

## Requests for the Return of Cultural Items: Policy & Procedure

**Name of governing body:** Durham University

**Date on which this policy was approved by governing body:** 2025

### 1. Introduction/ Background

- 1.1. Durham University holds a collection of objects, documents, books and biological specimens relating to global cultures and natural environments, falling into the broad disciplines of art; archaeology; anthropology; social history; archives; rare books, natural history and human remains. The University holds four Arts Council England (ACE) Designated Collections (Cosin's Library; Sudan Archive (covering Sudan and South Sudan); Chinese Collections; and Egyptian Collections). Its collections, managed by the Library and Collections Directorate (ULC) are embedded in the university's teaching, research, widening participation and community engagement activities. Durham University's international collections sit at the heart of its global engagement activities and underpin research and cultural collaborations with multiple partners around the globe.
- 1.2. Durham University is committed to engaging openly and equitably with stakeholders, communities and their representatives both in the UK and around the globe, in discussions about the future of its collections in terms of care, exhibition and ultimate custodianship. We are committed to working with communities to develop greater transparency about the histories of the collections and to share this information.
- 1.3. The collections cared for by Durham University have been acquired at different times and under a range of circumstances. Durham University has developed this policy in recognition that certain items in its collections may be subject to return requests from source and faith communities or from individuals or institutions from around the world. We also recognise that originating communities may have unwillingly lost possession of items now in our collections.
- 1.4. For the purposes of this policy, 'Return' is taken to encompass both 'Restitution' and 'Repatriation'.  
The terms 'restitution' and 'repatriation' do not have any strict legal definition as far as museum practice is concerned. They tend to be used rather loosely, but in essence, they have traditionally described the process of returning cultural material:
  - to its original owners (restitution) or
  - to its place of origin (repatriation).

### 2. Scope and Purpose

- 2.1. This policy sets out guidelines that seek to ensure that both the University and any community, family or individual requesting the return of cultural items will have a clear framework, within which to gather and assess evidence and make decisions and a standard set of procedures to follow.
- 2.2. This document relates specifically the return of cultural items to their community of origin or legal owner(s).
- 2.3. Within this policy the definition and scope of cultural items includes cultural arts, heritage, archives or human remains; and also includes any relevant photographs, drawings, archives, printed material and other documentation relating to those cultural artefacts.

- 2.4. Durham University Library & Collections is also guided by other policies relating to collections, including *Collections Development Policy* (2023), covering acquisition and collecting, rationalisation, appraisal and disposal; and *Human Remains Policy* (2023) covering care, access, display and return.
- 2.5. This policy will operate in compliance with Durham University policy and procedures relating to the disposal of assets, where applicable.

### 3. Principles

- 3.1. Durham University's *Requests for the Return of Cultural Items: Policy & Procedure* has been drawn up in alignment with sectoral guidance but is also informed by wider curatorial practices across ULC collections, and within museums in particular; and by the governance structures for ULC collections.
- 3.2. This policy is governed by the following guiding principles:
  - 3.2.1. Durham University will consider all requests for return seriously and on a case-by-case basis;
  - 3.2.2. Durham University will be open and transparent with the Requestor during all return discussions;
  - 3.2.3. Durham University will respond to any and all requests as soon as is reasonably practicable;
  - 3.2.4. Durham University is committed to working in good faith with source and faith communities from which the University's collections have originated. It is open to opportunities for relationships, connections, discourse and enhancing understanding.
- 3.3. The University will consider the return of cultural material or human remains that may, where evidenced, have been acquired:
  - illegally from a people or nation of origin;
  - as a result of the use of direct or indirect physical force or other forms of duress;
  - from people or corporate bodies who were not the legitimate owners;
  - in other circumstances where legitimate owners were compelled to sell or give them.
- 3.4. The University will take into consideration any legal and/or ethical grounds in response to a request for the return of cultural material or human remains and will investigate and assess the request based on these factors. The University in its sole discretion may consider ethical principles in cases where evidential requirements for a request based on legal grounds have not been met.
- 3.5. The University will consider a request for the return of cultural material or human remains based on factors such as the spiritual and/or cultural significance of an object and the impact of its loss upon its community of origin. It may take into consideration any information provided by the Requestor relating to plans for what will happen to the material when it is returned.
- 3.6. The principle of full disclosure should be accepted by both parties in all such requests, subject to any legal restrictions in place.
- 3.7. While the proposal is being considered, the Requestor and University should seek to agree upon a joint approach to confidentiality, external communication and publicity and should not involve external parties without prior discussion.

#### 4. External Framework: Ethical and Legal

- 4.1. Durham University's *Collections Development Policy* which includes sections covering acquisition and collecting, rationalisation, appraisal and disposal, is guided by the ACE Accreditation standards and provides a framework under which collections material can be de-accessioned under agreed circumstances where a case can be made on ethical or legal grounds. This policy has been developed in the context of recent initiatives within the museum sector and is guided by the Arts Council England *Disposals Toolkit* and the relevant sections of the Museums Association's *Code of Ethics* and guidance on *Supporting Decolonisation in Museums*.
- 4.2. This policy has been developed within a pre-existing international and national framework of legislation and legal instruments including:
- UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property (1970);
  - Return of Cultural Objects Regulations 1994;
  - Dealing in Cultural Objects (Offences) Act 2003;
  - Cultural Property (Armed Conflicts) Act 2017.

#### 5. Procedure

The following section sets out the general process by which requests for the return of items from the University's collections will be managed and assessed. They have been drawn up and will be applied in alignment with the principles and recommendations set out in *Restitution and Repatriation: A Practical Guide for Museums in England* by Arts Council England (September 2023)<sup>1</sup>. The full process and procedure are contained in Appendix B to this Policy.

A copy of this Policy and Appendices will be provided to Requestors as part of the University's acknowledgment of their request.

- 5.1. Initial enquiries relating to the return of cultural items in the University's collections may be made by e-mail or post. All formal requests relating to the return of cultural items in the University's collections should be made by post, addressed in writing to the Director of University Library Services and Collections, whose contact details are:

University Librarian and Director of University Library and Collections,  
Bill Bryson Library,  
Stockton Rd.,  
Durham,  
DH1 3LY,  
United Kingdom  
*Generic e-mail tbc*

- 5.2. Requests should include:

- Details of the cultural item(s) or human remains which are the subject of the request for return;
- An introduction to the Requestor and their connection to the items to which the request relates;

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<sup>1</sup> [Restitution and Repatriation: A Practical Guide for Museums in England | Arts Council England](#) (September 2023)

- Where the Requestor is not an individual and is representing a wider community of origin, a formal letter setting out that the individual is authorised to act on behalf of the wider community; a brief outline as to the Requestor's relationship to the community, and the community's connection to the items to which the request relates;
  - The reasons why a return to the Requestor or to the community of origin is considered appropriate;
  - An indication of what it is planned will happen to the material when it is returned.
- 5.3. Community representatives making a request are welcome to provide any additional information they may feel to be appropriate, including letters of support from the community, partner organisations, or national bodies.
- 5.4. The University will communicate as soon as is reasonably practicable an acknowledgement of the receipt of a request, and in providing the Requestor with information about processes, procedures, requirements and timescales.
- 5.5. The Director of University Library and Collections will report any formal request to the Acquisitions Disposals and Loans Panel. The ADLP should also be informed of any initial enquiries or developing discussions which may lead to an enquiry, formal request, or collaborative approach towards restitution or repatriation.
- 5.6. ADLP will report any formal request to the Chair of the University Library and Collections Committee (ULCC), who is also, ex-officio, Chair of the Advisory Group on Collections Restitution and Repatriation (see Appendix A to this policy). Any initial enquiries or discussions will also be reported to the University Library and Collections Committee as part of its regular business.
- 5.6.1. The Chair of University Library & Collections Committee may at their discretion, determine that an initial enquiry or formal request can be considered as a disposal, within the terms of reference of the Acquisitions, Disposals and Loans Panel. In such a case, according to the Terms of Reference of the ADLP, the decision of the ADLP will be reported to ULCC.
- 5.7. In all cases other than those covered by 5.6.1 Chair of University Library and Collections Committee will refer formal requests to the Advisory Group on Collections Restitution and Repatriation (the Advisory Group). The standing members of the Advisory Group will undertake an initial consideration of the request, determining whether it requires full consideration.
- 5.8. The Advisory Group may at this stage, or at any point in the process, at their sole discretion reject a formal request for the return of items if, for example, it is deemed not to relate to an item in the collection, or otherwise to be entirely without merit. This recommendation of the Advisory Group should then be referred to the University Library and Collections Committee and thence to the University Executive Committee.
- 5.9. In the event of the request being found to merit full consideration, the standing members will co-opt additional members to the Advisory Group, appointed by the Chair, to form a bespoke Advisory Panel to consider the request. These additional members should include a representative of the department that holds the item or items under consideration, a member external to the University, and at least one nominee proposed by the Requestor. The Requestor may attend in order to make a statement or may submit a statement.
- 5.10. The Advisory Panel should be constituted in a spirit of transparency, collaboration and fairness; with due regard to range of knowledge and expertise required, and the need for an appropriate balance in terms of gender and other relevant factors.

- 5.11. Suitably qualified member(s) of ULC staff should undertake appropriate investigations to establish an understanding of the items involved in the request, the connections between the University and those items, and between the Requestor and other potential interested parties and the items. Opinions will be obtained from Legal Services where applicable. These steps should be carried out in dialogue with the requestor, openly and transparently. An indication of the areas to be explored in investigations is included in Appendix B.
- 5.12. The Advisory Panel will review evidence gathered during investigations, along with submissions from the requestor and any supporting statements. The Panel may at its discretion also invite and consider additional oral and/or written submissions.
- 5.13. The request will be judged on its merits and will be assessed according to six criteria, the relative weighting of which may vary on a case-by-case basis:
- Identity of the item(s);
  - The connection(s) between the item(s) and the Requestor;
  - The history of possession and/or ownership of the item(s);
  - The significance of the item(s) to the Requestor;
  - The significance of the item(s) to the University;
  - The consequences of return to the Requestor, or retention by the University.
- Further details on each of these criteria are included in Appendix B.

A range of approaches may be considered in relation to the future ownership, custodianship or location of the items, including the provision of loans and the creation of digital or physical surrogates.

## **6. Recommendation**

- 6.1. The Advisory Panel will submit a report, including evidence, analysis and assessment under relevant criteria, along with its recommendations, to Durham University Library and Collections Committee and thence to the University Executive Committee for decision.
- 6.2. Where the Advisory Panel recommendation is in support of a request, the report should include a consideration of the key issues and arrangements relating to the implementation of the Return.
- 6.3. In the event that the Advisory Panel fail to agree on the recommended outcome by a majority of 60% or more, provision may be made for the submission of a minority report to be submitted to Durham University Library and Collections Committee and thence to the University Executive Committee.
- 6.4. A copy of this minority report will also be provided to the Requestor who may, if they so wish, present a separate written statement or report to the University Executive Committee.

## **7. Decision**

- 7.1. The University Executive Committee will reach a decision.
- 7.2. If required to ensure compliance with the University Scheme of Delegation for Financial Responsibility, University Executive Committee will endorse a recommendation to Finance Committee or to Durham University Council for consideration and final approval.
- 7.3. UEC may at its sole discretion refer a decision to University Council.

- 7.4. The decision of the University Executive Committee or University Council should be communicated to the Requestor and this decision is final.

## **Requests for the Return of Cultural Items: Policy & Procedure**

### **Appendix A: Remit and membership of the Advisory Group on Collections Restitution and Repatriation**

#### **Remit**

To consider proposals for the return of items from the University's collections, making recommendations to the University Executive Committee through the University Library and Collections Committee.

#### **Composition**

The Advisory Group will consist of a standing membership, augmented by additional appointments to bring expertise relating to specific cases. The standing membership will consist of:

##### **Chair**

Chair of University Library and Collections Committee

##### **Members**

Executive Dean of appropriate Faculty

University Librarian and Director of University Library and Collections

Head of Collections

Head of Museums, Galleries & Exhibitions

Director of the International Office

A quorum of the Advisory Group is all members. Members may send representatives, as approved by the Chair. In the event that any of the ex-officio members' posts are vacant, an alternative member may be appointed by the Chair.

The standing members will co-opt appropriate additional members on a case-by-case basis to form an Advisory Panel to consider specific requests. Up to seven additional members may be appointed by the Chair as selected by the standing members in conjunction with any independent advisers. Additional members should include one internal academic specialist, external experts (possessing knowledge of the items under consideration and ethical/legal expertise in this field) and at least one representative of the Requestor. The requester may attend in order to make a statement.

The Advisory Panel may meet online and/or receive statements and opinions from members via e-mail where they are not able to attend meetings. All members of the panel will be given equal opportunity to contribute to the Panel's deliberations and the Panel Chair should seek to take the views of all Panel members into consideration in order to reach a quorate conclusion to recommend to UEC.



## Requests for the Return of Cultural Items: Policy & Procedure

### Appendix B: Processes and Procedures

These procedures have been drawn up and will be applied in alignment with the principles and recommendations set out in [Restitution and Repatriation: A Practical Guide for Museums in England | Arts Council England \(September 2023\)](#).

A formal request, or substantial enquiry should be submitted in writing to the Director of ULC.

The following procedures will be followed when a formal request has been received.

In addition, the following procedures may be instigated in response to a substantial or general enquiry, where ULC staff regard a future formal request as being likely, or when this seems appropriate for any other reason. In these early stages, investigations may be of a similar nature but narrower in scope; and if ULC staff wish to refer the enquiry to the Advisory Group for information or consideration, this should be the standing members of the Advisory Group only, without further external or co-opted members.

#### 1) Request and response

The Director of University Library and Collections will report any formal request to the Chair of University Library and Collections Committee, who is also, ex-officio, Chair of the Advisory Group on Collections Restitution and Repatriation (see Appendix A to this policy).

Following receipt of a formal request a specific member of staff should be assigned as a single point of contact. They should also be responsible for maintaining a written record of each step of the process, together with relevant communications (including transcripts of verbal conversations where applicable and with relevant permission).

They should undertake or co-ordinate the following steps:

- Provide a written acknowledgement to confirm receipt of the request, within 10 working days. This should include information on our policy and procedures, including potential timescales for further response and action;
- In the case of competing requests, at the outset or during the process, inform each requestor that a competing request has been submitted;
- Inform the University Library and Collections Committee, that a formal request has been received;
- Seek advice and assistance in relation to interpretation and/or translation where needed;
- Inform, consult, or seek advice from Legal Services, Governance Support Services or Marketing & Communications as required and appropriate, throughout the process
- Inform standing members of the Advisory Group that a formal request has been submitted;
  - In collaboration with the Chair of the Advisory Group agree up to seven people to add to the Advisory Group to constitute a bespoke Advisory Panel
  - identify additional members to provide expertise or knowledge. They may be nominated by Advisory Group standing members and may be drawn from other museums, centres of relevant academic specialism within universities or other research organisations, relevant specialist sector groups, other relevant institutions or networks around the world;
    - invite the Requestor to submit nominations for additional members: these may be drawn from countries or communities of origin, diaspora groups, or other areas;
    - consider and identify additional members to represent other stakeholders if applicable;
  - Convene a meeting of the Panel;
- Invite the requestor to attend the Panel in order to make a statement.



At any point in this process the Advisory Group may at their sole discretion consider that a formal Request or substantial enquiry or otherwise does not merit full consideration. This recommendation of the Advisory Group should then be referred to the University Library and Collections Committee and thence to the University Executive Committee.

Grounds for such an assessment would include, but are not limited to:

- An absence of a genealogical, cultural, spiritual or geographical link between the object(s) and Requestor, either evidenced or articulated within the Request;
- A Request relating to a large group of objects with disparate origins and varying provenances, and therefore with no overarching rationale.

ULC Committee or UEC could at their sole discretion refer the matter back to the Advisory Group to undertake further investigation or review.

## **2) Investigation**

### **Purpose:**

Developing understanding of the objects involved in an enquiry, request or other case, and of the connections between the University and those objects, and the Requestor and other potentially interested parties and the objects. Investigations should encompass information in verbal as well as written form where applicable.

A Request, its investigation and assessment, may be based on legal grounds and/or ethical principles.

If the Request is based on legal grounds the requestor should be able to demonstrate a stronger right of ownership to the object than the University's right of ownership. This evidence may relate to the way in which the object(s) were removed from their place of origin or past owner(s). Advice should be sought from Durham University Legal Services, which will determine the nature of the investigations and evidence required as well as any international law and/or relevant legal frameworks within the country/ies of origin, where applicable.

If the evidential requirements for a Request based on legal grounds are not met, the Request should be investigated and considered on ethical principles. This may include instances where the title of the original owner has been lost due to the passage of time.

### *Understanding the object*

Steps to gather information about the objects should be carried out with the knowledge of the Requestor and maintaining the confidentiality of the Requestor where applicable. The process should be recorded for future reference. Steps should include:

- Confirming the identity of the object(s) under consideration;
  - Gathering existing information held by Durham University Library and Collections on ownership and provenance; object records, acquisition and associated documentation, including any conditions, restrictions or permissions required arising from the terms of an acquisition or associated funding;
- A literature search for any publications or other research relating to the objects, specifically or by type or origin;
- Seeking knowledge and experience from other museums with similar collections or items;
- Gathering verbal and written statements and evidence from the Requestor, and from other potentially interested parties where applicable;
- Checking relevant UK government protocols, international databases or legislative requirements, as applicable.

### *Understanding the Requestor*

#### *Identifying and understanding other stakeholders*

Steps to gather information about the position of the Requestor(s) and other potential stakeholders should be carried out in dialogue with the Requestors, openly and transparently. Activity should also have regard for confidentiality/ies and the possibility that the interests of stakeholders may be supporting or competing. The following should be confirmed and clarified:

- Name of individual or family, community of origin or organisation, museum, cultural centre or state making the Request; the family, community, organisation or state they represent, if applicable; and the nature of that representation;
- Requestor's place of origin;
- The item(s) requested and their place of origin;
- The Requestor's relationship to the item(s) in question;
- The wishes of the Requestor and any other supporting organisations in relation to the item(s) in question, and any supplementary information relating to future preservation or access;
  - Any individuals or organisations in support of the Request;
  - Any other organisations which should be informed of the Request (including the donor, if applicable) including organisations which may support or oppose the request;
- Any relevant governance structures relating to the Requestor and/or any other official bodies supporting the Request.

### **3) Assessment**

The evidence and supporting statements gathered during the investigative stage should be used to make an assessment of the Request.

In the case of a Request based on legal grounds, a formal written report should be compiled jointly by curatorial staff from ULC and staff from Legal Services. This should include an assessment of the legal evidence and specific recommendations for the Advisory Panel, for University Library and Collections Committee and for University Executive Committee as to whether or not evidential requirements have been met.

The following factors will assist the Advisory Panel in making an assessment based on ethical principles. Each factor should be discussed with the Requestor and with other stakeholders if applicable. Wherever possible, this should be done through quorate convened meetings of the Advisory Panel, rather than through dispersed conversations. The Request should be judged on its merits, embedding the core qualities of transparency, collaboration and fairness.

- The identity of the item;
- I. The significance of the object to the Requestor, for example the religious, cultural, geographical or historical importance of the item;
  - Connection between the item and the Requestor: for example, continuity of cultural and/or religious practices or group identity between the original possessor(s) and those making the Request;
  - The history of possession and/or ownership of the object(s), their provenance prior to acquisition by the University and the basis for the University's title or rights of possession in the items; in particular the way in which objects were removed from their place of origin or past owner(s);
  - The significance of the item to the University: this may include, but is not limited to, its context within collection or research specialisms, the ways in which the University has engaged with and used the object and its value and role in supporting core activities such as teaching and research. The extent to which the item has been accessible to the Requestor, their community, or related stakeholders is also relevant here;

- II. Consequences of return to the Requestor or retention by the University: this may include issues including future access, use and any potential risks. Full weight should be given to the cultural and religious practices of the Requestor.

A range of approaches may be considered in relation to the future ownership, custodianship and location of the item, including the provision of loans and the creation of digital or physical surrogates.

The Advisory Panel will submit a report, including evidence, analysis and assessment under relevant criteria, along with its recommendations, to Durham University Library and Collections Committee and thence to the University Executive Committee for consideration and approval.

Where the Advisory Panel recommendation is in support of a Request, the Panel should also consider the key issues and arrangements relating to the implementation of the Return. These should form part of the report and recommendations to University Library and Collections Committee. Issues may include:

- Draft legal agreements to transfer or establish future ownership, custodianship or other rights of access or control;
- Practical or preservation considerations and any risks relating to the shipment of the item (if applicable);
- Other legal or regulatory requirements, in the UK or elsewhere;
- Any budget required for the above and how costs are to be allocated and funded;
- Any future collaboration between the University, the Requestor and other stakeholders.

All members of the Panel should contribute to discussions in consideration of the Request, whether by face-to-face or online meeting(s) or via e-mail. The report should list all panel members.

The policy allows for the submission of a minority report from the Advisory Panel in the event that the Panel decision is based on a majority of less than 60%. The Panel should define and agree at the outset the number of dissenting members required to submit a minority report, based on the total number of Panel members. In the event of a minority report being submitted, dissenting members should be named in both reports.

Any minority report and/or separate report submitted by the Requestor may be on the basis of differing recommendations as to the substantive decision and/or the way in which it is to be implemented.

#### **4) Decision**

The Advisory Panel Report and recommendations, along with any minority or Requestor reports or statements should be submitted by the Chair of the Panel to the University Library and Collections Committee for consideration and then to University Executive Committee for decision.

UEC may at its sole discretion direct the Advisory Group to provide a further assessment of the risks to the University, in consultation with members of Legal Services, Governance Support Services, International Office, Marketing & Communications, DAOR or others as required.

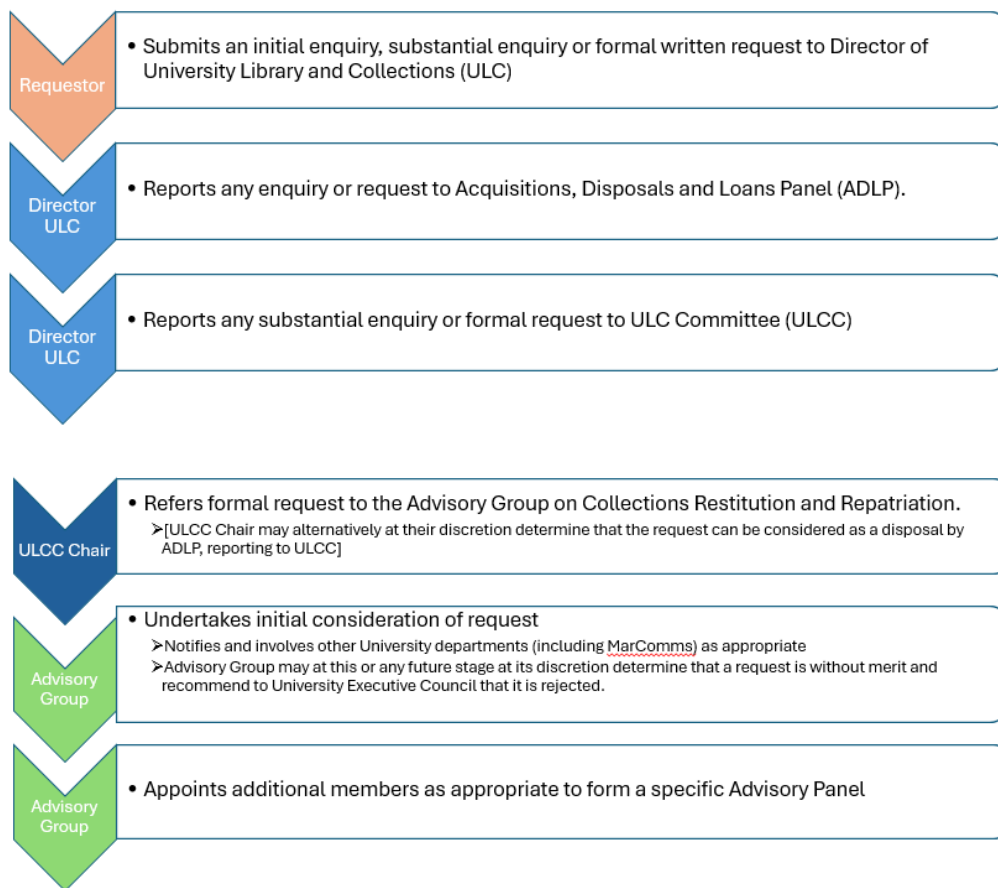
If required to ensure compliance with the University Scheme of Delegation for Financial Responsibility, University Executive Committee will endorse a recommendation to Finance Committee or to Durham University Council for consideration and final approval.

UEC may at its sole discretion refer a decision to University Council, taking into account the significance or value of the items in question, any ethical issues or risks to the University.

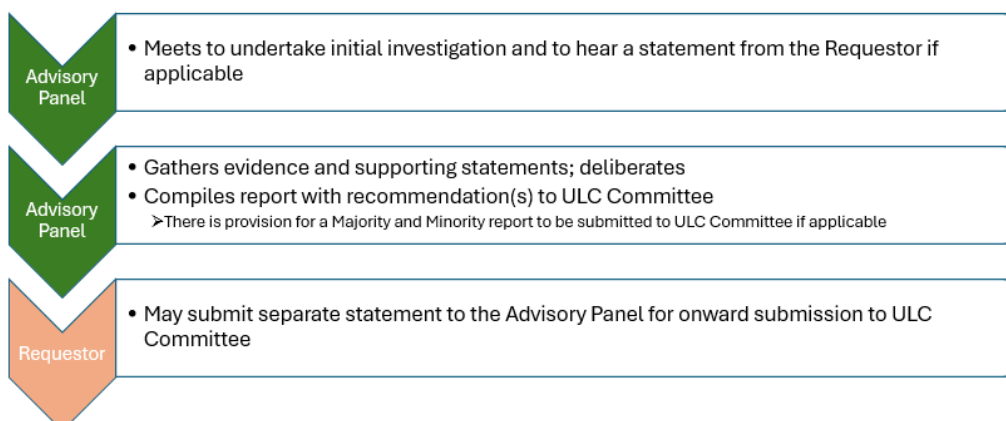
The decision of the University Executive Committee or University Council should be communicated to the Requestor and this decision is final.

## Governance and reporting flowchart: for illustrative purposes only

### Request and response



### Investigation



## Consideration and decision

