

Human Remains Protocol
Council Meeting - December 2005

Purpose

To provide background information on the activities related to Human Remains held at the University, to outline the reasons for the development of a Human Remains Protocol, and to recommend its adoption.

Background

Recent legislative and government policy changes are giving renewed prominence to the responsibility universities and museums have for the manner in which they access, store, and return human remains to their communities. These latest parliamentary changes include:

- Planned amendments to Victorian Aboriginal Heritage legislation in 2006;
- The NSW Government's decision to declare seven new sites within parks and reserves specifically for the reburial of Aboriginal remains, announced in September 2005;
- The British Government's implementation of a section of the Human Tissue Act, which will allow museums to repatriate human remains back to Indigenous communities. This decision was announced on 6 October, 2005;
- The recent release of recommended guiding principles for the care of Human Remains in British Museums and Universities by the UK Department for Culture, Media and Sport;
- A growth in the number of overseas governments seeking return of ancestral remains held in other countries. The University recently returned a number of Maori remains to New Zealand, following a request from the New Zealand Government.

The University has been working on the return of Aboriginal and Maori human remains over a number of years, with most of the work being undertaken in the past three years. To the best of our knowledge the University has now relocated all Australian Aboriginal and New Zealand human remains to Museum Victoria for repatriation, or to relevant communities for burial. Three separate repatriations of the Aboriginal remains now stored at Museum Victoria are due to take place within the next four to six months.

In order to identify Aboriginal and Maori remains, two University-wide audits were undertaken in 2003 and 2004. In the process of undertaking these audits it was determined that developing a formal protocol would assist in the ethical treatment of human remains held within faculties, and in ensuring that sufficient and accurate information is collected at the time the remains are accepted into the University.

The introduction of this Protocol seeks to bring clarity to the requirements for the donation of human remains, not covered by existing legislation, such as those that come to the University from the Coroners Office or by organ donations. Such a Protocol has not formally existed in the past and its establishment will ensure the

University is operating within best practice principles for the collection, storage and disposal of these remains.

Issue

In undertaking the two audits it became clear that faculties were not always aware of the origin of many of the human remains they held. In some cases the remains were not stored in a way that recognised their significance as human remains. The draft protocol is written for faculties and outlines actions for the accession, storage and deaccession of human remains and burial artefacts. It has already had wide distribution for comment, including to all cultural and research museum officers, FGMs, the General Counsel and those who attended the lecture on the Palmer report in the UK. The Protocol was developed in conjunction with the University's Cultural Collections Policy to ensure that the documents did not overlap and were not contradictory.

Financial Implications

Modest printing and distributions costs.

Options

- i) To accept the Protocol as a formal document for distribution and use across the University;
- ii) to request changes to the document prior to ratification;
- iii) not to accept the Protocol

Recommendation

The Protocol be adopted as a Standing Resolution of Council for its subsequent use across the University.



THE UNIVERSITY OF
MELBOURNE

Protocol for the Accessioning, Storage and Deaccessioning of Human Remains and Burial Artefacts

The University of Melbourne

2005

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1. Preamble

- 1.1 The University of Melbourne is the oldest and largest research intensive university in Victoria. Since its founding in 1853, the University has collected, and had donated to it, many human remains for teaching, research and cultural purposes.
- 1.2 Recently there have been major cultural shifts in the ways in which human remains are regarded. Recent developments have included the:
 - passing of state and federal government legislation which now deems it illegal for individuals or institutions to hold Australian Aboriginal and Torres Strait Islander remains unless they have the express permission of the community from which it originated;
 - unlawful use of autopsy parts in UK hospitals which resulted in changes to law, in particular the introduction of *The Human Tissue Act 2004* in the United Kingdom;
 - the recent release of a set of guiding principles for the treatment of Human Remains in UK museums and universities;
 - changes in the legal status of human remains in the UK which has meant that they are now able to be claimed by related families and communities for burial; and
 - an increase in the number of indigenous and non-indigenous communities and governments throughout the world seeking to have remains repatriated back from overseas institutions.
- 1.3 The University recognises the importance of these cultural changes, and this protocol seeks to establish best practice processes to allow for the ethical collection and storage of all human remains at the University. In doing so it recognises that the utmost sensitivity must be observed when dealing with human remains.
- 1.4 Whilst some repositories of human remains within the University, such as museums, have developed their own protocols and codes of ethics for dealing with their collections, to date most faculties, departments, and other study areas have not developed such formal processes.
- 1.5 This protocol applies specifically to Human Remains and Related Burial Artefacts. There are areas within the University that have already developed policies for managing scholarly, cultural, historical and research collections. This protocol should be read in conjunction with those existing policy documents.

2. Definitions

- 2.1 In this protocol human remains are defined as part or whole skeletons, teeth, larger tissue & pathology samples, hair samples. In the case of Aboriginal human remains this will also include casts. Casts and moulds derived from Aboriginal ancestral remains are generally

considered by Australian Indigenous communities as possessing the same significance and sensitiveness as actual body remains. Casts and moulds, whether taken from life or death may also hold the same significance/sensitivities.

- 2.2 'Burial artefacts' or 'artefacts' are defined as those from a burial site, or which have been associated with remains; or any known items that are revealed to appropriate initiated people.
- 2.3 In this protocol:
 - 'Aboriginal' or 'Australian Aboriginal' refers to Australian Aboriginal and Torres Strait peoples;
 - 'indigenous' (with lower case i), refers to traditional custodians in countries other than Australia, eg, Maori, Chiapas, Nunavut, Samiland, etc;
 - 'non-indigenous' refers to all other peoples.

3. Purpose of the Protocol

- 3.1 This protocol seeks to define the circumstances by which human remains and burial artefacts can be accepted into the University; and outlines the methods by which this material should be maintained and de-accessioned.
- 3.2 In particular, this protocol recognises that all human remains have social, cultural, and spiritual significance attached to them; and that therefore they need to be handled sensitively and differently from other teaching and research items.

4. Protocol Application

- 4.1 This protocol applies to all teaching, research and collection areas within the University that hold human remains. These include, but are not limited to: faculties, libraries, archives, and regional campuses. Hereafter they are referred to as responsible units. It does not apply to subsidiary companies and affiliated organisations.
- 4.2 The protocol does not apply to remains or pathology samples that are covered by existing laws and government policies, for example those that come to the University via donor programs, coroner's office or for forensic reasons.
- 4.3 In assembling this protocol a number of existing documents were drawn upon. In particular, the *Policy for Cultural Collections - Minimum Standards for Cultural Collections (in draft form)* should be read in conjunction with this Protocol. A list of these documents is in Appendix 1.

5. **Australian Aboriginal and Torres Strait Islander Remains and Burial Artefacts**

- 5.1 Government legislation requires that Australian Aboriginal remains and burial artefacts are returned to their relevant community or to Museum Victoria. The details of the requirements of the Act can be found in the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*. It is illegal for any individual or institution to hold Aboriginal remains and penalties apply to both individuals and institutions. The Victorian Government is currently reviewing *The Aboriginal Heritage Bill* which recommends increased penalties for breaches.
- 5.2 The University will not accept Aboriginal remains or burial artefacts, unless they are donated directly by the person, or by the immediate family with accompanying relevant documentation.

6. Process for Acceptance of Bequests/Donations/Gifts of All Other Human Remains and Burial Artefacts

- 6.1 To ensure that accurate information on the history and origin of remains is collected, each responsible unit (see 4.1) shall appoint one representative who shall have sole responsibility for the decision to accept any donations coming into that faculty/department. This should involve departmental managers in the Faculty of Medicine, Dentistry and Health sciences; and Faculty General Managers or their nominees, in those Faculties that only have a small number of remains;
- 6.2 The Officer will have the title of Donations Officer, so as to be easily identified, both within the University and by individuals and institutions outside the University.
- 6.3 *The Deed of Donation/Gift of Human Remains and/or Sacred/Burial Artefacts* should be completed when accepting gifts. Similar issues should be addressed in wills where the property forms the subject of a bequest in the context of this protocol in deciding whether to accept the bequest and on what terms.
- 6.4 At the time of acceptance or donation, all care should be taken to collect and record detailed information on the items, including their provenance. Schedule 1 – *Items for Donations/Gifts, Bequests to the University of Melbourne*, should also be completed at this time.
- 6.5 The Donations Officer will seek the advice of an anthropologist when completing the Schedule 1 form to the Deed of Gift, unless the remains are commercially sourced.
- 6.6 A cataloguing system of all remains and artefacts should be developed, so that the University can collate a database to assist indigenous communities and international governments locate any remains they wish to legitimately claim.

- 6.7 Where items are being considered for acquisition into one of the University's Cultural Collections, the acquisition policy and procedure of that Collection should also be followed.

7. Storage of Human Remains and Burial Artefacts

- 7.1 The storage of human remains must be based on a high level of care and respect for these items. In developing this Protocol the International Council of Museums Code of Ethics (2004) statement on storage has been drawn upon. This Code states: 'Collections of human remains and material of sacred significance should be housed securely and respectfully and carefully maintained as archival collections in scholarly institutions. It should be available for legitimate study on request. Research on such material, its housing, care and use (exhibition, replication and publication) must be accomplished in a manner consistent with professional standards and the interests and beliefs of the members of the community, ethnic or religious groups from which the object originated'.

'Requests for removal from public display of human remains or material of sacred significance must be addressed in a timely manner and with respect and sensitivity. Any new displays should be set up in ways that are sensitive to religious and cultural beliefs. Advice should be sought from appropriate communities or museum curators when creating such displays'.

8. Disposal of Human Remains and Burial Artefacts

8.1 Deaccessioning Policy Guidelines

- 8.1.1 Remains/artefacts that fall into the following categories may be considered for deaccessioning:

- Items which require repatriation to a family, community or another country;
- Remains that have deteriorated from continued handling and use to such an extent that they are no longer useful or recognisable;
- Remains that may endanger other items in the collection.

8.2 Procedure to Effect a Deaccessioning

- 8.2.1. An assessment by the Donations Officer should be completed, which lists items for potential deaccession.

- 8.2.2 A physical examination of the items should be completed by the Donations Officer and condition report prepared. This should be signed off by the Dean or Head of Department, Chief Librarian, etc. At this

time Form 2 to this protocol *Items Recommended for Deaccessioning and Disposal* should be completed.

- 8.2.3 The University's title to the items should be verified to the extent that this is reasonably possible.
- 8.2.4 A check should take place to ensure there are no restrictions relating to the original bequest, gift or donation of the items.
- 8.2.5 Following the disposal of items, post disposal activities/external relations activities should be implemented where required.
- 8.2.6 Where the items are part of one of the University's Cultural Collections, the deaccessioning and disposal policy and procedure of that Collection should also be followed.

8.3 Method of Disposal

- 8.3.1 When a request is made for repatriation by a family, indigenous or non-indigenous community or a foreign government, the Donations Officer will assist in making the remains available for repatriation, subject to the claimant providing evidence of entitlement to the items for return.
- 8.3.2 If remains are tissue samples, as covered in 4.2, then they can be disposed of according to hospital or clinical practices.
- 8.3.3 When skeletal remains are no longer of use, they should be identified and stored for a maximum of twelve months. As required a cremation ceremony should be held across the University to dispose of skeletal remains in a respectful manner.
- 8.3.4 It is essential that no conflict of interest exist or be perceived to exist throughout the deaccessioning and disposal process.

9. Burial Artefacts

- 9.1 In accordance with Commonwealth and State law, no one within the University will hold Aboriginal artefacts from a burial site or associated with remains, or any known items that are revealed to appropriate initiated people unless they are donated directly by the person, or by the immediate family with accompanying relevant documentation.
- 9.2 Aboriginal artefacts that are not burial/sacred and indigenous and non-indigenous artefacts are able to be held and should be catalogued so they can be identified for return should that be requested.

Adopted by The University of Melbourne and current as at December 2005.

FORM 1
Deed of Donation/Gift of Human Remains and/or Burial Artefacts

Deed of Donation/Gift dated this day of

BETWEEN The University of Melbourne of Parkville, Victoria 3010. ('the University')

AND Insert name Insert Address ('the Donor')

RECITALS

- A. The Donor is the owner of the remain (s)/burial artefact(s) specifically mentioned in Schedule 1 to this Deed of Gift ('the Property')
- B. The Donor wishes to make an immediate and lasting gift of the Property to the University by way of this Deed of Donation/Gift.

OPERATIVE PROVISIONS

1. The Donor confirms that they are the sole and unencumbered owner of the Property and that they have the right to enter into this Deed of Gift/Donation.
2. The Donor declares that they enter into this Deed of Gift/Donation of their own free will and without influence.
3. The Donor assigns to the University the Donor's full title, rights and interests, in the Property.
4. The Donor agrees that the Property may be used in accordance with the Protocol for the Accessioning, Storage and Deaccessioning of Human Remains and Burial Artefacts at The University of Melbourne, and with all applicable laws.
5. The University will agree to identify the Property as stipulated in Schedule 1 to this Deed of Gift
6. Unless otherwise agreed, the University will not meet any costs of transporting to the University any items any items comprised within the Property.
7. Each party shall be responsible for their own costs in relation to the preparation and execution of this Deed of Gift.

8. This Deed of Donation/Gift is not effective unless the Schedule has been signed by the person providing authorisation, or a copy of the Schedule is attached bearing such signature and countersigned as authoritative by both parties to this Deed of Gift.

GIVEN under the COMMON SEAL of
THE UNIVERSITY OF MELBOURNE
by direction of an officer authorised for
the purpose under Statute 1.5.4 of the
University of Melbourne Statutes

.....
Signature of Authorised
Officer

.....
Signature of University
Secretary

SIGNED, SEALED AND DELIVERED by the DONOR

.....
Signature of the Donor

.....
Signature of Witness

SCHEDULE – THE PROPERTY

1. Origin of Donated/Gift, Remains/Artefacts

2. History of Donated Remains/Artefacts

3. Dimensions/Description

4. Provenance

5. Any other comments

6. Title of Person Providing Authorisation

.....
Signature Date

Appendix 1

List of Sources Used in the Development of this Protocol

- International Council of Museums Code of Ethics
- N H & M R C's - *National Statement on Ethical Conduct in Research Involving Humans*
- Museums Australia's - *Previous Possessions, New Obligations. Policies for Museums in Australia and Aboriginal and Torres Strait Islander Peoples. 2000*
- Ian Potter Museum of Art - *Accessioning and Deaccessioning Policies*
- The University of Melbourne – *Draft Policy for Cultural Collections and Minimum Standards for Cultural Collections (draft)*
- *Aboriginal Heritage Bill - Exposure Draft*, Aboriginal Affairs Victoria