

Restitution and Repatriation, Elgin Museum Policy and Procedure

Document to be read in conjunction with *Elgin Museum's Collections Development Policy, 2018*.

1. POLICY

Restitution is the process by which cultural objects are returned to an individual or a community. Repatriation is the process by which cultural objects are returned to a nation or state at the request of a government.

The Moray Society Board (the Board) and Elgin Museum Management Committee (EMMC) are aware that the Museum's collections in their care were acquired from Scotland and around the world from 1836, and at times when different collections policies were applied. They are also aware that some items originate from cultures different from their own or that may have changed since the time of acquisition. The Museum aims to acquire, store and display all objects with respect and in accordance with current ethical and curatorial advice and regulations.

Any requests for permanent transfer out of the collection by restitution or repatriation will be considered by the Board on a case by case basis, in accordance with the Museum's *Collections Development Policy 2018*, Policies 15 and 16. 1-5. Requests will be acknowledged as soon as possible, intimating that they are under consideration by the Board according to the Museum's *Restitution and Repatriation Policy and Procedure, 2019* – copies of which may be sent to the requester.

The steps to be followed will be as outlined in Collections Trust's *Researching and processing a restitution or repatriation policy, 2016*. These are summarised in the site specific Procedure for Elgin Museum.

An Advisory Group will be formed to guide the process of consideration and advise the Board, drawing membership from organisations with acknowledged expertise in this field. eg National Museums Scotland (NMS), Aberdeen University Museums, Museums Galleries Scotland (MGS), and including at least one member of the Board and our Museum Mentor. In addition, membership may include an invited representative of the claimant and a specialist in the type of object under consideration. The Group will take advice from and consult with other institutions with relevant experience, and also published sources (as listed below) and current law.

Note is made of the Moray Society membership's right to vote on disposal from the collections as described in Article 6 of *The Moray Society Articles of Association* (last amended 28th April 2017).

If the Restitution and Repatriation Policy is invoked, and the Board recommends disposal, it would be expected the Ordinary Members would respect their recommendation and under Special Resolution 6.10 (a), agree the decision. If not, the matter would need to be returned to the Board to seek further guidance from the Advisory Group.

In the case that the object is to be returned, the Museum should, if appropriate, use the opportunity to form lasting relationships with the country of repatriation and the people of the culture of the object's origin. The return should be shared with the museum world and wider public to foster understanding of the decision, taken in the context of changing attitudes to different cultures.

The use of the word "object" in the Policy and Procedure is not intended to show disrespect where the claim is for ancestral remains or items held sacred by the claimant.

2. PROCEDURE FOR PROCESSING A RESTITUTION OR REPATRIATION CLAIM

1. A Museum contact will be identified who will coordinate the process and act as the main conduit for communications. This would usually be the Curator (if one is in post) or a member of the Board.

2. A written acknowledgement of the claim will be made to the claimant. This will include or will shortly be followed by an indication of the policy, procedures and time scale being followed by the Museum.

3. A file will be set up to collate all correspondence (with claimants and consultees), minutes of meetings, relevant policies and timing of events.

4. Steps for the initial assessment of the claim:

i) Identify the object in the collection, its accession number and location.

ii) Clarify the identity and status of claimants e.g. an individual, a cultural group, a museum or similar organisation or a foreign government or government department – for appropriate subsequent actions see *Researching the Validity of the Claim*, Collections Trust. Make enquiries as to whether other British institutions have received similar requests for return of objects. If relevant assess any conflicting claims.

iii) Compile a list of the legal, ethical and policy criteria relevant to the request, and of individuals and organisations that will be consulted.

iv) Compile a summary of the background to the claim, the claimant's credentials and reasons for making the claim. The Museum has a duty to assess the rights of the claimant to make the claim, and in the event of agreement to restitution or repatriation, that the claimant not only has a legal right but has a plan for the object's future treatment after return consistent with the stated basis of the claim.

v) Compile an account of the object from the Museum's documentation: its provenance and history, date and method of acquisition, name of donor, its history while in the museum's care including conservation, research, teaching use, loan and display, its current condition and any future plans for the material to which the Museum is already committed. Identify any additional research required about the object to clarify its origin in comparison with the claimant's information.

vi) Make an assessment of the object's significance to the requesting party, the Museum and in a wider context such as local/national/international/cultural/religious importance.

5. In the case of human remains, as defined in the *Human Tissue (Scotland) 2006 Act*, the Museum will follow *Guidelines for the Care of Human Remains in Scottish Museums Collections (Museums Galleries Scotland 2011)*, covered principally in Chapter 3: Requests for the Return of Human Remains. The claim will otherwise be considered as outlined elsewhere in the Policy and Procedure.

6. An Advisory Group will be formed as described in the Policy above. The remit of the Advisory Group is to consider requests to the Museum for potential restitution or repatriation according to the following criteria, based on all necessary evidence from the Museum and the claimant:

i) Confirmation the object is as described by the claimant.

ii) History of possession and/or ownership of the object by the claimant and the Museum.

iii) Connection between the object and the claimant.

iv) Significance of the object to the claimant, the Museum and the wider cultural and scientific community of Scotland. Reference will be made to previous restitution and repatriation examples from Scottish museums, and the reasoning for refusal or return in individual circumstances.

v) Consequences of return to the claimant or retention by the Museum of the object and its future care and uses.

In addition, the Advisory Group may investigate any laws relating to transfer of cultural objects and human remains between Scotland and the receiving country, give guidance as to how transfer of ownership may be arranged in Britain and explore agreements on form and funding of packaging and transport.

7. If objects are to be returned, the Museum should seek clarification with the receiving institution as to what related material and archive may be retained, or in future be displayed in the Museum, for example using photographic and CT images or the creation of a replica.

Advisory sources:

- Checklist on the Ethics of Cultural Property Ownership – ICOM Ethics Committee, May 2011

https://icom.museum/wp-content/uploads/2018/07/110825_Checklist_print.pdf

- Code of Ethics for Museums - International Council for Museums (ICOM), 2004

<https://www.ecsite.eu/activities-and-services/resources/icom-code-ethics-museums>

- Elgin Museum Collections Development Policy, 2018

<http://elginmuseum.org.uk/l/wp-content/uploads/2018/12/Elgin-Museum-Collections-Development-Policy-2018-pdf-431KB.pdf>

- Guidelines for the Care of Human Remains in Scottish Museum Collections – MGS, 2011

<https://www.museumsgalleriesscotland.org.uk/media/1089/guidelines-for-the-care-of-human-remains-in-scottish-museum-collections.pdf>

- Repatriation and Deaccessioning from the University Collections, University of Aberdeen, n.d.

<https://www.abdn.ac.uk/museums/documents/Repatriation%20Procedure.doc.pdf>

- Researching and processing a restitution or repatriation claim - Collections Trust, 2016

<https://collectionstrust.org.uk/cultural-property-advice/restitution-and-repatriation/>

- The Moray Society Articles of Association, 2017

<http://elginmuseum.org.uk/l/wp-content/uploads/2018/12/The-Moray-Society-Constitution-2018-pdf-557KB.pdf>

- Code of Ethics: Additional Guidance – Museums Association, 2015

<https://www.museumsassociation.org/ethics/code-of-ethics>

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