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Sir Paul Jenkins KCB QC

CMS 263567/asg  
13<sup>th</sup> March 2015

Dear Sir Paul

## **REVIEW OF SPOLIATION ADVISORY PANEL**

I am writing to thank you for your recent report and recommendations on the Spoliation Advisory Panel. The Panel's work, which you have described so aptly in your report, is indeed unique and I am particularly grateful for the sensitive and pragmatic manner in which you have approached your recommendations.

I was pleased to see that you have acknowledged the high quality of the Panel's work. During my time as Minister for Culture, I have been keen to express my support for the Panel and have, as you know, had the pleasure of attending one of their meetings. I believe their work remains significant in allowing the United Kingdom to play a continuing role in righting the historic wrongs perpetrated by the Nazis and I am struck by the high level of regard that exists for the Panel and its recommendations both nationally and internationally. Back in 2000, when the Panel was established, there was certainly less focus on these issues than we see today. I think it is fair to say that the Panel set the standard at the time and continues to be a model of excellence in this field.

I enjoyed reading your report, which I found clear and insightful and I have outlined my response to your recommendations below:

### **Membership of the Panel**

As you signal in your report, the Panel members are extremely hard working and dedicated and possess a broad range of experience and expertise that has proved invaluable over the years and the loss of which would, of course, be detrimental. However, it is always important to introduce new thinking and skills into the process and to address areas where the Panel may appear to be under-resourced. I am pleased, therefore, to accept your recommendation for a rolling refreshment of the Panel which will allow for the preservation of this experience as well as allowing for the benefits and new perspectives that additional members may bring.



Additionally, I welcome your recommendation that the Panel should continue to be chaired by a senior member of the judiciary. I am similarly content with your proposal that we should appoint a second chair and that the Secretary of State should designate alternate chairs to preside over claims. I would want to look further into the practicalities of doing so, however, before taking this forward. Such an arrangement would require close co-operation between the chairs both in terms of consistency and approach.

Lastly, I am grateful that you have highlighted where the balance of expertise on the Panel might need reinforcing further and for the need to be vigilant over public comment on spoliation work and the managing of conflicts of interests. In terms of museums experience and fine art expertise, I would agree that an expanded Panel would require, at the very least, one or two additional members representing each of these crucial disciplines. We will also consider the representation of the devolved nations on the Panel.

### **Terms of Reference, Rules of Procedure and working relationships**

I am content to accept your recommendation not to change the Panel's Terms of Reference, the definition of cultural property or the current preference to determine a claim on the basis of written submissions. I am aware that, at the Panel's inception, much thought and consultation went into constructing what you describe as a 'wise pragmatism and carefully measured compromises' and I am glad to see that your consideration has shown that this approach has stood the test of time.

Additionally, I am content to accept, in principle, your recommendation that the Panel's Terms of Reference should be amended to clarify that priority should be given to considering the evidence for spoliation and that questions relating to the behaviour of the institution at the time it acquired the object would not normally be a relevant consideration except where there were specific reasons for doing so. This is clearly an important consideration and I will ask my officials to give further thought as to how we might take this approach forward to ensure that the process remains fair and well-balanced.

I understand that maintaining confidentiality throughout the claims process can be difficult for museums. I am sure we can do more in this area without endangering the claimants' fundamental right to privacy and I will ask my officials to consider how the process can be made more open and transparent. Looking to the period before the report is published, at present, the parties are given 48 hours to check for factual mis-statements or statements that they consider to be unjust. I agree that it is helpful that the parties should have to have this opportunity to correct factual errors but not that they should allow the conclusion of the Report to be questioned. I am content to look at this process once again to see if this is right.

On this matter, you note that the reports have remained largely consistent but that questions have been raised over an apparent lack of consistency. I fully accept your pragmatic proposal to adopt a house style for the Panel's reports and, if a second chair is elected, ensure that communication and co-operation is encouraged between the two chairs in all areas of their work. Clearly, the Secretariat has an important role to play here.

You highlight the need for increased openness and transparency at various points in the report and, while there has been no deliberate tendency towards opacity, I recognise that there is room to make meaningful improvements. Your recommendation to increase transparency over the Panel's procedures in this area has the dual benefit of making efficiencies in the system and, at the same time, demonstrating to all the effectiveness of this system. I am pleased to inform you that we have already begun work with Arts Council England on updating the cultural property advice website as well as working with the Panel and others to produce some guidance on the type of information the Panel expects to see in a claim and the institution's Statement of Case. We hope this will allow us to build and expand upon this work and ensure that all parties are able to access the claims process with ease. We envision that implementing your recommendations to this effect will greatly assist the Panel in completing its work expeditiously. With these new measures in place I am not convinced of the usefulness of introducing a small claims process but we may return to this if necessary.

I appreciate you taking the time to consider the matter of the sunset clause on the Holocaust (Return of Cultural Objects) Act 2009. I agree that it would be unappealing for the United Kingdom, as one of the nations who set the standard for this type of claims process, to take a step back at a time when some are only just beginning to consider how to respond. The end of the 2009 Act raises many questions for Government and for the future of the Panel and it is clearly important that a strategy is developed for considering this, taking account of the complexities you have noted, as well as views from stakeholders.

### **Secretariat and Relationship with the Department**

I agree with your conclusion that, with appropriate ring-fencing of responsibilities, the Secretariat to the Panel should remain within the Department. We will ensure that information is included on the Gov.uk website to explain how these functions are carried out and managed within the Department.

### **Funding and resourcing**

The Government recognises that Panel members give up so much of their time for very little financial reward which makes the value of their contribution to public life even more noteworthy. I welcome the fact that the National Museum Directors' Council (NMDC) has reconvened and that national museums are reviewing their procedures for researching and identifying works with gaps in the provenance for the years 1933-1945. The matter of a research post is, of course, something for the NMDC to decide upon.

Department for Culture, Media & Sport

Thank you once again for all your work on this matter.

A handwritten signature in blue ink, appearing to read 'Ed Vaizey'.

**Ed Vaizey MP**  
Minister of State for Culture and the Digital Economy