

REPORT TO EXECUTIVE

Date of Meeting: 7 April 2020

Report of: Camilla Hampshire

Title: Request to repatriate Chief Crowfoot's regalia to the Siksika Nation, Canada

Is this a Key Decision?

No

Is this an Executive or Council Function?

Executive

1. What is the report about?

- 1.1. De-accessioning from RAMM's collections a group of ceremonial items that once belonged to Chief Crowfoot, a Chief of the Siksika Nation, and transferring ownership to the Siksika Tribal Council, Alberta, Canada. The Siksika are one of the four Indigenous nations that make up the Blackfoot Confederacy. The items that have been requested for repatriation include a buckskin shirt, pair of leggings, knife with feather bundle, two beaded bags and a horsewhip that once belonged to Crowfoot, an important late nineteenth-century Blackfoot leader. They are described as the 'Crowfoot regalia' and are believed to have been acquired in Canada by Cecil Denny about the time of a treaty signing (Treaty 7) and loaned to RAMM by his sister in 1878. They were purchased by RAMM in 1904. It is important to note that RAMM's acquisition was secondary (from Denny); the precise circumstances under which Denny acquired them from Crowfoot are unknown. This is considered further at 8 below.

2. Recommendations:

- 2.1 That legal title to the regalia is relinquished by Exeter City Council and is transferred to the Siksika Tribal Council, the living descendants of Chief Crowfoot and legally recognised representatives of the Siksika Nation. The Siksika Nation is governed by a Chief and 12 Councillors who constitute the Siksika Tribal Council.

3. Reasons for the recommendation:

- 3.1. To the Siksika people the Crowfoot regalia are sacred items as they belonged to one of their most important and influential leaders, Chief Crowfoot (about 1830-90). The regalia are thought to have been acquired from Crowfoot about the time of the signing of Treaty 7 in Alberta. Crowfoot played a key role in the treaty signing which he believed would help protect Blackfoot lands and traditional ways of life; but the terms of the treaty were broken by the Canadian administration and as a result Blackfoot people have suffered economically and socially. The Siksika Tribal Council, legally recognised representatives of the closest living relatives to Chief Crowfoot, believe the return of the regalia would allow his spirit to rest in peace and contribute to a process of healing and reconciliation.

3.2. ECC has the legal authority to de-accession objects from RAMM's collections and return them to the communities from which they originate 'taking into account all ethical implications and available guidance'. This is set out in RAMM's Collections Development Policy (2014-19) under The Repatriation and Restitution of objects and human remains (section 13). Recent discussions on the decolonisation of Britain's museums have placed greater emphasis on the moral obligation of museums to return material to community use that may override former concerns on the long-term preservation of sacred artefacts in museum conditions. Guidance for non-national museums, such as RAMM, is currently under review. Once released this may require the updating of RAMM's new CDP which is due for approval in June.

3.3. The implications of repatriating the items under the Equality Act 2010 are considered separately.

4. What are the resource implications including non financial resources.

4.1. RAMM would work closely with representatives from the Siksika Nation to agree on the most appropriate methods for packing and transporting the regalia by air back to Canada. It is likely that representatives of the Siksika Nation would travel in person to the UK to collect items, although the shirt and larger artefacts are likely to need a bespoke crate. RAMM's conservation and technical team would carry out the necessary work.

4.2. RAMM's collections team will complete the necessary documentation for the repatriation. This will include recording the transfer of title and recording the repatriation of the regalia on the collections database and in object history files, as well as applying for the appropriate export licences (see 6.). The artefacts will need to be condition checked by a specialist conservator and will be photographed before return. These costs can be covered from existing revenue and Arts Council England budgets.

5. Section 151 Officer comments:

5.1 There are no additional financial implications for Council to consider.

6. What are the legal aspects?

6.1. There is no legal imperative in the UK to return artefacts of cultural importance to source communities. Current approaches are governed by the Museums Association Code of Ethics, Arts Council England's Accreditation Scheme and evolving practice within the museum sector.

6.2. The Arts Council Export Licensing Unit has responsibility for issuing export licences for objects of cultural interest on behalf of the Secretary of State for Culture. The Crowfoot regalia would seem to fall into Category 13 b. (Collections of historical, palaeontological, ethnographic or numismatic interest, with a financial value exceeding the stated threshold). If the return were agreed, RAMM would need to apply for an export licence and this would only be refused if the

Reviewing Committee designated the Crowfoot regalia as a 'national treasure' under the Waverley criteria established by parliament in 1952.

- 6.3. The nature of the materials used in the regalia (including deerskin, ermine, eagle and hawk feathers, otter skin and porcupine quill) would mean RAMM would need to apply for an export permit under the Convention on the International Trade in Endangered Species (CITES).

7. Monitoring Officer's comments:

This report raises no issues for the Monitoring Officer.

8. Report details:

- 8.1. The 'regalia' were accessioned in 1904 under the numbers 1000/1904/1–12. The full list of items is buckskin shirt; pair of leggings; bow; bow case and quiver; necklace; 2 pouches; 2 quirts/horsewhips; bag; knife and feather bundle. The group was purchased in 1904 for £10. Most of the regalia are currently in store and only exhibited periodically, the last occasion was between September 2012 and January 2013 as part of the British Museum touring exhibition 'Warriors of the Plain: 200 years of Native North American honour and ritual'. Chief Crowfoot's shirt is recognised as one of the star items in RAMM's World Cultures collection which has designated status in recognition of its significance and national importance.
- 8.2. The principal players in the chain of events that led to these items entering RAMM were Isapo-muxika, known in English as Crowfoot (about 1830-90), and Cecil Edward Denny (1850-1928). Crowfoot, the original owner, user (and possibly maker) of the items, was the man from whom Denny acquired them. Following their loan to RAMM, it was from Denny that the museum purchased the items, thereby acquiring legal title to the 'regalia'.
- 8.3. Crowfoot was a chief of the Siksika First Nation, a renowned warrior and peacemaker, who was held in high esteem: when he died in 1890, 800 of his nation attended his funeral along with dignitaries of the colonial authority. Denny was born in England; he emigrated to North America and joined Canada's North-West Mounted Police in 1874. He was later dismissed from public service and died in 1928 after a long decline in his health. In their heyday, each man played a leading role in trying to find an accommodation between the Canadian colonial power and Indigenous nations.
- 8.4. Given a senior command in Blackfoot territory in 1876, Denny fostered a relationship with Crowfoot based on mutual trust. Crowfoot and Denny were signatory to Treaty 7, made in 1877 between the Canadian Government and five First Nations, apportioning land and protection mainly to Blackfoot peoples. Crowfoot was deeply conflicted in signing, but at a time of increasing strife between Indigenous nations and the hunting to extinction of buffalo – on which

First Nation Americans depended – Crowfoot was convinced that the Treaty would provide their best chance of survival.

- 8.5. The way events turned out after the Treaty is a tragic, complex and controversial history that involved government handouts of food – some contaminated – to stave off famine. The policy, though well intended, did not prevent widespread death from starvation and disease among the Blackfoot Nation. It is a history in which both Denny and Crowfoot did their best to mitigate the unfolding disaster.
- 8.6. This is the context in which Chief Crowfoot's 'regalia' came into Denny's hands. Regardless of the lack of any record of the exchange, the contemporary context can best be described as coercive. Faced with a lethal combination of smallpox, loss of traditional hunting grounds, the disappearance of bison, famine and the ravages of cheap whisky, Crowfoot would have been desperate to do all in his power to secure his people's survival. Gifting clothing and personal regalia was a well-documented tradition on the northern Plains by which the recipient would be obligated to act responsibly to the giver, who expected his family and people to benefit from the transaction in return. However sympathetic Denny might have been to the plight of the Blackfoot Nations, this was not a transaction between people of equal power or influence. (More detail on the imbalance of power between colonial powers and indigenous groups is included in the background paper.)
- 8.7. The Crowfoot regalia are defined as sacred items by the Siksika Nation as they once belonged to a revered ancestor, the current Chief of the Tribal Council is a direct descendant of Chief Crowfoot. The shirt is believed by the Siksika to be imbued with the spirit of Crowfoot, and its return along with the other items of regalia would allow his spirit to rest in peace after almost 150 years. The spiritual connection with material made, used and worn by forebears imbues objects with the potential to be animate. Consequently, the process of reuniting the source community with its cultural heritage generates a sense of renewal and healing. A Siksika elder, Herman Yellow Old Woman observed in 2010, "...the lesson that people in your country need to know: that our people still have that connection... We still call on each other, our ancestors, where these shirts come from... We might have suffered some loss, but it's coming back strong."
- 8.8. When considering claims for repatriation such as this, it is important to understand that the suffering of Indigenous peoples did not end in the nineteenth or twentieth centuries. The original injustices still reverberate today in First Nation Canadians. As the Equality Impact Assessment indicates, giving back Crowfoot's regalia returns some control to the source community over their cultural identity, dignity and authority.
- 8.9. Since the late 1990s, RAMM has received a small number of requests for the return of cultural objects. These are dealt with on a case by case basis, and human remains and sacred artefacts have been returned to indigenous communities, e.g. Tasmanian Aborigines, Maori and the Ngarrindjeri of southern Australia, respectively. As a museum Accredited under the Arts Council England

Scheme, RAMM's approach to the repatriation and restitution of objects is currently defined by its Collections Development Policy (2014–19). Decisions are made on the basis of ethical implications, which includes the future use and preservation of artefacts. For significant items, repatriation follows a formal decision by ECC councillors. However, Arts Council England is currently revising its guidelines on repatriation and is reconsidering how museums should weigh up the moral imperative to return artefacts with long-term conservation needs. RAMM is due to renew its policy later this year.

- 8.10. Blackfoot Crossing Historical Park (BCHP), a community-run visitor centre, is built where Blackfoot people traditionally crossed Bow River, the location for the signing of Treaty 7 in September 1877. It is also the place where Crowfoot died. In 2015 BCHP made a formal request for RAMM to repatriate the Crowfoot regalia. Such a request from an organisation reliant on generated income, rather than an indigenous community or government organisation, is unusual, and because of this RAMM asked for assurances on BCHP's governance and long-term care of the regalia.
- 8.11. This information was not forthcoming and on 29 January 2020 RAMM approached Chief Ouray Crowfoot, Chief at Siksika Nation, to ask whether the Siksika Tribal Council would be prepared to take ownership of the regalia, if the transfer were agreed, and to provide an assurance that the regalia would remain with the Siksika Nation in the case of BCHP closing. Ouray Crowfoot replied on 9 February stating that the Tribal Council is formally requesting the return of the regalia and provided the necessary assurances and financial information. With ownership secured, the Tribal Council may deem it appropriate to loan the items for public display at BCHP which has a gallery and storage facilities.
- 8.12. The return of the regalia has been supported by the Hon Jason Kenney PC, Premier of Alberta, who wrote to the Right Honourable Ben Bradshaw MP, Arts Council England and the Department of Digital, Culture, Media and Sport on 14 October 2019.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1. The decision shows the council is well-run with effective governance and management of its assets. The debate on repatriation is a fast-moving one, and agreeing to the return will demonstrate ECC, through RAMM, is prepared to lead sector change and trust and respect international communities.

10. What risks are there and how can they be reduced?

- 10.1. The delay to the repatriation request received from BCHP for the Crowfoot regalia attracted extensive media coverage in the UK and Canada following the letter from Premier Kenney, some of it critical of RAMM's approach which was inaccurately characterised as obstructive. This in turn provoked negative comments on social media. If the return to the Siksika Nation is agreed, it is

possible that those opposed to repatriation may choose to voice their opinions in the media and criticise the council's decision.

- 10.2. There is also a risk that the return of the Crowfoot regalia would be perceived as setting a precedent for other claims on cultural property at RAMM and from UK museums more generally.
- 10.3. The risk of reputational damage can be reduced by clarifying that repatriation cases are dealt with on a case by case basis, each considered on its merits. Whatever the moral issues related to an object's history, RAMM still needs to carry out due diligence before the return of culturally sensitive material to ensure its ownership is transferred to the most appropriate group. There may be competing claims from the same indigenous communities. In this case, the risk is mitigated by its return to the Siksika Nation.

11. Equality Act 2010 (The Act)

- 11.1. Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:
 - eliminate discrimination, harassment, victimisation and any other prohibited conduct;
 - advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
 - foster good relations between people by tackling prejudice and promoting understanding.
- 11.2. In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.
- 11.3. In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.
- 11.4. In recommending this proposal potential impact has been identified on people with protected characteristics as determined by the Act and an Equalities Impact Assessment has been included in the background papers for Member's attention.

12. Carbon Footprint (Environmental) Implications:

The repatriation will require transport to Canada accompanied by members of Siksika Nation.

13. Are there any other options?

- 13.1. To refuse the repatriation request. This is liable to create a large amount of negative coverage in the media and from groups who support the rights of indigenous communities in recovering their cultural heritage held in UK museums. There is a danger of reputational damage to RAMM which has been regarded as a leader in the field of repatriation.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

Extract from the *Indigenous Repatriation Handbook* (2019), Royal British Columbia Museum.

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