

Reproduction of drawings of HTA regulated human tissue

The making and displaying of images falls outside of the scope of the Human Tissue Act (HTAct). However, the Human Tissue Authority (HTA) which regulates the HTAct expects licenced establishments to take care not to compromise the dignity of the deceased, and to put systems in place to prevent the inappropriate use of images.

This document sets out the approach taken by the Royal College of Surgeons England (RCS England) regarding the reproduction or publication of drawings of human tissue which are part of the museum collections and are less than 100 years old. In accordance with HTA regulations access to use these is currently restricted to medical practitioners, students on recognised courses, including medical illustration, and individuals including professional medical illustrators. This document also covers artworks created before the HTA came into being in 2004.

As the HTA is concerned with material less than 100 years old, we will apply this approach specifically to this human material in the collections of this date. However, the ethical considerations and procedures may also be useful to apply to decision-making relating to older specimens.

1. Artists can create drawings for their own research or non-commercial use based on human tissue specimens in the collections. However, photography of these is not generally permitted. When photographs are permitted in exceptional circumstances, these are subject to the completion of a release form, and for non-commercial use only.
2. Ethical guidelines

HTA and the Department for Culture, Media and Sport (DCMS) recommend following the principles of the General Medical Council's ethical guidance *Making and using visual and audio recordings of patients – guidance for doctors* when making decisions about images of human specimens.

<https://www.gmc-uk.org/professional-standards/the-professional-standards/making-and-using-visual-and-audio-recordings-of-patients>

'Recording' in this guidance means originals or copies of video and audio recordings, photographs and other visual images of patients.

- 2.1. These guidelines recommend that such images do not require permission from the subject/donor or next of kin if the images are anonymised i.e. that they are or are based on pathology slides, X-rays, internal organs.
- 2.2. If the images are identifiable as specific individuals, permission must be given by the subject/donor or next of kin.
- 2.3. If there is uncertainty about whether the images are identifiable as specific

individuals, consent must be obtained.

2.4. Ideally, it is recommended that consent should be obtained from the subject/donor in advance so that later decision making is clear.

2.5. Ideally, all images used in the public domain should only be used with consent, whether considered to be identifiable or not.

2.6. However, the guidance recognises that existing collections, acquired before 1997, may be used within an ethical framework, based around the concept of whether the specimens can be identified.

3. Our approach

We will take each request to reproduce or publish drawings on a case by case basis, taking into account the following factors:

- a. does the image represent an identifiable specific individual?
- b. what is the purpose of the inclusion of the image in the publication?
- c. is the image an integral part of the publication i.e. would the research or educational value of the publication be significantly diminished if the image was not included?
- d. how does inclusion of the image reflect RCS England and/or RCS England Museums?

If the answer to question a. is yes, the request will automatically be declined on this basis.

All images granted publication permission must be credited 'Original specimen held at The Royal College of Surgeons of England.'

4. Our procedure

4.1. Any request to reproduce a drawing of an item in the Museum collections must be received by us in writing, supplying the following information:

- specimen(s) depicted
- name of artist
- date(s) of drawing
- intended publication channel (book, journal, website etc)
- date of publication, and/or duration of publication
- caption/associated text to be published with the drawing

4.2. The HTA Designed Individual (D.I.) or the HTA Person Designated (P.D.) will consider that request and put a recommendation to the Director of Museums.

4.3. In exceptional circumstances further advice may be sought from the Library, Museums and Archives Advisory Committee (LMAC).

4.4. The decision will be communicated in writing to the person making the request.

4.5. In the event of an agreement to publication, a reproduction agreement must be completed and a copy of the publication must be supplied to RCS England Museums department.