



**Brighton & Hove
City Council**

**CABINET
SUPPLEMENTARY AGENDA ITEM**

4.00PM, THURSDAY, 21 MAY 2009

COUNCIL CHAMBER, HOVE TOWN HALL

SUPPLEMENTARY AGENDA ITEM

The following agenda item has not been provided for on the agenda front sheet. The Leader of the Council has agreed to accept this report as a matter of urgency for the reasons set out in the report.

ITEM	Page
13A. Request for return of human remains to Australia Report of the Director of Culture & Enterprise (copy attached).	1 - 18

Subject:	Request for return of human remains to Australia		
Date of Meeting:	21 May 2009		
Report of:	Director of Culture & Enterprise		
Contact Officer:	Name:	Janita Bagshawe	Tel: 29-2840
	E-mail:	janita.bagshawe@brighton-hove.gov.uk	
Key Decision:	No		
Wards Affected:	All		

FOR GENERAL RELEASE

The reason for the late submission of this report is that a meeting with the representatives of the Ngarrindjeri Nation to discuss the request for the return of the fifth item within the museums' collections, the subject of this report, only occurred on Friday 15 May 2009. Following the conclusion of the discussions and additional information supplied about the item, it was agreed that resolution of the issues was urgent and that a recommendation to Cabinet should be made as soon as possible in order to be able to be able to close the work around this outstanding request.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To make a final response to the request for the return of five items of/incorporating Indigenous¹ Australian remains held in the Royal Pavilion & Museums' (RP&M) collections, received from the Office of Indigenous Policy Co-ordination (OIPC) in the Department of Immigration and Multicultural and Indigenous Affairs of the Australian Government. In September 2008, the Culture Cabinet Member agreed to the return of four items from RP&M Natural Sciences collection. This paper concerns the final object in the OIPC's request, which forms part of RP&M World Art collection.
- 1.2 This request follows three reports to the Culture & Tourism Sub-Committee and one to a Culture Cabinet Member Meeting concerning human remains:
 - 30 March 2006: To brief Members on the *Guidance for the Care of Human Remains in Museums* published by the Department for Culture, Media and Sport (DCMS), October 2005.
 - 14 June 2006: To update Members on the development of the *Policy for the care and treatment of human remains* by Brighton & Hove City Council Museums' Service, following recommendations in the DCMS *Guidance*.

¹ Indigenous Australians are descendants of the first known human inhabitants of the Australian continent and its nearby islands. This includes both the Torres Strait Islanders and the Aboriginal People.

- 15 November 2006: To agree Brighton & Hove City Council Museums' Service's *Policy on the Care and Treatment of Human Remains*.
- 16 September 2008: To agree to the return of four Indigenous Australian remains (two skulls and two femora (thigh bones) - BC101447, BC101046, BC101696 and BC101697) from RP&M's Natural Sciences collection.

2. RECOMMENDATIONS:

- 2.1 That Cabinet agree to the return of a water carrier made from a human cranium (WA501838 / R2778/491) within RP&M World Art collection.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Executive Program Officer for the Office of Indigenous Policy Co-ordination (OIPC) visited the UK in 2005 to assess the scale and whereabouts of holdings of Indigenous Australian remains in UK museums.
- 3.2 The visit was followed by a formal request to RP&M for the return of five remains made by the Associate Secretary of the OIPC.
- 3.3 RP&M was advised by senior museum colleagues in the UK that it should await the publication of the DCMS *Guidance* before responding to the request. Following its publication, it was clear that RP&M needed to prepare and publish its own policy on the care and treatment of human remains. This policy was to include the criteria by which any present or future claim for return of human remains would be assessed, and the framework within which such assessments would be made. This *Policy* was agreed by the Culture & Tourism Sub-Committee in November 2006.
- 3.4 Subsequent to establishing the *Policy*, work was undertaken by RP&M staff to begin to fully meet the policy's objectives. This has included time-consuming tasks such as completing an audit of all human remains in RP&M collections.
- 3.5 Once this work was complete, RP&M were in a position to begin to address the OIPC request with the framework of the *Policy*. Throughout the period, RP&M has been in contact with the Australian High Commission, which has a member of staff to oversee activity relating to the OIPC's requests to a number of UK museums.
 - 3.5.1 Research on the four natural sciences specimens, which included biometric analysis, was completed in 2008. Following DCMS *Guidance*, RP&M staff gathered evidence regarding the four specimens before conducting a synthesis and analysis of this information. Based on the findings of these, a recommendation to the Culture Cabinet Member Meeting (Culture, Recreation & Tourism) that the specimens be repatriated was accepted in September 2008.

- 3.5.2 The same processes of evidence gathering, synthesis and analysis have been undertaken for the final object in the OIPC's request, a water carrier made of a human cranium.
- 3.6 According to the *Policy* (which follows the DCMS *Guidance* in this regard), RP&M has gathered evidence relating to the water carrier. In summary (see also section 7 below):
- The water carrier has been identified as the product of a specific community (the Ngarrindjeri) and place (the Coorong Peninsula in South Australia). The carrier has sacred significance to the Ngarrindjeri.
 - The water carrier is made from modified human remains (worked on and with the addition of gum, shell and a carrying handle).
 - After temporary use as a water carrier, the skull would have eventually been buried with the rest of the body.
 - The piece was donated in 1925 by FW Lucas. The RP&M does not know how and from whom he acquired the water carrier. However, the carrier was not a trade item.
- 3.7 Following the undertaking of this detailed criteria for assessing the claim for return, it is recommended that water vessel (WA501838 / R2778/491) is returned to the Ngarrindjeri.

4. CONSULTATION

- 4.1 Detailed information – and extensive references from contemporary written reports – were provided by a museum specialist in Indigenous Australian history and cultural heritage. Specialists in UK museums were also consulted during the research process. Consultation with senior members of the Ngarrindjeri Nation has also been undertaken.
- 4.2 In preparing this report we have drawn on the expertise and documented decisions made by many UK museums which have considered requests for the return of Indigenous Australian human remains.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The Collections Service in the Royal Pavilion & Museums division has a budget of £609K in 2009/2010.
- 5.2 It is noted that all costs (except staff time in arranging access to, and packing of, the water carrier) involved in the return of these items will be met by the Australian Government. The cost of the staff time itself is minimal and not outside of daily duties, and will therefore be contained within budget.

Finance Officer consulted: Peter Francis

Date: 18/05/09

Legal Implications:

- 5.3 The recommendation of this report accords with RP&M's *Acquisitions and Disposals Policy* (2005) which states that: "The Service's governing body, acting on the advice of the Service's professional staff, if any, may take a decision to return human remains, objects or specimens to a country or people of origin. The museum will take such decisions on a case by case basis, within its legal position and taking into account all ethical implications."

Lawyer consulted:

Bob Bruce

Date: 18/05/09

Equalities Implications:

- 5.4 Equalities Impact Assessment completed. Only positive impact anticipated.

Sustainability Implications:

- 5.5 There are none.

Crime & Disorder Implications:

- 5.6 There are none.

Risk & Opportunity Management Implications:

- 5.7 Risk & Opportunity Register completed. Possible risk that the public may misunderstand the return and perceive wrongly that the city council is disposing of collections more widely. Controls to be put in place to minimise this risk, including provision of clear information on the RP&M website, briefing all RP&M staff (especially front-line staff), and being alert to – and promptly correcting – any misinformation or misleading references to the return. We will also take advice from the many UK museums who have already returned similar remains.

Corporate / Citywide Implications

- 5.8 There are none.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 One alternative is to keep the carrier. The piece was donated to the Museum. The donation was properly entered into the accessions register and later fully documented into Mimsy, RP&M's current computerised collections management system. The data is freely available but given the sensitivity of the piece, and restrictions which the Ngarrindjeri would wish to place on it, it is unlikely it would be available for study or display. In terms of its storage and care, the piece would be curated to the highest standards, and its long-term preservation and security are assured.
- 6.2 A possible long-term loan of the piece to a UK or Australian museum has been considered as another alternative. Although this might deflect attention from RP&M, a museum loan would not be satisfactory to the Ngarrindjeri and similar restrictions would be placed upon it.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 Concerning the water vessel made from a human cranium (WA501838 / R2778/491):

- RP&M has followed the government's guidance on responding to requests for the return of human remains from museum collections (DCMS *Guidance*) in arriving at its recommendation.
- The water carrier has been identified as the product of a specific community (the Ngarrindjeri) and place (the Coorong Peninsula in South Australia). The carrier has sacred significance to the Ngarrindjeri.
- The water carrier is made from modified human remains (worked on and with the addition of gum, shell and a carrying handle).
- After temporary use as a water carrier, the skull would have eventually been buried with the rest of the body.
- The piece was donated in 1925 by FW Lucas. The RP&M does not know how and from whom he acquired the water carrier. However, the vessel was not a trade item.
- In returning the vessel, the RP&M would not be in danger of setting an unhelpful precedent impacting on other museums. The British Museum and University of Oxford Museums are the most specific of all UK museums in defining the terms on which they will consider remains for return. Our recommendation to return a modified human remain where it has been established it was intended for burial accords with their position.
- Following the undertaking of this detailed criteria for assessing the claim for return; it is recommended that RP&M return the water carrier (WA501838/R2778/491) to the Ngarrindjeri.

SUPPORTING DOCUMENTATION

Appendices

1. Equalities Impact Assessment
2. Risk & Opportunity Register Form

Documents In Members' Rooms

None

Background Documents

1. *Guidance for the Care of Human Remains in Museums* (DCMS, 2005)
2. *Policy for the care and treatment of human remains* (Brighton & Hove City Council Museums' Service, 2006)

Equalities Impact Assessment

Aim of Policy / Scope of Service: Recommendation to return water carrier made from human cranium				
Different Groups included in scope	Potential Impact on this group	Existing data/information inc. relevant legislation	Data/Information required	Potential actions to minimise negative impact and maximise positive impacts
BME and faith communities in Brighton & Hove	Groups see return of water carrier by RP&M as appropriate: positive impact	Process and recommendation informed by all relevant policies and guidelines: <ul style="list-style-type: none"> • <i>Acquisition and Disposal Policy</i> (RP&M 2005) • <i>Guidance for the Care of Human Remains</i> (DCMS 2005) • <i>Policy for the care and treatment of Human Remains</i> (RP&M 2006) 		BHCC Communications team to liaise with the Australian High Commission in developing and releasing a press statement concerning the return. Statement issued via RP&M website making transparent the processes involved in making the recommendation, the terms on which it was made, and the positive outcomes deriving from the decision.
Indigenous communities in Australia, particularly the Ngarrindjeri Nation, the source community	Groups see return of water carrier by RP&M as appropriate: positive impact			RP&M to work closely with representatives of the Ngarrindjeri Nation to undertake a cultural exchange and maximise the positive impacts of the return of the water carrier.

What consultation has been used or undertaken?	Date	Methods Used	Findings
Detailed information on the history and cultural significance of the carrier – and extensive references from contemporary written reports – were provided by a museum specialist in Indigenous Australian history and cultural heritage.	2006 to date	Email correspondence	All consultation detailed in the documented evidence gathering process and summarised in the Cabinet Report
Specialists in UK museums were also consulted during the research process.	2006 to date	Email correspondence, conversations by phone and face-to-face meetings	
Consultation with senior members of the Ngarrindjeri Nation.	May 2009	Face-to-face meetings	
We have also drawn on the expertise and documented decisions made by many UK museums which have considered requests for the return of Indigenous Australian human remains.	2006 to date	Email correspondence, conversations by phone and face-to-face meetings	

Agreed Actions	Timescale	Lead Officer	Review date
To support the BHCC Communications team in liaising with the Australian High Commission to develop and release a press statement concerning the return.	For Friday 22 May 2009	Sarah Posey, Head of Collections & Interpretation / Helen Mears, Keeper of World Art, RP&M	22 May 2009
To work with the Australian High Commission in preparing the water carrier for return.	Date of transfer tbc	Helen Mears, Keeper of World Art, RP&M	Nov 2009
To work with the Australian High Commission and members of the Ngarrindjeri Nation in developing a cultural exchange to mark the return, including the possible acquisition of a collection of Ngarrindjeri art.	May 2009	Helen Mears, Keeper of World Art, RP&M	Nov 2009
Also to –			
To draft a statement to post on the RP&M website making transparent the processes involved in making the recommendation, the terms on which it was made, and the positive outcomes deriving from the decision.	For Friday 22 May 2009	Helen Mears, Keeper of World Art, RP&M	22 May 2009

Brighton & Hove City Council

RISK & OPPORTUNITY REGISTER FORM

Corporate/Department/Team Project: Royal Pavilion & Museums

Site: Royal Pavilion & Museums

Service Objective/Process: Return of human remains to Australia

Description:

This Risk Register will identify both sides of risks 1) downside risks which threaten success and 2) upside risk opportunities

Date of Assessment: 22 August 2008

Review Date: May 2009

Compiled by: Sarah Posey

NO.	IDENTIFIED RISK OR OPPORTUNITY	CURRENT CONTROLS	EFFECTIVENESS OF CONTROLS – score A I U*	ASSESSMENT OF RISK SCORE			FURTHER CONTROLS REQUIRED and/or additional action to improve controls	RESOURCES REQUIRED TO IMPLEMENT ADDITIONAL CONTROLS	ASSESSMENT OF RESIDUAL RISK with control measures implemented			Responsible Officer	Timescale/ Review Frequency
				Likelihood (L)	Impact (I)	Risk Factor (LxI)			Likelihood (L)	Impact (I)	Risk Factor (LxI)		
1	Political												
1.1	Failure to secure political approval for return of remains	- Consultation with source community, UK and Australian museum specialists - Report to Cabinet agreed by Finance & Legal	A	1	4	4	To be agreed by Cabinet 21.5.09						
1.2	Positive impact of approval for return of remains for Indigenous Australians and others												
2	Customer												

* Key to Effectiveness of Controls

A = Adequate

I = Inadequate

U = Unknown

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				Likelihood (L)	Impact (I)	Risk Factor (LxI)			Likelihood (L)	Impact (I)	Risk Factor (LxI)		
2.1	Not all possible future requests for the return of human remains may be put forward for approval, leading to disappointment/further action of possible claimants.	- Consultation with museum colleagues and source communities. - Act according to DCMS Guidance and RP&M Policy - Act according to precedent set by UK museums.	A/U	1	5	5							
2.2	Possible risk that the public may misunderstand the return and perceive wrongly that BHCC is	- Publish clear information on return on RP&M website. - Brief RP&M staff, BHCC	A	2	3	6							

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	disposing of collections more widely.	colleagues and Members. - Being alert to, and promptly correcting, any misinformation or misleading references to the return - Take advice from other museums who have returned remains.											
3	Fraud & Corruption												
3.1	Ensure requesting party are legitimate claimants	- Act according to DCMS Guidance and RP&M Policy	A	-	-	-							

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				Likelihood (L)	Impact (I)	Risk Factor (LxI)			Likelihood (L)	Impact (I)	Risk Factor (LxI)		
		- Request is from Australian Governmental body.											
4	Professional/ Managerial												
4.1	Staff time to liaise with Australian High Commission Staff time to deal with enquiries from press/public and possible requests for return of other remains	Can be accommodated within normal duties.	A	-	-	-							
4.2	Staff time to complete, produce and amend collections	Can be accommodated within normal duties.	A	-	-	-							

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	records												
5	Economic/ Financial												
5.1	Cost of packing and return of remains	Australian Government meeting all costs.	A	-	-	-							
6.	Social												
	See 1.1												
	Positive impact of possible partnerships that may flow from this and other requests.												
7.	Technical												
	n/a												
8	Legislative												
8.1	Ensure meeting legal requirements of Acquisitions &	- Act in accordance with Policy, in consultation	A	-	-	-							

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	Disposal Policy (RP&M 2005)	with Legal and following UK Government guidance.											
9	Physical												
	n/a												
10	Contractual /competitive												
	n/a												
11	Environmental/sustainability												
11.1	Risk of flood of requests for return of human remains and other sensitive/sacred material in the collections	Consultation with museum colleagues and source communities. - Act according to DCMS Guidance and RP&M Policy	U	1	5	5							

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		- Act according to precedent set by UK museums.											
12	Equalities												
	See EQIA: only positive impact												

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