

David Livingstone Trust Repatriation and Remediation Policy

The following policy outlines the approach the David Livingstone Trust will take in assessing any and all requests for repatriation or restitution of any cultural objects held in its collections. The David Livingstone Trust will be open, honest and fair in all its discussions on cultural objects held in its collections.

We currently hold approximately 4,000 objects in our collections that can be sorted into the following categories: David Livingstone personal items, Southern African, Empire and Colonialism, Slavery, Archives and Special Collections, Fine Art, Natural History, Blantyre Cotton Works, 19th Century Science and Medicine, Livingstone's Friends, Family, and Associates, David Livingstone Birthplace Ephemera.

The David Livingstone Trust statement on Repatriation and Remediation can be found here [Repatriation and Remediation Statement - DLB \(david-livingstone-birthplace.org\)](https://www.david-livingstone-birthplace.org/repatriation-and-remediation-statement)

1.1 This policy document outlines the procedures and practices for claims for the restitution or repatriation of cultural objects held in the David Livingstone Birthplace Museum, where ownership (legal title) is held by the David Livingstone Trust.

1.2 This policy document relates to claims for cultural objects given in good faith but are now subject to a request for return by their source community, cultural objects taken under duress or intimidation, cultural objects whose purpose goes against being displayed for cultural, ethical, religious or moral reasons, and cultural objects acquired by colonial or imperial force.

1.3 This policy relates to a small independent museum in Scotland. The policy operates within a national and international context and is subject to various regulations, conventions, protocols, behaviours and legal frameworks. These documents include, but are not limited to:

- *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*.
- *Museum Galleries Scotland Guidance for the Care of Human remains held in Scottish Museum Collections*.
- *Open Restitution Africa Reclaiming Restitution Report 2022*.
- *Museums Galleries Scotland Empire, Slavery and Scotland's Museums 2022*.

1.4 This policy does not apply to cultural objects from the European Union. Claims by EU claimants are governed by current EU legislation. <https://eur-lex.europa.eu/eli/dir/2014/60/oj>.

This policy also does not apply to cultural objects held at the Birthplace Museum but not owned by David Livingstone Trust. Should a claim be made for an object held by the David Livingstone Trust

but not owned by it, the Trust would endeavour to the best of its abilities to facilitate information about ownership to the claimant.

1.5 All claims for the restitution or repatriation of cultural objects held in the David Livingstone Birthplace Museum will be considered on a case by-case basis, taking into account any relevant information, including, but not limited to:

- The legal basis upon which the David Livingstone Trust is in possession of the requested cultural object.
- The capacity of the David Livingstone Trust to facilitate the return of the requested cultural object.
- The information provided by the claimant individual, source community, or nation to the cultural object.
- The known circumstances of acquisition.
- Provenance research into the cultural object post-acquisition by the David Livingstone Birthplace Museum staff, volunteers, or researchers.

1.6 All requests will be dealt with in a timely manner, and with humility and respect.

1.7 The David Livingstone Trust will not deal with any claim or claimant in a punitive manner.

1.8 Claims will be assessed using the following criteria:

- How the cultural object was acquired by the David Livingstone Trust
- The relationship of the claimant individual, source community, or nation to the cultural object.
- If the cultural object was knowingly taken under duress, force, coercion, violence, looting, theft, or military violence.
- Whether the cultural object was acquired from an individual, source community, or nation which did not have the right to distribute, sell, or dispense with it.
- What the cultural object is and any and all significance of said cultural object.
- If the cultural object was community property but was given or sold by a single individual.
- The legal responsibility of the David Livingstone Trust to said cultural object.

1.9 The David Livingstone Trust, on behalf of the Birthplace Museum, will only recognise one claimant. If there is more than one claimant the David Livingstone Trust will request that the involved parties agree between themselves who will act as primary claimant and provide that decision in writing to the David Livingstone Trust.

Claimants will be asked to provide evidence of their claim. This form of evidence will not be proscribed but the David Livingstone Trust acting on behalf of the Birthplace Museum will ask for documented support of recognised stakeholders if communities are involved.

Procedure for a Claim

2.1 In the first instance potential claimants should get in touch with the Collections Manager to informally discuss which cultural object they would be making a claim on.

Collections Manager – Rachael Smith - rachael.smith@dltrust.uk

2.2 The David Livingstone Birthplace Trust acting on behalf of the Museum requests that all official claims be submitted in writing either by post or email to the following address.

To Dr Simpson
Audience, Learning, Engagement and Collections Committee
David Livingstone Birthplace
165 Station Road
Blantyre
South Lanarkshire
G72 9BY
UK

kate.simpson@dltrust.uk

2.3 Should the claimant be unable to provide information via email or post, an alternative method of communication will be established by prior agreement with the claimant, Collections Manager and David Livingstone Trust.

2.4 The claim should include as much information as possible on the status of the cultural object, the reason for the claim, any evidence to substantiate the claim, justification of the claim, and any further documentation which would support the claim and claimant.

2.5 The David Livingstone Trust recognises that forms of knowledge and their presentation vary culturally and ethnically and as such supports claim evidence in multiple forms. For example, songs, oral histories, folklore, archaeological evidence, drawings, paintings and Intangible cultural heritage

Responding to a Claim

3.1 Upon receiving a claim and the supporting documentation, a meeting of the Audience, Learning, Engagement and Collections Committee to discuss the claim will be convened in a timely manner. The Audience, Learning, Engagement and Collections Committee, in conjunction with the Collections Manager, may request further information from the claimant at this point.

3.2 The Audience, Learning, Engagement and Collections Committee will assess the claim based on the criteria set out in sections 1.5 and 1.8 of this policy document. Assessment of the claim will also take into account any research or information seen as relevant by the Audience, Learning, Engagement and Collections Committee.

3.3 In assessing the claim, the Audience, Learning, Engagement and Collections Committee will take into account any risks or possible harm that may be incurred by the claimant or other people or groups by the return of said cultural object. Should some form of mediation be required, advice will be sought from national and regional bodies in Scotland and the source region of the cultural object.

3.4 The Audience, Learning, Engagement and Collections Committee will then make a recommendation to the Board of the David Livingstone Trust formally outlining their understanding of the claim and their response to the claim, this response will be in writing and will include the claimant's evidence and supporting documentation.

3.5 The Board of the David Livingstone Trust will respond to the recommendation of the Audience, Learning, Engagement and Collections Committee. It will take into account the legal implications, if external regulator authorisation is needed, and any other consequences of the disposal of the cultural object. External advice or clarification may be sought at this stage.

3.6 The claimant will then be notified of the response to their claim.

Appealing the David Livingstone Trust's decision

4.1 The denial of a claim does not prevent the claimant from making a further claim.

4.2 Should the claimant challenge the decision of the David Livingstone Trust, an appeal will be held. The appeal panel will constitute two external experts, the Chair of the Audience, Learning, Engagement and Collections Committee, the Director of the David Livingstone Birthplace Museum, the Collections Manager, and the Chair of the David Livingstone Trust. The appeal will fully explore all the claim documentation and the previous recommendations of the Audience, Learning, Engagement and Collections Committee and the David Livingstone Birthplace Trust Board before giving their response.

4.3 The claimant will be notified of the response to their appeal within 8 weeks of their appeal request.

Conditions for the return of a Cultural Object

5.1 Each party will bear its own costs in the processing of the claim at all stages. The David Livingstone Trust will work to actively support these activities dependant on available funding.

5.2 A cultural object will not be returned until due legal authority has been obtained for both the disposal and export of the cultural object.

5.3 Where a claim is successful, the claimant is responsible for the cost of returning the cultural object, including any conservation. Exceptions to this may occur on a case- by- case basis. The David Livingstone Birthplace Museum will proactively work to support and assist in the transport and packaging of the cultural object.

5.4 All relevant documentation from the David Livingstone Birthplace Museum will be copied and provided with a successful claim.

Review of the Policy

6.1 This policy will be reviewed annually and reappraised every 3 years.

6.2 This policy may be subject to change outwith the control of the David Livingstone Trust. If so, the David Livingstone Trust will proactively communicate said changes to any involved parties and on its website.

6.3 Responsibility for the maintenance and upkeep of this document primarily lies with the Chair of the Audience, Learning, Engagement and Collections Committee, Dr Kate Simpson
kate.simpson@dltrust.uk.

Version History

Version 1.1 of Policy created August 2022

Version 1. 1 of Policy reviewed October 2022

Review of current version due October 2023

Supporting Documentation

University of Oxford – Gardens, Libraries and Museums. Procedures for claims for return of cultural objects

<https://www.glam.ox.ac.uk/procedures-for-return-of-cultural-objects-claims>

Open Restitution Africa – Reclaiming Restitution Report

<https://openrestitution.africa/reclaiming-restitution-report/>

Felwine Sarr and Bénédicte Savoy - The Restitution of African Cultural Heritage. Toward a New Relational Ethics

<http://restitutionreport2018.com/>

Museums Galleries Scotland – Empire, Slavery and Scotland’s Museums Report

<https://www.museumsgalleriesscotland.org.uk/media/2804/empire-slavery-and-scotlands-museums-recommendations.pdf>

Museums Galleries Scotland – Guidelines for the Care of Human Remains in Scottish Museum Collections

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

Collections Trust – Cultural Property Advice

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

European Union - Consolidated text: Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast) (Text with EEA relevance)

<https://eur-lex.europa.eu/eli/dir/2014/60/oj>

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014L0060-20140528>

United Nations - Return or restitution of cultural property to the countries of origin : draft resolution : addendum / Angola, Armenia, Bosnia and Herzegovina, Cambodia, Cyprus, Ecuador,

Egypt, Equatorial Guinea, Ethiopia, Greece, Honduras, India, Kiribati, Malawi, Paraguay and Peru (2021).

<https://digitallibrary.un.org/record/3951201?ln=en>

UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

<https://en.unesco.org/about-us/legal-affairs/convention-means-prohibiting-and-preventing-illicit-import-export-and>

UK Government Legislation - Dealing in Cultural Objects (Offences) Act 2003

<https://www.legislation.gov.uk/ukpga/2003/27>

UK Government Legislation - The Return of Cultural Objects Regulations 1994

<https://www.legislation.gov.uk/uksi/1994/501/contents/made>

UK Government Legislation - Cultural Property (Armed Conflicts) Act 2017

<https://www.legislation.gov.uk/ukpga/2017/6?view=plain>