



**RESPECTING  
REMAINS**

A POLICY ON THE TREATMENT  
OF HUMAN REMAINS

2019

For the *love* of Scotland

# Respecting Remains: A Policy on the Treatment of Human Remains

Approved by Board of Trustees, 27 March 2019

Review date: 27 March 2024

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## 1. What we mean by 'human remains'

'Human remains' means parts of once living people from the species *homo sapiens sapiens*.

This includes:

- osteological material (whole or part skeletons, individual bones or fragments of bone);
- soft tissue including organs and skin; and slide preparations of human tissue;
- any of the above, that may have been modified in some way by human skill and/or may be bound-up with non-human materials, to form an object<sup>1</sup>

However, human teeth, hair and nails, being essentially body parts that may be shed naturally during a lifetime, and wholly cremated remains (with the exception of prehistoric cremations which can often contain large chunks of identifiable bone), are not normally considered by the Trust to be subject to the principles set out in this policy, unless: forming part of other human body parts described above; or, exceptionally, where there is evidence to suggest they were removed without the consent of the deceased.

## 2. Why human remains are important

- Human remains have a unique status; they are of high research value, and human interest, have spiritual or religious significances, and should be treated with dignity and respect regardless of their age or composition.

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<sup>1</sup> Definition derived from same in Human Tissue (2004) Act, and Human Tissue (Scotland) 2006 Act

- Human remains are a record of the varied ways that different societies have conceived of death and disposed of the remains of the dead.
- Human remains help advance important research in fields such as archaeology, human biology, the history of disease, palaeoepidemiology, bioarchaeology, physical anthropology, forensics and genetics.
- Human remains, which have been physically modified by a person working within a cultural context, or which form part of an archaeological record, can illuminate other objects in the Collection.

For ethical reasons, human remains are treated differently and this policy adheres closely to the Historic Scotland Operational Policy Paper 5, *The Treatment of Human Remains in Archaeology* (2006), *Guidelines for the Care of Human Remains in Scottish Museum Collections* (Museum Galleries Scotland, 2011), the Human Tissue Authority (HTA)'s *Public Display, Standards and Guidance* (2016), the Anatomy Act of 1984, and the Human Tissue (Scotland) Act of 2006.

### **3. Human remains in the Trust's collections**

There are very few examples of human remains in Trust collections. Most human remains are found on Trust properties as accidental finds (usually around graveyards) or during archaeological excavations or post-excavation analyses. For example a human skull was found during excavation of a pit full of 19<sup>th</sup> century pottery in the Weaver's Cottage garden but was subsequently radiocarbon dated to the 16<sup>th</sup> century. An Iron Age cist burial was found eroding out of a quarry face at the House of the Binns and contained the remains of two individuals. Human remains collected as such, for example, a child skeleton at Brodie Castle, are very rare.

### **4. Reporting procedures on the discovery of human remains**

If human remains are found on a Trust property this should immediately report to the local police and to the Trust archaeologists. Do not touch the remains and avoid disturbing the ground in their vicinity because the evidence from either a modern scene of crime or ancient burial is equally fragile.

The six Historic Environment Scotland objectives<sup>2</sup> also adopted by NTS are:

- i. Advise staff and contractors of legal obligations and procedures to be followed in the treatment of human remains
- ii. No action to lead directly or indirectly to needless disturbance, damage or destruction of human remains, graves or monuments.
- iii. When threat cannot be averted the site should be investigated and recorded prior to destruction and human remains excavated and removed.
- iv. All studies of human remains are conducted in a proper manner and a decision made to their final disposition.
- v. Ensure best working practices in recording and recovery of human remains and the highest standards of recording.
- vi. Encourage discussion about treatment of human remains and handle any controversy with sensitivity.

## **5. How we reach decisions on the use of human remains**

Issues surrounding the use of human remains are rarely straightforward. In reaching a decision, we follow the general principles of openness and respect (showing sensitivity for the feelings and views of others and respect for the individual whose remains are in question). We are rigorous (acting with appropriate knowledge, skill and care) and we are fair and consistent.

The Loans, Acquisitions and Disposals (LAD) Committee is the decision-making body for acquisitions, loans, and disposals up to a value of £50,000 (see *Developing Collections: A Policy to Reflect and Enrich Lives*, 2019, Section 8.1); ExCo makes decisions on the same for items with a combined value between £50,000 and £250,000, and the Board is responsible for acquisitions, loans, and disposals above this amount. With advice from LAD, ExCo makes recommendations to the Board for a final decision by them on the acquisition, loan, disposal, and return of human remains.

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<sup>2</sup> Historic Scotland Operational Policy Paper 5, *The Treatment of Human Remains in Archaeology* (2006)

## 6. How we manage human remains

### a. Display

The Trust remains committed to the usefulness of exhibiting human remains, and objects incorporating human remains, in an appropriate and sensitive manner. Such displays will be in line with Museums Galleries Scotland guidelines and HTA legislation. The Trust is not exempt from the Anatomy (Specified Persons and Museums for Public Display) (Scotland) Order 2006, and, as such, must obtain a licence for display for human remains less than 100 years old but this only applies to anatomical specimens (as defined in the Anatomy Act 1984). The sensitivities of both source communities and potential audiences will be actively considered when human remains - and artefacts incorporating human remains or tissues - are displayed.

### b. Loans

The Trust will continue to loan human remains to other institutions for research and display purposes when the proposed activities guarantee their treatment with care and respect and are in line with the Trust's policies and all relevant legal and regulatory requirements. Remains already identified as sensitive will not normally be made available for display or loan. Any remains less than 100 years old will only be lent to UK institutions which are licensed for the display of human remains by the HTA. Further information on borrowing remains is available in Chapter 4, Section 1.2, of *Guidelines for the Care of Human Remains in Scottish Museum Collections*.

### c. Acquisition and disposal

Acquisition of remains may take the form of collections of historical material already in existence, or contemporary remains. The Trust only acquires contemporary material where clear consent for storage and public display has been granted by the deceased. In the case of historical remains, every effort is made to ensure that provenance has been established as clearly as possible (see *Developing Collections: A Policy to Reflect and Enrich Lives*, 2019). The Trust will consider acquiring human remains when they form part of an archaeological excavation assemblage from a Trust property that has been processed and allocated through the Treasure Trove system. The Trust does not acquire material that there is any suspicion that it has been illicitly acquired.

For remains the Trust does not wish to acquire or retain, it will be proactive in trying to establish whether there are genealogical or cultural descendants who may be interested in accepting them for return or reburial. The Trust will prioritise consultation with religious groups, or other institutions, if remains were originally from burial grounds in their care, before deciding on the most appropriate method of disposal. This process will be managed by the Head of Collections Services, and decisions will be taken by the Board.

**d. Documentation and storage**

The Trust is committed to broadening access to information relating to its holdings of human remains. All human remains in the collection are held in an actively managed and monitored environment (see *For Info: A Policy to Build and Share Information about Collections*, 2019). Remains are held together in a discrete area, separated from other artefacts.

**e. Research**

The Trust provides access to human remains collections to students and researchers by appointment and under supervision. Requests for access by researchers will be considered on a case-by-case basis by the LAD committee. Researchers will be asked to specify their credentials, articulate their research questions, proposed methodology, sampling strategy, and anticipated outcomes, as well as intended publication location and date. Requests for the study of remains identified as sensitive, or involving innovative procedures or destructive sampling, will be considered by ExCo on advice from the LAD committee and a final decision reached by the Board (see *Developing Collections: A Policy to Reflect and Enrich Lives*, 2019). Requests from recognised cultural groups to access remains and / or information about remains will be treated constructively and sensitively. All activities relating to a decision will be fully documented and added to the archive.

## **7. How we deal with requests for the return of human remains**

Requests are managed by the Head of Collections Services and a final decision taken by the Board of the Trust. The Head of Collections Services may seek external expert opinion in arriving at a recommendation to the Board and will, wherever possible, seek to involve the claimant(s) as much as possible throughout the process.

Claims are dealt with promptly, sensitively, openly, and on a case-by-case basis. The main point of contact is the Chair of the Trust. All activities relating to a decision will be fully documented and added to the archive.

In arriving at a decision, the claimant's identity and their basis for making a claim, their views on the future of remains, and the claimant's views on any other potential claimants will all be investigated. The onus is on the claimant to prove that it is a direct genealogical descendant of the community whose remains are under claim and / or that it continues to share the same culture (spiritual beliefs, cultural practices) attributed to the community whose remains are under claim. It would also need to provide evidence of cultural importance, including cultural and spiritual relevance, to the community making the claim and identify the strength of the connection of the community to the remains, and the consequences of their return.

The following points will also be considered:

- Identity of remains: what evidence exists that the remains concerned are those requested by the claimant?
- History of possession: what is known about ownership of the remains before acquisition by the Trust and does this affect our rights of possession? Do we have records of how the remains have been used and treated since acquisition?
- Significance of the remains: what is the significance of the remains to the claimant and to the Trust? This should include religious, cultural, historical, and scientific importance.
- Consequences of return to the claimant: what will the future of the remains be if given to the claimant?
- Future partnerships: will the decision affect any current or future collaborations?
- Consequences of retention: what is the likely future treatment and use of the remains if they are retained by the Trust? What affects will this have on publicity for the Trust and for the claimant?

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

When a decision has been reached, a full explanation will be provided to the claimant of how and why the decision was reached. Ideally, the Trust and the claimant should work together to prepare media statements within an agreed timeframe and approach.

If the decision is to return remains, the Trust will draft an agreement and work closely with the claimant to facilitate their return. This will include consultation on the fate of associated archives and future access to them.

## **8. Ethics and legislation**

We will be guided by UK and, where relevant, international law, national and international standards, ethical codes and best practice guidelines including, but not exclusively:

Anatomy Act, 1984

Anatomy (Specified Persons and Museums for Public Display) (Scotland) Order 2006

Human Tissue (2004) Act

Human Tissue (Scotland) 2006 Act

*The Treatment of Human Remains in Archaeology* (2006). Historic Scotland Operational Policy Paper 5

*Guidelines on Management of Human Remains*, Museum Ethnographers' Group (MEG), 1991

*The Vermillion Accord on Human Remains*, A World Archaeological Congress position statement on 'Archaeological Ethics and the Treatment of the Dead, 1989

*Guidance for the Care of Human Remains in Museums*, DCMS, 2005

*UNESCO Declaration on Universal Norms in Bioethics*, 2005

*Code of Ethics*, Museums Association, 2016

*Guidelines for the Care of Human Remains in Scottish Museum Collections*, Museums Galleries Scotland, 2011

*HTA Public Display, Standards and Guidance*, 2016

## **9. When we will revise this policy**

This policy will be reviewed at least every 5 years, and may be revised to reflect changes in official guidance, or the legal and regulatory environment, including compliance with the HTA regime.

## **10. References**

*Advancing Access: A Policy for Audiences and Collections* (2018)

*Developing Collections: A Policy to Reflect and Enrich Lives* (2019)

*For Info: A Policy to Build and Share Information about Collections* (2019)

*Sharing Collections: A Policy on Lending and Borrowing* (2019)

*Caring for Collections: A Policy to Protect Significance* (2019)

*Conservation, Access, Enjoyment and Education Principles* (2018)



## *OUR VISION*

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Scotland's heritage is valued by everyone and protected now and for future generations

## *OUR OBJECTIVES*

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To protect and care for Scotland's heritage

To provide opportunities for everyone to experience and value Scotland's heritage

To promote the benefits of heritage

To create an efficient and sustainable business which supports our conservation needs

## *OUR VALUES*

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*VIBRANT*

*CARING*

*INCLUSIVE*

*CURIOUS*

*BRAVE*

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