

# Procedures for claims for the Return of Cultural Objects from Oxford University Museums and Libraries

## 1. Aims and Scope of this Document

1.1 This document describes the procedures for claims for the return of cultural objects from Oxford University Museums and Libraries, where legal title is vested in the University of Oxford.

1.2 This document relates to claims for the return of cultural objects taken under duress or illegally within the context and during the period of European and particularly British colonial expansion onwards, which for these purposes means 31 December 1600 (the foundation of the East India Company) to the present day.

1.3 This document operates within a national and international context and recognises the intentions and importance underlying certain instruments which specifically address issues of cultural property, restitution, repatriation and return including:

- *UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property* (14th November 1970)
- *Dealing in Cultural Objects (Offences) Act 2003*
- *Cultural Property (Armed Conflicts) Act 2017*. Incorporates ratification of the Hague Convention first (1954) and second (1999) protocols
- *Return of Cultural Objects Regulations 1994*

1.4 The process and procedure does not apply to:

a. Claims for the return of human remains, which are governed by the *Policy on Human Remains held by the University of Oxford's Museums* (2006)<sup>1</sup>.

b. Claims for the return of objects taken during the Nazi era in Europe. In line with the statement of principles *Spoliation of Works of Art during the Holocaust and World War II period* issued for non-national museums in 1999 by the Museums and Galleries Commission; these claims will be referred to the UK Spoliation Advisory Committee.

c. Genetic heritage and resources governed by the Nagoya Protocol, which are governed as part of UK law under *The Nagoya Protocol (Compliance) Regulations 2015*. Oxford University museums and individual staff members have a legal obligation to comply with the protocol, and guidance is available from Oxford University's Reference Group on the Nagoya Protocol at <https://researchsupport.admin.ox.ac.uk/policy/nagoya>.

d. Claims made by EU claimants for the return of material from within the EU, which are governed by current EU legislation: <https://eur-lex.europa.eu/eli/dir/2014/60/oj>

e. Claims for the return of objects taken before January 1601.

<sup>1</sup> [www.glam.ox.ac.uk/human-remains-policy](http://www.glam.ox.ac.uk/human-remains-policy)

1.5 The University will consider claims for the return of objects on a case-by-case basis, taking into account any relevant information including:

- a. The legal basis upon which the University is in possession of the object, and the powers it has available to return the object in question;
- b. Criteria of eligibility pertaining to the circumstances of acquisition (section 2.1a);
- c. Criteria of eligibility pertaining to the circumstances of the claimant (section 2.1b);
- d. The strength of the supporting information provided by the claimant;
- e. Information gathered by the University.

1.6 The University will process and respond to eligible claims in reasonable time within existing resources.

## **2. Eligibility to Make a Claim**

2.1 The eligibility to make a claim will be assessed on the following criteria:

- a. The circumstances of acquisition
- b. The relationship of the claimant to the object(s) being claimed.

2.2 Claims will be eligible for consideration if either of the following criteria apply:

- a. The object was taken under duress (including military violence, looting or theft), or other apparently legal transactions that involved use of force or coercion.
- b. The object was communal property acquired from a person or persons of that community not authorised to give or sell it.

2.3 All claimants must provide evidence of their right to make a claim including, where appropriate, documented support of recognised community stakeholders.

2.4 Where competing claims are received by the University, it may wait for the parties involved to resolve and send written confirmation on who will act as the claimant before proceeding with any one claim

## **3. Procedure for Making a Claim**

3.1 Potential claimants are encouraged to begin the process by emailing the relevant Museum/Library to discuss the claim informally.

3.2 Claims should be submitted in writing to the Vice-Chancellor of the University of Oxford at the following address: [The Office of the Vice-Chancellor, The University of Oxford, Clarendon Building, Broad Street, Oxford OX1 3BG or to vcweb@admin.ox.ac.uk.](mailto:vcweb@admin.ox.ac.uk)

3.3 The claim should include as much information as possible about the object(s) being claimed, the reasons for making the claim, the evidence that substantiates the claim, and the justification for the claim. Claimants should state how their claim meets the criteria outlined in Section 2.

3.4 It is the claimant's responsibility to provide sufficient information to support their claim. Where written records are inconclusive or unreliable, claimants may submit evidence in

other forms, for example evidence derived from oral tradition, folklore or archaeology.

3.5 Details of the claim will be forwarded to the director of the relevant Museum/Library, who will appoint a dedicated member of staff or a working group to act as a point of contact for the claimant, and to produce an initial report for a meeting of the relevant Board<sup>2</sup>. If the claim is clearly ineligible for consideration, it may be rejected at this stage and the claimant will be informed of that decision and the reasons for it.

3.6 The claim will be formally acknowledged in writing by the director of the relevant Museum/Library and investigated within a reasonable timeframe.

3.7 In cases involving individuals whose claim may be the subject of dispute within a community, the University will make best endeavours to publicise details of the claim with the assistance of relevant international bodies for a minimum period of four weeks in order to confirm that the individual or body making the claim is the rightful claimant.

#### **4. Decision-making Process**

4.1 The claim will be noted by the Board of the relevant Museum/Library and considered at the earliest reasonable opportunity. The Board may request further information at this stage from the claimant, the staff of the Museum/Library or the wider University.

4.2 The Board will consider the claim based on its eligibility as outlined in Section 2, the strength of supporting information provided by claimant, and any other relevant information gathered by the University. This may include information from the University's collections and records; any additional research carried out by the University or other academic institutions; consultation with other parties (including, where relevant, the donor of the object or funder of its acquisition); and expert advice.

4.3 In considering the claim the Board shall also take due regard of evidence that the absence of the object has a damaging effect on the cultural wellbeing of the originating claimant community and that there is a genuine link or cultural continuity with the object(s) in question as well as considering the relative weight of benefits to retention by the Museum/Library.

4.4 If the legal capacity of the University to dispose of the object is in any doubt, the Board will also obtain legal advice on the possible return of the object, and any consequences of its return, and may engage with any necessary external regulators to seek authority in principle for the possible disposal. Advice may also be sought on the circumstances of the acquisition of the object and compliance with relevant international and national conventions and codes of ethics.

4.5 Should the University, in the course of its research into a claim, discover any possibility that the claimant may use the return of the object to contravene the rights of, or do harm to, any group or persons, including vulnerable communities, then the Board retains the right

<sup>2</sup> The Board of Visitors of each museum is responsible to the University's Council for the safe keeping, preservation, orderly administration, finance and general policy of the museum ([www.admin.ox.ac.uk/statutes/786-121.shtml](http://www.admin.ox.ac.uk/statutes/786-121.shtml)).

to include reference to this in its recommendation about the object, including as a ground for recommending that the object should not be returned.

4.6 When the Board has adequate information to consider the claim, it will do so and it will then submit its recommendation regarding the claim to the University's Council<sup>3</sup> for a final decision.

4.7 No recommendation shall be made under section 4.6 until the Board reasonably believes that both the claimant and the University have had the opportunity to submit information to it and to comment on any information provided by the other party.

4.8 The recommendation of the case together with relevant and appropriate supporting information will be made publicly available, giving an opportunity for everyone with an interest to comment. A notice announcing the recommendation and the availability of relevant and appropriate supporting information will be published in the *Oxford University Gazette*. Any relevant and appropriate advice requested by the Board (including, at the discretion of the University, legal advice obtained) will also be made available publicly.

4.9 The claimant's further observations (if any), will be considered by the University's Council in reaching a decision. That decision may be unqualified, or subject to conditions.

4.10 Once a decision has been made, the Vice-Chancellor's office will respond to the claimant in writing. At the same time the decision will be published on the University website to inform all interested parties.

## **5. Appeals**

5.1 In the event that the University's decision is disputed by the claimant, an appeal will be heard by an Appeals Committee. The committee will be chaired by the High Steward and comprise external experts nominated by Council. The claimant will be informed of the process for consideration of the appeal before it commences.

## **6. Processes for Returns**

6.1 The object will not be returned unless and until due legal authority has been obtained, either by the University (in the case of having the authority to dispose) or by the claimant (in the case of the export of the object).

6.2 Each party will bear its own costs in relation to the processing of the claim at all stages.

6.3 Should the University receive a claim which does not relate to a specific identified item but to the potential presence of unidentified eligible items among a class of materials in a collection, the University will not normally be able to undertake research to establish the presence or absence of such an item unless there are strong grounds to believe that one or more eligible items would be identified and that the cost of the investigation is proportionate to the likely outcome.

6.4 Where a claim for return is approved, the claimant will be responsible for the costs of

<sup>3</sup> See [www.admin.ox.ac.uk/statutes/783-121.shtml](http://www.admin.ox.ac.uk/statutes/783-121.shtml)

returning the object(s), including the costs of any conservation processing that may be required for safe transport, packaging, transport and travel. An exception to this may be made in cases of financial hardship, where the University may consider a contribution towards the costs on a case-by-case basis.

6.5 Any relevant associated documentation from the museum will be copied and provided to successful claimants to accompany the return of the cultural object.

6.6 The University will retain original documentation for its records, within the relevant legislative context for the retention of records.

## **7. Periodic Review**

7.1 The University will monitor the procedures and criteria set out above on a three-year rolling basis.

7.2 This document may be updated or expanded in future revisions at any time.