

Draft Policy for the Care and Treatment of Human Remains

**Hastings Museum and Art Gallery
Old Town Hall Museum**

Author: Museum Curator

Endorsed by Museum Committee: June 2011

Date for Review: June 2016

1. Introduction

- 1.1 This policy covers collections held by Hastings Borough Council Museums Service.
- 1.2 Human remains have a unique status within museum collections. In many cases they have a personal, cultural, symbolic, spiritual or religious significance to individuals or groups. This places a special responsibility on those museums that hold them.
- 1.3 The Museum acknowledges the *Guidance for the Care of Human remains in Museums (2005)* published by the Department for Culture, Media and Sport, which is used as a reference throughout this policy.
- 1.4 The Museum's present position on the care and use of human remains is set out in this document. It will be reviewed every five years.

2. Definition of 'Human Remains'.

- 2.1 The definition of human remains for the purposes of this Policy follows that given in the DCMS *Guidance* which in turn builds on the definition of 'relevant material' in the Human Tissue Act 2004.

The term 'human remains' is used to mean the bodies, parts of bodies and cremated remains, 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 2004*, the definition does not include hair and nails, although it is acknowledged that some cultural communities do give these a sacred importance. Human remains may also include any of the above that may have been modified in some way by human skill and/or may be physically bound 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 Where it is known that cultural communities give hair and nails sacred importance, this material will be treated in the same way as human remains according to the above definition and as outlined below.
- 2.3 The Museum recognises that other items in museum collections may be culturally sensitive. These include sacred and secret items, photographs and other depictions of human remains or people now deceased, and the museum records relating to these.

3. Legal Framework

There are a number of legal issues surrounding the holding of human remains:

- 3.1 The Museum cannot legally own human remains except where those remains have been treated or altered '*through the application of skill*'. 'Skill' is not clearly defined but is likely to include a scientific preparation or the work of an artisan.
- 3.2 The 2005 Church of England and English Heritage joint publication *Guidance for Best Practice for Treatment of Human Remains Excavated from Christian Burial Grounds in England (2005)* notes that although there are no property rights in human remains, post-excavation processing (such as marking remains with date, site etc.) may fall within the definition of the 'application of skill' and possibly endow skeletal remains with property rights. In this regard, further recommendations are provided in the Society of Museum Archaeologists publication, *Selection, Retention and Dispersal of Archaeological Collections (1993, 1997)*.
- 3.3 Human remains less than 100 years old come under the statutory requirements of the *Human Tissue Act 2004*. If the Museum is to hold such material it will be required by law to obtain a licence from the Human Tissue Authority to hold remains that are less than 100 years old. In order to obtain a licence, the Museum will have to meet various requirements and adhere to the Code of Practice issued by the HTA as well as to guidelines for good practice set out in the DCMS *Guidance*. For human remains less than 100 years old, the Museum's HTA-approved 'Designated Licence Holder' will be the Curator.
- 3.4 Under the *Human Rights Act 1998*, there are implications concerning the rights of indigenous peoples who might lay claim for the return of human remains. Specific Articles of the European Convention on Human Rights and its Five Protocols mean that the Museum may have obligations to such claimants.
- 3.5 Unauthorised disinterment of a body is a common law offence. Human remains removed during archaeological excavations in the UK are subject to a Home Office licence or directions. Church law requires the reburial of skeletal material from an active church. The Museum adheres to these requirements.
- 3.6 Jurisdictions other than England and Wales, for example the Native American Graves Protection and Repatriation Act in the United States of America, may recognise certain rights over human remains or the rights of burial.
- 3.7 The Museum recognises the ethical responsibilities invested in it through the possession of such remains and is committed to treating all human remains in an ethical and socially responsible manner.
- 3.8 As a Public Authority, the Freedom of Information Act 2000 establishes the basic requirements for the provision of information about the museum's collection. All requests for information are considered on their own merits and the Museum will provide information within 10 working days with due consideration being taken regarding the *Data Protection Act 1998*.

3.9 Under the provisions of the *Data Protection Act 1998*, the Museum is required to safeguard the confidentiality of personal data. Should the case arise, appropriate consent will be sought regarding the disclosure of such information if it is necessary.

4. Current Scope of Human Remains in the collections

4.1 Hastings Museum holds xx pieces of human remains in its collections, in the following categories;

Archaeology	Osteology Mummified remains
World Art	Artefacts
Natural sciences	Osteology

4.2 The archaeological material is almost exclusively from Sussex, and includes known human skeletal material (unmodified) from the prehistoric through to the medieval period. The majority is medieval.

The ancient Egyptian mummified remains are around 3000 years old.

The human remains in the World Art collection are all modified in some way and are probably no more than 200 years old.

The human remains in the Natural Sciences collection are no more than 200 years old.

4.2 The Museum holds human remains by virtue of the historic collections it cares for, for the purposes of research, public and specialist education and the better understanding of humanity.

5. Acquisition of human remains

5.1 Hastings Museum only expects to acquire human remains by transfer from another institution, donation, or excavation in Hastings and surrounding area as defined in the Acquisition and Disposal Policy.

5.2 Transfer of excavated human remains is permitted provided that the excavation and removal of the human remains have been conducted in accordance with legal requirements and published professional standards of archaeological investigation as laid down by the Institute of Field Archaeologists. Where such remains were exhumed from ground that is under the jurisdiction of the Church of England, the relevant religious authorities must have been consulted and must have agreed to the subsequent disposition and treatment of the remains.

6. Loans In

6.1 Where incoming loans for display are concerned, the display content, the interpretation and the marketing of the exhibition will be carried out in accordance with Hastings Museums Loans Policy and the appropriate guidance for legal, ethical and practical considerations governing human remains (*DCMS Guidance*)

7. Loans Out

7.1 All outgoing loans of human remains will be subject to approval by the Curator and Museums Committee. Borrowing institutions will be required to satisfy the Museums Loans Policy and the legal, ethical and practical considerations outlined in guidance for human remains (*DCMS Guidance*).

7.2 Loans of contested or identifiable human remains will only be made after due process of consultation and consent.

8. Research

8.1 All requests for research, including sampling and analysis, must be made by completing a Research Request form. Students must provide a letter with a reference from their Tutor/Lecturer. All requests will be considered on a case by case basis.

8.2 Where research access is granted, the Museum will ensure that all researchers are made aware of the Museum's and their own ethical obligations with regard to human remains, and that they are provided with this Policy and that they receive appropriate guidance in handling human remains from the Curator or other member of Museum curatorial staff.

8.3 Hastings Museum reserves the right to seek external academic advice prior to approving any request for sampling and analysis. Such consultation may increase the time before a decision can be made.

8.4 A complete record of the material analysed, the outcome of the analysis, and the resulting research must be lodged with the Museum.

8.5 Hastings Museum will not allow public access to any human remains while the outcome of a claim for their return to a source community is pending.

9 Exhibition and display

9.1 Where human remains form part of an exhibition, either long or short-term. They will be displayed in a culturally and contextually appropriate, sensitive and informative manner and will always be accompanied by explanatory and contextual interpretation.

9.2 Human remains will only be referred to as a proper name where the proper name of an individual is known, or the name of a cultural group or archaeological site is to be used – e.g. Lindow Man.

10 Images

10.1 No images of human remains will be available online or will be used for marketing purposes.

10.2 Images of human remains for research and educational use may be requested in writing from the Museum and will be subject to approval by the Curator.

11 Collections management

11.1 The Museum will store human remains in controlled conditions in a defined area within a store. Storage is actively managed and monitored and meets appropriate standards of security, access management and environment. Objects found associated with human remains are stored with other objects by site, period and culture, also in appropriate conditions.

11.2 Documentation, remedial or preventative conservation and physical access procedures will be carried out according to the general tenets of this policy.

12 Conservation

12.1 The integrity of human remains is important in many belief systems and is also crucial to future research and study. The principle of minimum intervention and reversibility should always be applied, avoiding treatments that will contaminate or damage human remains. Bone should always be kept clean and dry. Any intrusive conservation work should be carried out in accordance with strict protocols and only undertaken when absolutely necessary.

13. Repatriation, reburial and deaccession

13.1 Human remains must be deaccessioned responsibly, with reference to the legal, ethical and professional principles and procedures set out in the DCMS *Guidelines* and in accordance with Museum's *Acquisition and Disposal Policy* (2009)

13.2 The Museum supports the view in *The Guidance for best practice for treatment of human remains excavated from Christian burial grounds in England* (Church of England/English Heritage 2005) that reburial of remains after excavation, rather than long-term retention for scientific research, denies a potentially valuable research resource to future workers. Indiscriminate reburial of museum collections is therefore undesirable.

13.3 Claims for repatriation and reburial will be determined on a case-by-case basis and may be supported by ancestral-descendant relationships or cultural or historical connections between an individual and the remains in question.

13.4 The Museum accepts the view of the DCMS Guidelines that claims are unlikely to be successful for any remains over 300 years old and are highly unlikely to be considered for remains over 500 years old, except where a very close geographical, religious or cultural link can be demonstrated.

13.5 All requests for repatriation, reburial and deaccession must be submitted in writing to the Museum Curator. For any claim to be considered, the claimant will need to establish a sound evidential base for their claim. The Curator will seek external advice and where appropriate will form an advisory panel of experts to provide additional expertise on a case-by-case basis. Approval for transfer of human remains from the Museum's possession is subject to final confirmation by the Museum Committee.

14 Guidance for Museum Staff

14.1 A copy of the DCMS *Guidance for the care of Human Remains in Museum* (2005) will be available to existing staff and will be brought to the attention of staff, committee members, work experience and volunteers by the Curator, who will ensure that they are aware of its contents during induction.

15 Policy Implementation and Management

15.1 This Policy and its implementation will be managed and monitored by the Museum Curator

References

Guidance for Best Practice for Treatment of Human Remains Excavated from Christian Burial Grounds in England. Church of England and English Heritage (2005)

Guidance for the Care of Human remains in Museums. DCMS (2005)

The Report of the Working Group on Human Remains. DCMS (2004)

Care of Historic Human Remains: A Consultation Report of the Working Group on Human Remains. DCMS (2003)

Code of Ethics for Museums. Museum Association (2002)

Guidance Notes on Ethical Approaches in Museum Ethnography. Museum Ethnographers Group (undated)

Professional Guidelines concerning the storage, display, interpretation and return of human remains in ethnographical collections in United Kingdom Museums. Journal Of Museum Ethnography 6.

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

The Vermillion Accord, Archaeological Ethics and the Treatment of the Dead; A Statement of principles agreed by archaeologists and indigenous peoples at the World Archaeological Congress. World Archaeological Congress (1989)

Hastings Museum and Art Gallery Archaeology Research Request Form

Project Name
Research Objectives
Research Methodology
Dates of Research
Research Results
Name of researcher
Contact details (address, telephone number and email address)
Research institution/Employer/Funder
I agree to provide the museum with one hard copy and one digital copy of the research results and outputs
Signature
Date of Application