

19 QUESTIONS FOR CONSULTATION

1. The Human Tissue Bill now before parliament includes a clause (clause 48) that will give nine specified national museums the power to transfer human remains from their collection to others. Is this change sufficient, or should legislative changes to the powers of museums in your view go further or wider? If so, what changes would you suggest? If you are a non-national museum, do you currently lack the power to transfer human remains from your collection to others or is that power restricted in any way?
2. Do you consider that other legislative changes are needed, for instance with respect to the 'no-property' rule?
3. Do you agree that it would be useful to introduce a code of practice relating to the care and use of human remains by museums that hold them? If you consider such a code to be desirable, who should issue it and enforce it? Do you have any comments on what a draft code should provide for?
4. Should museums be under the licensing regime issued by the Human Tissue Authority i.e. should all, some or none of the activities undertaken by museums be subject to that regime? How would regulation & the cost of compliance affect your operations?
5. Do you have any views on when museums should be brought under the remit of the Human Tissue Authority and/or the licensing regime?
6. Do you agree that the retention of human remains, and any research on them, should be subject to the consent of close family or direct genealogical descendants, where they can be identified? What would you consider reasonable steps for museums to take in order to facilitate identification?
7. Do you agree with the view of the majority of the Working Group that where no family or descendants are identified, there should be a requirement to obtain consent from those who have within the deceased person's own religion or culture a status or responsibility comparable to that of close family, or direct genealogical descendants? If not, do you agree with the minority view that in these cases the issue should be seen as a matter for consultation rather than a requirement for consent? What factors are decisive or important in deciding who should have the authority to make claims for repatriation?
8. In cases where a requirement for consent is not the over-riding consideration, what factors are in your view relevant to a decision whether or not to return human remains? For instance, is the age of the remains in your view a relevant consideration?
9. Do you agree with the view expressed by the Director of the Natural History Museum, that instead of a requirement for consent, the basis of decisions in all cases should be wide consultation, taking into account as much information as possible about the deceased, the community of origin and their relationship with the deceased, and the public benefit likely to be derived from their retention and research?
10. Do you agree that all museums holding human remains should have published procedures for dealing with claims relating to human remains? Should those procedures be subject to any approval? Should these be based on central guidance (e.g. a Code of Practice), which could be agreed with the museums and claimant communities, or should museums rely on their own guidance?
11. Do you see a role for a national Human Remains Advisory Panel, to provide advice in cases of disagreement between museums and claimant communities? If so, which of the three views of consent outlined at paragraph 9.12-9.15 should the Human Remains Advisory Panel adopt in its deliberations, and why?
12. Do you agree that it should be open to museums to establish their own local advisory panels, and

to refer issues relating to human remains to those panels, either before or instead of referring them to a national Human Remains Advisory Panel? Do you consider that the relationship between local panels and the national Panel, as proposed in the Working Group's report, would be satisfactory? Do you think there is a case for requiring all museums holding human remains to establish local ethical or advisory panels? Are there other options that ought to be considered?

13. If a Human Remains Advisory Panel were established, do you think it would be used, and, if so, to what extent? Would you refer cases to it? What number of requests for return do you think might be received, either nationwide, or for particular institutions?

14. Do you agree that it would be useful to publish the statement of principles reproduced in Appendix 5 as guidance to museums and to the national Human Remains Advisory Panel? Does the draft require amendment or expansion?

15. Despite the Government's reservations (at paragraph 9.22), should the Minister for the Arts and the Minister for Culture, Welsh Language and Sport in Wales have a role in dispute resolutions when other procedures have failed to secure agreement? If so, why?

16. Do you consider that other measure to resolve disagreements over the treatment or return of human remains should be explored? Should the DCMS seek to incorporate any of this in legislation?

17. Should a survey of 'sacred' objects in UK museums be undertaken? If so, what, in your view, would be an appropriate definition of 'sacred objects'? What sort of objects might the term 'sacred objects' encompass? What would be the resource implications of this move?

18. Do you consider that the information and education programmes described at 9.25 and 9.26 would be desirable as follow up to the report? If so, who should take on this responsibility?

19. Notwithstanding your answers to the earlier questions, which of the implementation options at paragraph 10.6 represents the most appropriate and proportionate way forward in terms of potential costs and likely benefits, and why?