling claims for the return of human remains held in museums. It is primarily drafted in terms of claims for the return of human remains of overseas origin, as this is currently where the vast majority of such claims are being made, but in principle should be viewed as an overarching set of guidelines for claims regardless of their origin. It should be considered in reference to the other parts of the document, particularly the legal and ethical guidance in Part 1. This guidance only deals with human remains, not with any associated objects, although it is recognised that occasionally artefacts or non-human remains are physically bound-up with remains in such a way as to make them as one. It is also the case that in some cases claims for return will include a request for all records and archives associated with remains.

It is unquestioned that human remains had in the past, and continue to have, a key role in museum research and practice. They have the potential to make major contributions to the furtherance of knowledge, something of value for all humanity.

There is also no question that some human remains in museum collections were acquired in ways that would be deemed unacceptable. In many of these cases, individuals and communities have been left deeply distressed and wish to see the return of such remains or to gain some control over their future.

Requests concerning the appropriate care or return of particular human remains should be resolved by individual museums on a case-by-case basis. This will involve the consideration of possession; the cultural and religious values of the interested individuals or communities and the strength of their relationship to the remains in question; cultural, spiritual and religious significance of the remains; the scientific, educational and historical importance of the material. Also to be taken into account are the quality of treatment of the remains, both now and in the past in their current location and their care if returned.

In some cases, the arguments for return will over-ride any other consideration. In others, there will be no strong argument; for other cases, the right decision may seem less clear and be more finely balanced. This guidance aims to help museums distinguish between such claims, through an appropriate process for assessment, and to come to decisions that all sides can accept. In all instances, there will be a process for museums to go through in order to make a decision. Ultimate responsibility for the decision as to whether material should be retained or released will lie with the appropriate authorities within each museum or institution.

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<sup>11</sup> These are taken *verbatim* from the DCMS *Guidance for the Care of Human Remains in Museums*, Part 3: Claims for the return of remains

## **1 Background**

### **2.1 Requests for the return of human remains**

Requests should be dealt with as an open and constructive dialogue between the museum and the claimants. However, as the current guardians of the remains, the museum will have the responsibility of making the decision over their future and this will make the process one-sided. It is hoped that, through time and a continuing open and constructive dialogue between museums and claimant groups, the process will become more equal. In the meantime museums should do everything in their power, through policies of openness, consultation and transparency of action to try and make negotiations as equitable as possible.

In some cases, if a museum authority wishes to return remains which are not deemed of particular scientific value, and a clear and uncontested group exists that is claiming them, a return can be dealt with rapidly. However, the process for return should always be clearly and openly recorded and communicated.

Initial contact from claimants is often not a request for return, but a request for information relating to whether remains exist and their condition and management. A willingness by museums to engage in a dialogue can lead to beneficial outcomes for both parties, even if no human remains exist in the museum or if no return takes place. Benefits might include sharing knowledge, good future relationships, and potential research opportunities.

### **2.2 Reasons for requests being made**

It is accepted that members of a family or wider community might wish to exert rights as to where human remains that relate to them are located and how they are treated. This is a subject for which generalisations are almost impossible. Precedent shows that claims can come from genealogical descendants, cultural community and nations. They can be made for religious or spiritual reasons, from the desire to lay ancestors to rest on ancestral land, on the basis of the infringement of human rights, or to correct perceived past injustices. Requests might also, for a variety of reasons, come from other museums or institutions.

### **2.3 Context for responding to a request**

The museum should prepare clear guidance for the public domain, that can be easily referred to and will explain and justify actions. This will include the criteria by which a claim will be assessed, the time span a request will take to be considered, the position of individuals within an organisation who will take responsibility for decision-making and communication and who will be consulted externally. It will also state who will be responsible for bearing the museum costs of processing a claim, although this would normally be the museum. The question of costs should not prevent the speedy resolution of a claim for return, or be used as an excuse to refuse a request for return.

This guidance should be made public before any cases for return are dealt with. Museums may wish to form advisory panels of experts to provide support in dealing with claims.

## **3 Procedural guidance**

Once a request has been received and is under consideration for particular remains, thought should be given to whether research, teaching or display using the remains should continue or if this should be suspended pending the resolution of the claim.

This section provides a model process for handling claims for return. It deals with the practical steps that should help ensure the process is fair and well managed (procedures 3.1-3.6). Also set out is guidance on the criteria museums may wish to consider in coming to a decision (criteria A-L).

### 3.1 Proposal

#### Receiving a request

It would be normal to expect a request to be received in a formal way and to be accompanied with as much supporting information as possible. A first principle for dealing with return is for museums to openly engage and enter into constructive dialogue with anyone making a claim.

#### Identify Post-Holder

A post-holder should be identified within the museum as the person who will take responsibility for dealing with the request and serve as the point of contact for the claimants. This person should have appropriate skills and training for the role.

#### Acknowledge

The claim should be formally acknowledged and the process for handling it described to the claimant.

#### Clarify Nature and Scope of Request

In order to consider the claim, the museum will need to clarify any issues that are pertinent to its decision and not apparent from the original request. This may include:

- the identity of the claimant(s) and any intermediary/representative
- the connection between the claimant(s) and the deceased and the basis for the claim
- the specific remains being claimed (the claimant may need the museum's assistance in identifying these)
- the claimant(s) wishes for the future of the remains
- any information the claimant has regarding other potential claimants

Consultation and communication with the claimant and others may be necessary at this stage to clarify some or all of the issues above. Expert advice, including from the national government of the country from which the claimant originates, may also be necessary.

### 11.2 Evidence gathering

The next stage in the process is to gather together a dossier or report. This will draw upon the evidence in the original claim, and would normally involve the gathering of new evidence concerning the request. It is suggested that the following criteria could be used as headings to prepare the report and consider evidence:

#### A. The status of those making the request and continuity with remains

**Genealogical Descendants:** If individuals can demonstrate a direct and close genealogical link to the human remains, their wishes would generally be given very strong weight. However, consideration should be given as to whether they are the only people in this category and if they are not, whether there was any risk of harm to others in this category if the request being made were granted.

There may be exceptional cases where remains would not be returned to genealogical descendants. However, it is expected that in the majority of cases they would be, or that consent would be required from the descendants for any further use by a museum.

In practice, individuals who died more than 100 years ago may have many descendants from more than one community, so genealogical descent alone may not be the only criteria considered.

In such cases, the museum will need to assess the range of potential claimants and gauge how the interests of these individuals might be balanced with any other relevant considerations. The ethical principles will help to guide museums through these cases. The principles of avoiding harm (to the particular individuals concerned) and solidarity (seeking co-operation and consensus) are likely to be particularly important here.

**Cultural community of origin:** The concept of a community can be a difficult one to define. The assumption is that human society is characterised by the creation of communities that individuals feel a part of and which take on a collective set of values, often identified by particular cultural behaviour. It is often far less easy to identify which particular cultural community, or part of a community, has the greatest authority in any particular instance.

When considering claims based on cultural links, museums will need to take care to verify that the group they are dealing with is the only potential claimant, or that, if it is not, the other potential claimants support them. For overseas claims, where there may be doubt on this, advice should generally be sought from the national government concerned. It might also be normal to look for precedents for how a community has acted in the past.

For a community to be recognised and their claim considered 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. Cultures evolve and change through time but these changes can normally be recorded and demonstrated. The relationship between the location of the claimant community and the origin of the remains might also be a consideration.

It would be unusual to accept a claim for return from a group who did not either occupy the land from which the remains came, practice the same religious beliefs, share the same culture or language, or could not demonstrate why this was no longer the case.

A museum will need to be assured that a sufficient link does exist and that the group they are dealing with has sufficient authority to make a community claim.

A clear demonstration of a continuity of association between the claimant and the remains will be of great importance in dealing with any claim.

**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. Such a claim would be considered along similar lines to claims based on cultural community.

## **B. The cultural, spiritual and religious significance of the remains**

Where claims are made it would be expected, but not essential, for the claimant group to show that human remains and their treatment have a cultural, religious or spiritual significance to their community. The claim may be being made purely on cultural, spiritual or religious grounds. The claimant group may show that remains were removed without the permission of their community, or at least outside its laws and normal practices. Further the claimant may show that the correct "laying to rest" of remains is of religious or spiritual importance.

The remains might also be of a particular cultural significance to a community, for example as being from an important family or representing war dead, or victims of a particular event, such as a massacre.

Demonstration through some or all of the ways above, of strong continuous cultural, spiritual or religious significance of particular human remains, will add weight to a claim. This is particularly so in cases where there is clearly a risk of harm to the individuals or communities concerned, for example, where the continued holding of the remains by a museum perpetuates a strong feeling of grief amongst claimants.



### **C. The age of remains**

The vast majority of claims that have been made for return have concerned the remains of overseas people who died within the last 100-300 years. This corresponds most closely to the period when expansion took place by European powers with its subsequent effect on Indigenous peoples - a period that does not go back further than 500 years. It is also the period in which it is more likely for a close genealogical link to be made between the living and the dead.

Archaeological and historical study has shown that it is very difficult to demonstrate clear genealogical, cultural or ethnic continuity far into the past, although there are exceptions to this. For these reasons it is considered that claims are unlikely to be successful for any remains over 300 years old, and are unlikely to be considered for remains over 500 years old, except where a very close and continuous geographical, religious, spiritual and cultural link can be demonstrated. Some cultures put more emphasis on association with land that has a cultural, spiritual or religious importance and less on relative age. In such cases, the chronological age of the remains may be less significant.

### **D. How the remains were originally removed and acquired**

There are many cases of human remains being removed and studied without dispute. There are other instances, particularly during the 19th and early 20th century, of remains being removed against the will of individuals, families and communities.

### **E. The status of the remains within the museum/legal status of institution**

The museum should be sure of the exact legal status of the remains within their collections and that they have the right to make decisions over their fate.

The museum should identify the remains being claimed and then ascertain why they are being held and how they have been, and are likely to be, used:

1. Are the remains fully documented and the information about them publicly available?
2. Do they have continued reasonably foreseeable, research potential?
3. Do they form part of a documented access strategy?
4. Are they curated according to the very highest standards?
5. Are they curated in such a way as their long-term preservation is assured?
6. Can the long-term security of the remains be guaranteed within the museum?

### **F. The scientific, educational and historical value of the remains to the museum and the public**

Many human remains have undoubted potential to further the knowledge and understanding of humanity through research, study and display. In considering a request for return of human remains, a museum should carefully assess their value and reasonably foreseeable potential for research, teaching and display and should ensure that specialists with appropriate knowledge and experience have assessed this.

If the remains do have value for research, teaching and display, a museum should decide whether this can override other factors, particularly such as the wishes and feelings of genealogical descendants or cultural communities.

### **G. How the remains have been used in the past**

In considering the future of remains, consideration may be given to what use they had been put in the past. Evidence of extensive previous research use would normally support an argument for scientific value.

## **H. The future of the remains if returned**

The care of remains, if returned, also requires consideration. Some requests might require re-burial or removal from the public arena, whereas some claimants may be prepared to keep the remains in such a way that future research, teaching or even display is possible.

## **I. Records of the remains**

Whether a record of the remains exists, or can be made before return, might be a factor in making a decision.

## **J. Other options**

There may be more than two options when a claim is made. Museums should explore further alternatives if this helps in reaching a consensus. For example, it may be possible that remains would stay in the museum, but a claimant group would gain a level of control over their future use.

## **K. Policy of the country of origin**

Some nation states have developed domestic legislation or policy to govern claims for the return of remains. Museums would normally expect to be aware of any policies of the national government from which a claim originated. It is worth considering how a claim would be resolved if made in the country from which the claimants originate, as well as the expectations of the claimant based on the practice in their country of origin.

## **L. Precedent**

Claims will generally be dealt with on a case-by-case basis. However, it would be expected that a museum would review past cases of claims made to it, or claims of a similar kind made to other museums and their outcomes, as well as giving some thought to the impact of any decision on future claims.

### **3.3 Synthesis and analysis**

Once all this evidence has been gathered, the museum will prepare a synthesis of its findings and consider the options and actions available. A full, open and ongoing, dialogue should take place with the claimants, using the relevant criteria and evidence gathered.

This is the critical stage in the process. The museum will weigh up the evidence gathered and use ethical and legal guidance to consider the different criteria. The final decision made will result from synthesis and analysis of the evidence gathered. There should be an emphasis on transparency in undertaking such analysis.

### **3.4 Advice**

An institution may wish to take external expert advice that it does not hold in-house. This may come from a pre-arranged advisory panel or need to be specifically commissioned for a particular case.

### **3.5 Decide case**

A full written report of all the facts, factors and evidence should be prepared and presented to the governing body to form the basis of their decision<sup>12</sup>.

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<sup>12</sup> At UCL the power of decision is devolved to the Museums and Heritage Committee, whose decision is fully minuted to Council, the university's governing body.

Decisions made on a claim will be reached by weighing up the criteria outlined above. The decision will lie with the governing body of the museum, not with any one individual.

### **3.6 Action**

Once the decision has been made, the reasons for it should be documented and archived along with the preparatory report and all correspondence related to the case.

The museum's governing body should formally ratify the decision and the process should be fully recorded and archived.

Claimants should be informed of the decision and its reasons made clear to them. They should be allowed time to respond. It is possible that further discussions would continue. Cases should not be considered in terms of either/or, but in finding a consensus as to the most appropriate future for the remains. If a request for return is declined this should not preclude future dialogue or communication between parties.

A museum may have put a process in place for parties to appeal against a decision. If so this will need to be publicly stated and advertised before any proceedings begin. Any process would ideally be undertaken by people different from, and not directly associated with, those involved in the first decision.

The museum should also put in place a practical procedure for implementing a decision to cover such items as timescale and costs. Museums should ensure they learn from the process of dealing with claims and build any lessons into their systems for the future.

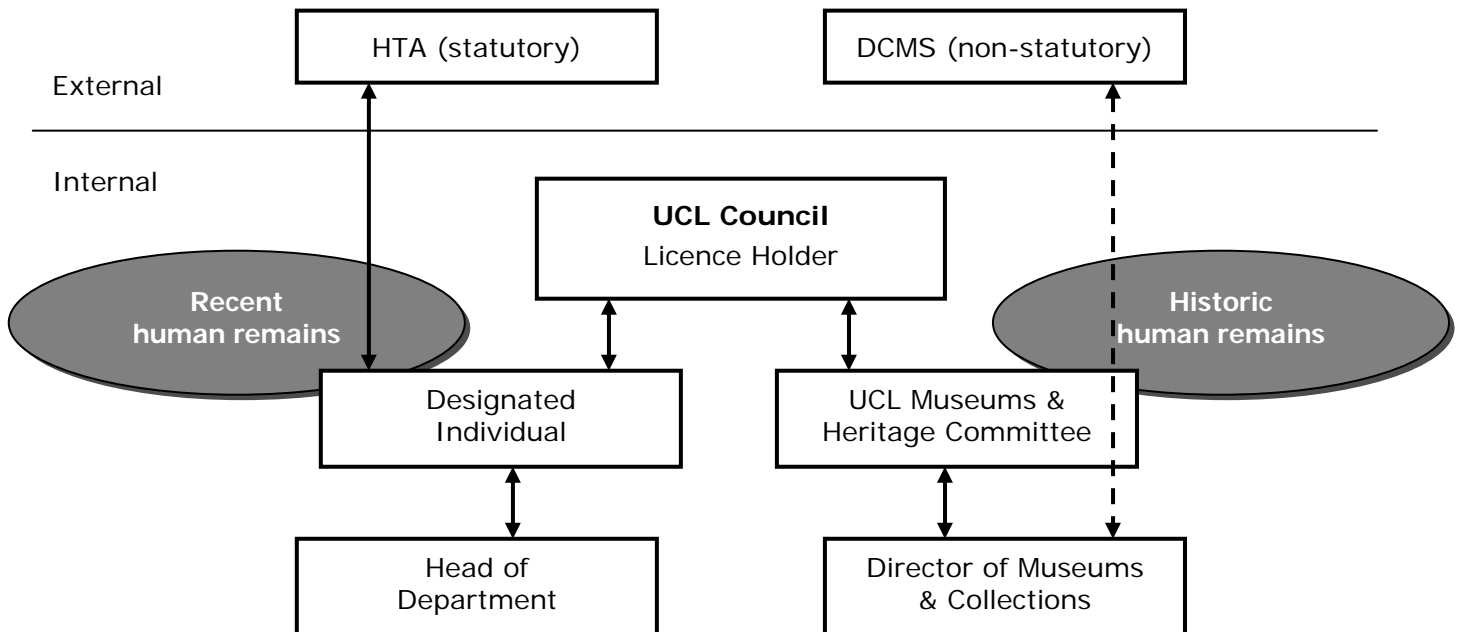
## List of staff/post holders responsible for collections of human remains within UCL

### Contact details of responsible staff (notified June 2006)

Designated Individual at UCL, approved by the HTA		
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Director of Museums and Collections		
Sally MacDonald <a href="mailto:sally.macdonald@ucl.ac.uk">sally.macdonald@ucl.ac.uk</a>		
Holding department	Senior staff member ( <i>ex officio</i> )	Curator ( <i>ad hominem</i> )
Anatomy	Head of Department	Ms Wendy Birch <a href="mailto:w.birch@ucl.ac.uk">w.birch@ucl.ac.uk</a>
Biological Anthropology	Director of Museums and Collections	Dr Charles Lockwood <a href="mailto:c.lockwood@ucl.ac.uk">c.lockwood@ucl.ac.uk</a>
Eastman Dental Institute	Head of Department	Dr Jon Bennett <a href="mailto:j.bennett@eastman.ucl.ac.uk">j.bennett@eastman.ucl.ac.uk</a>
EGA Gynaecology	Head of Department of Obstetrics and Gynaecology	Mr Paul Bates <a href="mailto:p.bates@medsch.ucl.ac.uk">p.bates@medsch.ucl.ac.uk</a>
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Institute of Neurology	Head of Institute of Neurology	Professor Tamas Revesz <a href="mailto:t.revesz@ion.ucl.ac.uk">t.revesz@ion.ucl.ac.uk</a>
Petrie Museum: Egyptian Archaeology	Director of Museums and Collections	Dr Stephen Quirke <a href="mailto:s.quirke@ucl.ac.uk">s.quirke@ucl.ac.uk</a>
Records Office	Director of Museums and Collections	Mrs Rosamund Cummings <a href="mailto:r.cummings@ucl.ac.uk">r.cummings@ucl.ac.uk</a>
Temporal Bone Collection	Head of Department	Professor Tony Wright <a href="mailto:Anthony.wright@ucl.ac.uk">Anthony.wright@ucl.ac.uk</a>
UCH & Middlesex Museum	Head of Department of Pathology	Professor Alec Howie <a href="mailto:a.j.howie@medsch.ucl.ac.uk">a.j.howie@medsch.ucl.ac.uk</a>
Uropathology	Head of Department of Pathology	Professor Alec Howie <a href="mailto:a.j.howie@medsch.ucl.ac.uk">a.j.howie@medsch.ucl.ac.uk</a>

# Lines of delegated responsibility for the stewardship of human remains at UCL

## 1 GOVERNANCE



## 2 MANAGEMENT

