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Hedley Swain,
Chair, Human Remains Code Drafting Group
Museum of London
London Wall
London EC2Y 5HN

01 July 2005

Dear Dr Swain,

Thank you very much for inviting our response to the Draft Code of Practice for the Care of Human Remains in Museums. I write as Chair of the British Association for Biological Anthropology and Osteoarchaeology (BABAO). BABAO has no holdings of human remains of its own, but members include those responsible for holdings of both UK-derived and overseas-derived material in museums, universities and other holding institutions.

The following comments represent the views of the BABAO Committee, following discussion of the Draft at our June meeting. We have also invited the BABAO membership to respond directly to you, as individuals.

Overall we welcome the draft. We welcome the emphasis placed on the importance of the continuing study of human remains for science and society, and the need to take a balanced view of the needs of different interest groups, including both scientists and claimant communities.

We also welcome the draft Code as a useful set of guidelines for best practice, which retains sufficient flexibility to allow individual institutions to adapt it to the specifics of their situation (in particular, through its recognition that the response should be proportional to the size of the holdings). We consider the status of the Code as a voluntary one to be a key strength in this respect. Indeed, we would suggest that it might be styled as 'Guidelines' to sound professional practice.

There is some residual concern that the Code might become an impediment to research activity if its flexibility, and voluntary status, became compromised in the future by its adoption as a mandatory element of affiliation to professional organizations, and/or if it became the basis for an auditing regime. As we indicate below in our specific comments, its recommendations may not be suitable for application in all institutional contexts (we are especially concerned about the smaller holding institutions, including

small museums, archaeological field units, and university archaeology departments). The cost burden of applying the recommendations of the draft Code inflexibly to all such institutions could be very damaging.

In the specific context of the costs of processing claims for the return of remains, there is considerable concern that this is not a part of the basic curatorial responsibility of a holding institution, and that the cost should therefore be passed on to national government level (which is, in legal terms, the level at which the relevant policy directives originate).

The very short notice for the consultation (the DCMS' own norm is for a minimum three month consultation period), and the under-representation of these smaller institutions and of the research user community on the Drafting Group, mean that there may be additional complicating implications yet to be drawn out; in this respect, the flexibility of application of the existing Draft Code is a welcome and essential feature. We did however want to draw the Drafting Group's attention to the following specific points.

p. 7 'Glossary and Interpretations': '*Institutions who hold human remains on a temporary basis.*' We are concerned that the principles of storage and access outlined in the Code are not appropriate to smaller institutions such as archaeological field units and university archaeology departments, and we return to this in specific contexts below.

p. 12 '*... there has been much less analysis and discussion of the issues associated with older human remains, particularly of the moral questions raised.*' We feel that this does not adequately reflect the extent of recent and historical debates, especially in the context of the Burial Act 1857 (which raised for example questions of decency), and of the very recent EH/CofE document regarding Christian remains.

p. 13 '*Ethical Principles.*' There is some concern at the classic problem with enlightened liberal thinking of this sort, namely that it both provides a wider framing perspective on more restrictive intellectual traditions, and – at the same time - legitimates the right of such traditions to express themselves intolerantly. We do not have a solution, other than to stress the necessity for dialogue, mutual understanding and mutual tolerance which such liberalism requires for its survival.

p. 16 '*... the remains are of potential value to the museum.*' The research value of such holdings will be evident in the wider scientific and archaeological community, even in cases where the small size of the holding institution means that there is no member of curatorial staff actively researching them. The phrase might therefore be revised as '*... the remains are of potential value to the museum or wider scientific community.*'

p. 17 '*2.4 Disposal.*' Revise the second sentence of para. 2 to: 'The method of ultimate disposal, after study, should have been clearly stated on the licence or faculty, and burial (or, occasionally, cremation) or retention of the remains will be included as a condition of the licence or faculty.' The placing of the brackets in the current version implies, incorrectly, that retention as the ultimate disposal is a rare occurrence on licences and faculties.

p. 17 '2.4 Disposal.' Para. 4: there is concern that the legal conditions for disposal of human tissue classified as 'clinical waste' may be inappropriate when applied to ancient and historic human remains, because the former represent discarded parts of living individuals (e.g. body fluids, amputated limb segments, biopsy samples), while the latter represent parts of deceased and probably ritually interred individuals. We recommend that the Drafting Group revisit this recommendation and satisfy themselves that the guidelines cited here are indeed appropriate and relevant to human remains in museums. With regard to skeletal and dental hard tissue, we should also note that incineration does not disperse all remains in a combusted gas form, but rather leaves a burned enamel/bone residue - which itself then needs appropriate disposal.

p.18 *Section 2.5.* Second para. The recommendation on storage locations is inconsistent with best practice in some institutions. Specifically, archaeological units may store excavated material from a single site in one location prior to archiving, with sites then organized by county and site code. This is consistent with the archaeological principle that finds derive meaning not just from their intrinsic properties, but also from their archaeological context and associations. To store all human remains in a separate location would be at odds with this (archaeologically very rational) storage policy.

p.18 *Section 2.5.* The fifth and eighth paras refer to the potential for deviation from the highest professional curatorial standards where this is indicated by the views of claimant communities. This is a confusing message, and its consistency with best practice needs to be clarified – perhaps with some specific example or examples. Our view is that it is the over-riding responsibility of curatorial institutions each to implement a single and self-consistent storage, conservation and collections management strategy, and that this strategy should be compliant with their responsibility to retain the remains in a stable environment for future study. We are also concerned that this stipulation, if it implies the active seeking of consent from potential claimants who have not come forward, refers to a model of consent promoted in some elements of the original Palmer Group report, but which subsequent reflection has suggested would impose an excessive time and cost burden on curatorial institutions.

p.18 *Section 2.5.* Seventh para. The requirement to store remains of individuals in separate sealed containers is consistent with best practice, but the stipulation that this container should be a storage box is too inflexible. Where the remains are of small size and number (e.g. from a disturbed context, or where they are the remains of infants), it is more space- and cost-efficient to store multiple individuals in separate sealed containers within a single storage box. Such boxes are usually of a standard size to facilitate optimal storage and handling, and the sealed containers are then usually plastic finds bags. We see no intrinsic reason why a rectangular storage box should be preferable to a sealed bag, as the container used for a individual's remains in such cases. Such bags should be of suitable polyethylene construction, with internal and external labels, and with an indication on the storage box itself of the bagged individual remains contained therein. Flexibility on behalf of the holding institution is the key to good practice here.

p.19 '*Conservation*'. While we endorse the expectation that specialised preventive and investigative conservation should be carried out by qualified conservators, we also want to stipulate that this should be supervised by a qualified osteologist, to ensure that no

procedure is implemented that would unintentionally destroy some aspect of the research potential of the material (e.g., DNA, chemical analysis).

p.19 2.6 '*Public Display*'. We welcome discussion of the educational role of display of human remains, and of the principles of best practice for such displays in a museum environment. Indeed, we consider that a good deal of heat would have been dissipated from recent debates among interest groups in the field of historic human remains policy, had it been recognized earlier that the display and the research functions of museums can have different priorities and different rules of engagement. It is the inappropriate display of remains that often causes the greatest offence to a potential claimant community. However, we feel that a more positive stance on educational display would be appropriate here. Specifically, we suggest that the following revision should be made in p.20 para. 1: change "...and that the contribution could not be made in another way" to "...and that the contribution could not be made equally effectively in another way." This opens the door to further research into efficacy, as indicated in the succeeding paragraph of the draft Code.

p.22 '*Research Agendas, Frameworks and Strategies*'. We consider it impractical to expect individual holding institutions to specify a research agenda and strategy for their holdings, and indeed this fails to recognize that such issues are driven in part by developments elsewhere in the research landscape. It is reasonable and sufficient for individual institutions to take steps to assure themselves (perhaps by consultation with external experts) that their holdings have significant potential for scientific and archaeological research.

p.22 '*Research Register*.' There is concern that naming individual researchers in some circumstances (for example, where contested collections are involved) may compromise their professional roles as researchers. There are also Data Protection Act issues. We recommend that a single name be given as a staff point of contact for the holding institution, for all its holdings. This would seem sufficient for the purpose here envisaged.

p.22 '*Inventories of Collections*.' An inventory is intrinsically desirable for a permanent holding institution, but there are cost implications for holding institutions where the process has not yet begun. We feel that this cost should be passed on to national government level (for example, by means of a public fund set up for the purpose), if such inventories are to be made on a timescale set by external policy makers (and not in accordance with the internal priorities of the holding institution). It is not clear what modifications to best practice are envisaged by the intervention of claimant communities. We are also concerned that this latter stipulation, if it implies the active seeking of consent from potential claimants who have not come forward, refers to a model of consent promoted in some elements of the original Palmer Group report, but which subsequent reflection has suggested would impose an excessive time and cost burden on curatorial institutions. Our view is that it is the over-riding responsibility of curatorial institutions each to implement a single and self-consistent inventory strategy, and that this strategy should be compliant with their responsibility to facilitate public access to records of holdings.

p.25 '*Context for Responding to a Request*.' It is not at all clear to us why the museum should carry the cost of processing a de-accessioning claim, when the claim is promoted

in a changed policy environment driven by government-level priorities. Such activities seem to us to go beyond normal curatorial responsibilities, and we therefore would want to see the costs passed back to national government level (for example, by means of a public fund set up for the purpose).

p.26 '*Procedural Guidance*'. Steps 4, and 6-16 inclusive, will all involve an additional and very significant cost burden. As stated above, it is not at all clear to us why the museum should carry the costs of processing a de-accessioning claim, when the claim is promoted in a changed policy environment driven by government-level priorities. Such activities seem to us to go beyond normal curatorial responsibilities, and we therefore would want to see the costs passed back to national government level (for example, by means of a public fund set up for the purpose).

I hope that the above comments are useful, and look forward to the further development of this guidance document. Thank you for all your hard work in co-ordinating this initiative.

Yours sincerely

A handwritten signature in cursive script, appearing to read "James Steele".

Dr James Steele
Chair, BABA0