

MUSEUMS
ASSOCIATION

DISPOSAL GUIDELINES FOR MUSEUMS

TOOLKIT

ARTS COUNCIL
ENGLAND

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 Museums
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Supporting Scotland's Museums

NORTHERN IRELAND
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Abbreviations:

AAO: Accreditation Assessing Organisation

ACE: Arts Council England

CyMAL: Museums, Archives and Libraries Wales, a division of the Welsh Government

DCMS: Department for Culture, Media and Sport

MA: Museums Association

MGS: Museums Galleries Scotland

NIMC: Northern Ireland Museums Council

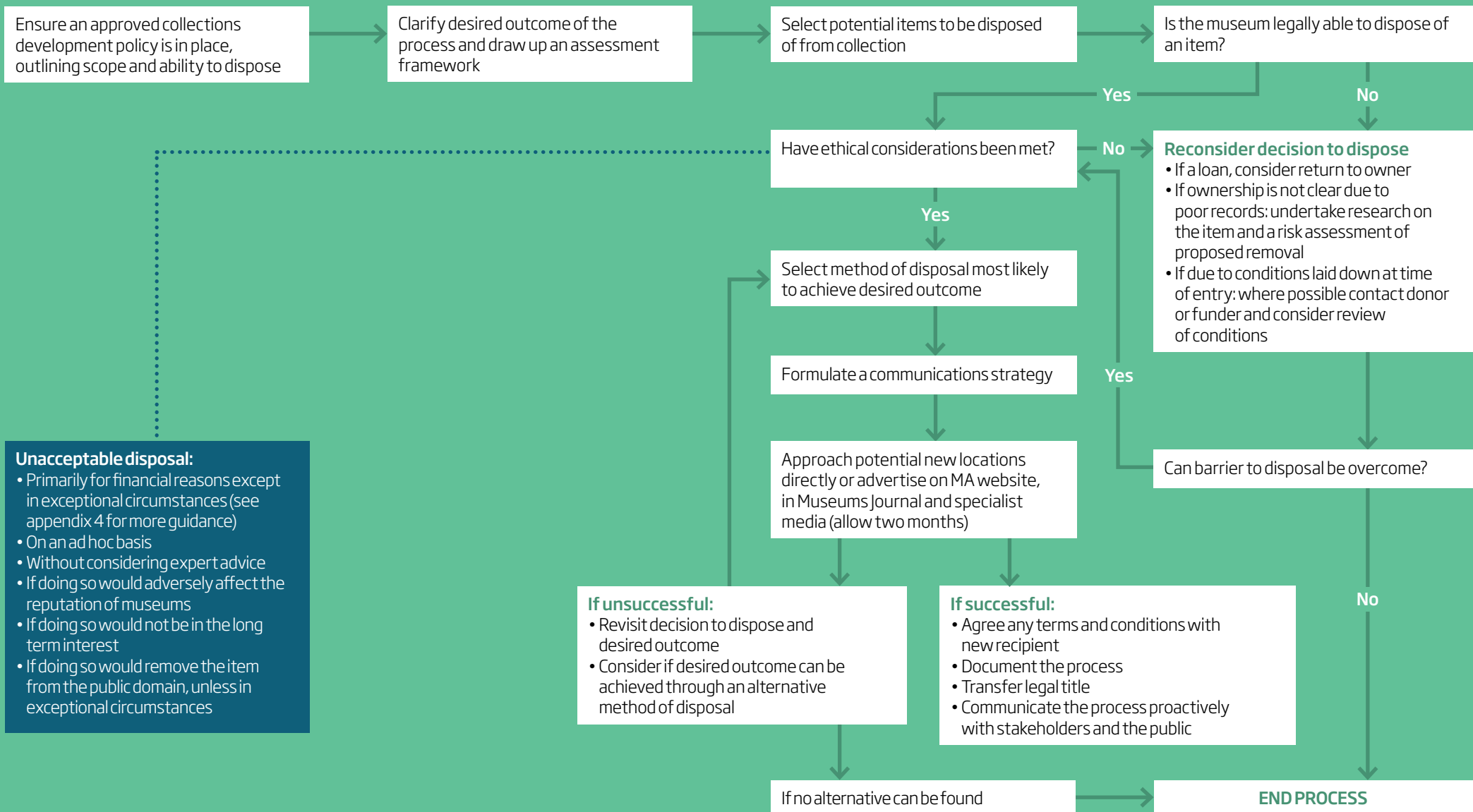
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Disposal Flowchart



Guiding principles

Extract from the MA Code of Ethics

6.0 Collections are a tangible link between the past, present and future. Museums balance the interests of different generations by safeguarding collections, which may include buildings and sites.

Museums develop and implement a collections development policy in order to ensure appropriate standards of care and security for all items entrusted to them, either permanently or on loan.

Museums meet their responsibility to future generations by ensuring that collections are well managed and sustainable. There is a strong presumption in favour of the retention of items within the public domain. Sometimes transfer within the public domain, or another form of disposal, can improve access to, or the use, care or context of, items or collections. Responsible, curatorially-motivated disposal takes place as part of a museum's long-term collections development policy, in order to increase public benefit derived from museum collections.

6.8 Recognise that formal title to and guardianship of the collections is vested in the governing body, which must satisfy itself that decisions to dispose are informed by the highest standards of expertise and take into account all legal and other attendant circumstances.

6.9 Demonstrate clearly how the long-term local and general public interest is served in circumstances in which disposal may be appropriate and ensure that public trust in museums is upheld.

6.10 Give priority to transferring items,

preferably by gift, to Accredited museums. Consider donating items to other public institutions if it is not possible for another museum to accept them. To maintain public confidence in museums, wherever possible do not transfer items out of the public domain. (This paragraph excludes material that is being disposed of because it is damaged beyond use, dangerous, or is being returned to its place of origin or rightful owner.)

6.11 Base decisions to dispose on clear, published criteria as part of the institution's long-term collections development policy, approved by the governing body. Ensure transparency and carry out any disposal openly, according to unambiguous, generally accepted procedures. Manage the process with care and sensitivity to public perceptions.

6.12 Seek the views of stakeholders (such as donors, researchers, local and source communities and others served by the museum) who have a vested interest in a proposed disposal. In some cases consent from the donor may be a legal requirement. Where appropriate seek the views of colleagues and sector bodies.

6.13 Refuse to undertake disposal principally for financial reasons, except in exceptional circumstances as defined in 6.14. Financially motivated disposal risks damaging public confidence in museums and the principle that collections should not normally be regarded as financially-negotiable assets.

6.14 Consider financially motivated disposal only in exceptional circumstances and when

it can be demonstrated that:

- it will significantly improve the long-term public benefit derived from the remaining collection
- it is not to generate short-term revenue (for example to meet a budget deficit)
- it is as a last resort after other sources of funding have been thoroughly explored
- extensive prior consultation with sector bodies has been undertaken
- the item under consideration lies outside the museum's established core collection as defined in the collections development policy.

6.15 Ring-fence* any money raised as a result of disposal through sale, if this exceptional circumstance arises, solely and directly for the benefit of the museum's collection. Money raised must be restricted to the long-term sustainability, use and development of the collection. If in doubt about the proposed use of such restricted funds consult sector bodies.

6.16 Openly communicate and document all disposals and the basis on which decisions to dispose were made.

6.17 Apply any money received in compensation for the loss, damage or destruction of objects in the collection solely and directly for the benefit of the museum's collection.

6.18 Respond to requests for return of human remains, and other culturally sensitive material with understanding and respect for communities of origin.

Collections are a tangible link between the past, present and future.

*In the case of some Local Authority museums, ring-fencing the money may not be possible. In such cases, the use of the proceeds should be clearly articulated and money allocated accordingly in a way that is compatible with Accreditation and the MA Code of Ethics.



INTRODUCTION

"Museums enable people to explore collections for inspiration, learning and enjoyment. They are institutions that collect, safeguard and make accessible artefacts and specimens, which they hold in trust for society."

MA definition of a museum

Museum collections represent the generosity of past and current donors and the endeavours of collectors. These collections are established for the long term and each generation has responsibility to the next to ensure they do not become unmanageable or a burden and that they remain sustainable.

Equally it is imperative that collections are used and developed in response to the needs of today's society. Museums must balance the safeguarding and retention of items within their collections with the need to review and develop collections, acquire items and, in some cases, remove them.

Museum collections should be developed so that they provide the best care and opportunities for use and engagement. Curatorially motivated disposal is an integral part of responsible collections management and will ensure that museums are fit for future generations.

Disposing of items is not without risk; however there can be significant benefits if the process is well managed. These can include providing better care and curation for an item or improving its public access and use. Disposal should not be undertaken in isolation, but should be part of ongoing collections development, including continued acquisition¹.

Most items are donated, bequeathed or purchased for museum collections in the expectation that they will be retained for the long term and made accessible within the public domain. It is essential that any disposals take account of this expectation and do not damage public confidence in museums.

Museums are trusted institutions and it is important that this legacy is not damaged. They must ensure transparency and openness around the disposal of items from collections.

A strong framework already exists within the UK through ethical advice from the MA, standards and procedures laid down in the Accreditation Scheme for museums and galleries, and standards developed by the Collections Trust to support museums to consider and undertake responsible disposal.

Purpose of the toolkit

This toolkit² provides general information and guidance on curatorially motivated disposal of items from museum collections.

(Additional guidance on financially motivated disposal can be found in Appendix 4, which can be downloaded separately but should be read in conjunction with this toolkit.)

These guidelines will support and advise museums when making decisions to dispose of items from their collections. The guidelines consider a range of factors and are intended to ensure that any disposals benefit museums, their collections and the public.

The guidance is supported by additional information and advice in the disposal section of the MA's website:
www.museumsassociation.org

Scope of the toolkit

This toolkit provides general information and guidance on disposal for all museums. However it is not within the scope of this document to deal in detail with individual types of collection and the potential issues that may relate to these collections. Museums may wish to seek further subject-specific advice from additional sources³.

The guidelines do not cover in detail disposal through return or repatriation of items. Museums with collections that may be subject to requests for repatriation or return are advised to create separate policies and procedures to address this.

Using the toolkit

The advice provided is underpinned by the MA Code of Ethics; reference to relevant aspects of the code should be considered when making decisions. This guidance should be used in conjunction with a museum's existing development policies such as those covering acquisitions and disposal, as well as any strategies for collections development. The toolkit is not a substitute for legal advice and museums should seek independent legal advice where necessary. Neither the MA nor AAOs are able to provide legal advice.

Each museum will need to use its own judgement when applying this guidance to specific circumstances. The toolkit prompts museums to consider a range of factors in making any decisions. Whatever course of action a museum chooses to undertake, it must be able to articulate this clearly.



Footnotes

1. Except in the case of closed collections
2. This toolkit replaces the previous version published in 2008
3. Further advice can be found in the DCMS Due Dilligence Guidelines on Illicit Trade: http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/reference_library/publications/3697.aspx

Guidance for the care of human remains in museums: http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/reference_library/publications/3720.aspx

MGS Guidelines for care of human remains in Scottish museum collections: www.museumsgalleriesscotland.org.uk/research-and-resources/publications/publication/378/guidelines-for-the-care-of-human-remains-in-scottish-museum-collections

If you are uncertain or concerned about any course of action a museum is considering, please contact the MA for additional advice and guidance.

This toolkit should be used in conjunction with the MA Code of Ethics, SPECTRUM: The UK Museum Documentation Standard, the Accreditation Standard and a museum's own collections development policy. The toolkit should inform the organisation's disposal policy and procedures required by the Accreditation Standard.

Ethical and legal context

Ethical context

The MA Code of Ethics supports the responsible disposal of items from museum collections so long as they meet all legal requirements. Ethical disposal is characterised as being undertaken when:

- it is within the framework of a clearly defined collections development policy
- it is on the advice of a range of staff (not an individual) and is agreed by the governing body
- it is done with the intention that wherever possible items remain within the public domain
- it is unlikely to damage public trust in museums
- it is likely to increase the public benefit derived from museum collections.

Legal context

Museums may encounter legal restrictions that will affect their ability to dispose of items from their collections. These include restrictions laid down through legislation relating to specific

museums, such as national museums, and general legislation relating to charities. Museums that are constituted as charities are subject to the trusts and directions laid down in their governing documents. They are also subject to legislation governing all charities and this may constrain a museum's ability to remove items from a collection or its method of doing so.

Museums may also be subject to other legal restrictions arising from conditions attached to donations or bequests.

It is vital when considering disposing of any item that a museum ensures that it is legally able to do so. If there is any doubt about the legal implications of a course of action, the museum is advised to seek appropriate advice.

The general guidance in the toolkit should be applicable to museums across the UK but different laws may apply in different parts of the UK.

(For additional advice and guidance from the Charity Commission see Appendix 2.)

Good governance

Formal title to and guardianship of the collections is vested in the museum's governing body, which must satisfy itself that decisions to dispose are informed by the highest standards of expertise and take into account all legal and other attendant circumstances.

The process of disposal should always reflect principles of good governance. These principles are as set out in Good Governance: A Code for the Voluntary and Community Sector (see Appendix 3).

Managing the process

Undertaking a review of collections and the subsequent disposal of items can require considerable resources and a significant amount of work. Careful planning and good management are necessary to carry out the work thoroughly and successfully. Before beginning the process, consider the following:

• Timescale

Create a timetable to assist in planning, administering and monitoring the work. Undertaking a comprehensive review and programme of disposal is time consuming.

• Budget

The review and disposal of items is not cost free. Ensure that any necessary resources, including staff time, are available to support the work. It is recommended that a budget be assigned for this specific purpose.

• Staff and reporting

Identify any staff who will be involved in the process. If more than one member of staff is involved (as is recommended) then the roles and responsibilities of each person should be clearly articulated before the work commences.

A clear structure for reporting, reviewing and approving the work should be established. The governing body should be included in the process.

For more advice see

Whose views should be sought in the process? on page 11



WHY DISPOSE?

Outcomes and selection

Outcomes from the disposal of an item from a collection

Before undertaking the disposal of any item, the intended outcomes of the process should be considered and articulated. Defining clear outcomes will assist in the decision-making process and the identification of a suitable method for disposal. If the desired outcome cannot be achieved, it is advisable to review the decision. In the case of a charity the objects and purposes of the charity must be considered.

Likely intended outcomes from disposal:

These outcomes should demonstrate how public benefit will increase as a result. It is recommended that disposal should be based on achieving as many of the primary outcomes listed below as possible, although the incidental outcomes may also result.

Primary outcomes of a curatorially motivated disposal

- improved care for the item
- improved access to the item; increased enjoyment of and engagement with the item by the public
- improved context for the item
- continued retention of the item within public museum collections or the wider public domain
- removal of any hazard posed by an item (e.g. through contamination).

Incidental outcomes of a curatorially motivated disposal

- resources freed up to better care for and utilise other parts of the collection
- creating or optimising space (in order to assist the improved care and continued acquisition of collections).

The above outcomes show that there are a variety of reasons why a museum may select an item for disposal. Before beginning the disposal process, a museum should establish clear selection criteria by which to judge each decision. Creating a framework for assessing items, which can be used in a collections review, provides a useful guide when making decisions.

Decisions must:

- be made within the context of an approved collections development policy
- be based on clearly expressed intended outcomes
- demonstrate long-term benefit to:
 - the museum collection
 - public use of and engagement with museum collections.

It is unacceptable to dispose of an item:

- for financial reasons (unless in exceptional circumstances, in which case the additional guidance in Appendix 4 should be followed)
- on an ad hoc basis (i.e. other than as part of an approved collections development policy)
- without considering advice from someone with specialist knowledge of this type of item

- if the disposal would adversely affect the public reputation of museums
- if the disposal would not be in the long-term public interest
- outside the public domain, except in exceptional circumstances.

Museums disposing of items with the overriding aim of achieving any of the incidental outcomes should proceed with caution.

Significant consequences may arise from an unethical disposal. If you are concerned about a proposed disposal, especially where an incidental outcome is a significant motivation, please contact the MA for additional advice and guidance.

Selection:

In order to achieve the primary outcomes a museum may select:

Items that fall outside the core collection as defined by a museum's collections development policy

All Accredited museums must have an approved collections development policy in place. This guides acquisition and disposal, and shapes the collection. Collections evolve and it may be that certain objects no longer fall within the core collection as defined by a museum's collections development policy*. If an item is no longer relevant, not in use or there is no reasonable expectation of it being used, it may be appropriate to dispose of it.

(*Not fitting within the confines of the collection, as defined by the approved collections development policy, should not



automatically necessitate an item's disposal. If the item is currently being used, has been used recently or has identifiable potential use in the future there is a strong case for retention.)

Things to consider:

- why was the item acquired in the first place?
- is the item currently being used? If so, then there is a strong argument for retention
- is the item being selected because it is out of fashion? If so, proceed with caution
- would the item fit better and be more widely used and accessible in another museum's collection (e.g. would it be more geographically or culturally relevant)?

Duplicate items

The fact that an object is an apparent duplicate should not automatically be a justification for disposal; these items may have significant stories or histories attached to them, which need to be assessed.

Things to consider:

- is the duplicate in use? Are there any identifiable uses for the item in the future?
- does the item have a unique history?
- is there cultural value in retaining more than one of the items?
- could a use be found for the item in another part of the collection (e.g. education)?
- is the duplicate item likely to be found in other museums? (If so, it may be difficult to transfer.)

Underused items

Some items within collections have never been used or are rarely used. If there is little or no likelihood of the museum finding a use in the future, it may be appropriate to remove it from the collection.

Things to consider:

- why is this item unused; what are the potential opportunities for use in the future?
- could it be better used by another museum?
- if specialist knowledge could be obtained, is there a likelihood that the item could be brought into use?
- is the specialist knowledge more likely to be available if the item is transferred?
- what is the cultural significance of the item within the collection?
- is the item unique or is there other similar material in the collection?
- is the item being selected because it is out of fashion? If so, proceed with caution
- could the museum find a use for the item (e.g. object handling, education or set dressing)?

Items for which the museum is unable to provide adequate care or curation

Some museums may find that they have items in their collections that they either do not have the specialist knowledge to use appropriately, or lack adequate resources to care for. In such cases where there is little expectation that the museum will be able to provide suitable care, it may be more appropriate to remove items to a collection where their care can be improved.

Things to consider:

- is the item relevant to the collection?
- would the item fit better in another collection?
- can the resources be obtained to care for the item?
- are the resources more likely to be available in another museum?

Items that are damaged or deteriorated beyond the museum's ability to repair

There may be items that are damaged beyond the museum's ability to repair them and therefore cannot be used. Such items may be considered for disposal.

Things to consider:

- is the item beyond repair?
- what would it cost to conserve or repair the item?
- is the cost of conserving and repairing the item within the resources of the museum?
- is another owner, such as another museum or a specialist or enthusiasts' group, better able to repair and use the item?

Uncontextualised or unprovenanced items

Due to past methods, management and recording of acquisitions, museums may possess material that lacks documentation and recorded provenance. In some such cases items may not be of use and as a result a museum may consider removing them from the collection. (See Section 6, p23.)

Things to consider:

- has sufficient effort been made to research the item's history?
- can another use be found for the item?
- has the museum undertaken a risk assessment relating to disposal of the item?



Items that pose a threat to health and safety

Museums may hold items that are hazardous to the public or the workforce on health and safety grounds. It may be advisable to dispose of these items.

Things to consider:

- what is the risk to the public and the workforce?
- is it possible to remove the risk and still retain the item?
- how can the item be destroyed safely?
- what legislation may affect the item's retention or disposal from the collection?

Museums selecting items for the following reasons should proceed with caution:

Items that could be sold to purchase better examples

Museums may consider selecting an item on the grounds that a better example may be available and would enhance the collection. This practice is often referred to as 'trading up'. It is not common practice in the UK and as such, careful consideration should be given to the mission of the museum, the implications and reaction to this course of action.

Things to consider:

- what is the significance of the selected item within the context of the collection?
- what impact might the loss of the item have on the collection?
- how does this course of action serve the public interest?

Items that are selected for their potential to generate income

There is a high level of risk involved in this course of action and it should only take place after extensive consultation with the MA and other sector bodies. Museums considering this course of action should follow the detailed guidance on financially motivated disposal in Appendix 4.

Whose views should be sought in the process?

The final decision about whether an item is removed from a collection rests with the governing body; however a range of views should be sought in the process.

Museum workforce

It is good practice to involve a range of people working in the museum in the discussions and selection of items to be removed. This might include people working in other subject disciplines or other museum activities such as interpretation, education, marketing and front-of-house. Some museums have internal disposal panels to oversee the process.

If the subject specialist knowledge to assess items in the collection is not available within the museum then advice must be sought from external sources. It is advisable to seek more than one opinion, especially if a museum is seeking advice from an auction house or dealer. Potential sources of advice include: museums with similar collections; subject specialist networks; and universities. There may also be opportunities to consider a review of aspects of the collection in collaboration with other colleagues in the sector.

External funders

If the item was acquired or conserved with external funding then the appropriate funding body must be contacted. Its views and any requirements it makes must be taken into consideration before any disposal decision can be made. Repayment of any funds provided may be necessary.

Donors

Donors are essential to the development of museum collections, both in the past and the future, so considering their views and reactions is important. Opinion on the involvement of donors in the disposal process varies but museums are encouraged to consider the sensibilities of donors when making decisions, as part of any due diligence process. In all cases museums must consider the original terms of the donation.

Museums currently involve donors at a variety of stages of the process: to seek their views on the disposal of an item; to inform them as a courtesy once a decision has been made; or in some cases to return an item. Museums may consider involving or contacting donors as a significant part of managing any risk involved in the disposal process, and as a method of maintaining public trust.

When deciding whether to involve donors in any part of the process, museums should consider how their actions:

- could affect public trust in museums
- could affect future donations to museums
- will meet the need for transparency and openness around disposal.

Museums may be required to involve donors in the process due to conditions made at the time of acquisition. In some cases the nature of the relationship with the donor (e.g. a living artist) will necessitate consultation.

Museums may not consider it appropriate to involve donors in the decision-making process. However, it is recommended that donors are informed as a courtesy once a decision has been made. Any communication with donors should outline why the decision has been made, what has happened to any item as a result and the potential benefits of this course of action.

Tracing and contacting past donors can be time consuming. It is recommended that museums formulate a policy that clearly states the lengths to which it will go to fulfil any commitment to inform past donors. Any policy could include:

- a realistic and pragmatic time limit on which donors will be contacted (e.g. only those who have donated items in the past 10 or 20 years)
- an agreement to write only to the last known address (not to undertake work to obtain a new address if a donor has moved)
- what period of time will be given for donors to respond to information relating to a proposed disposal
- whether descendants of donors will be contacted, and a proportionate approach if this is being considered.

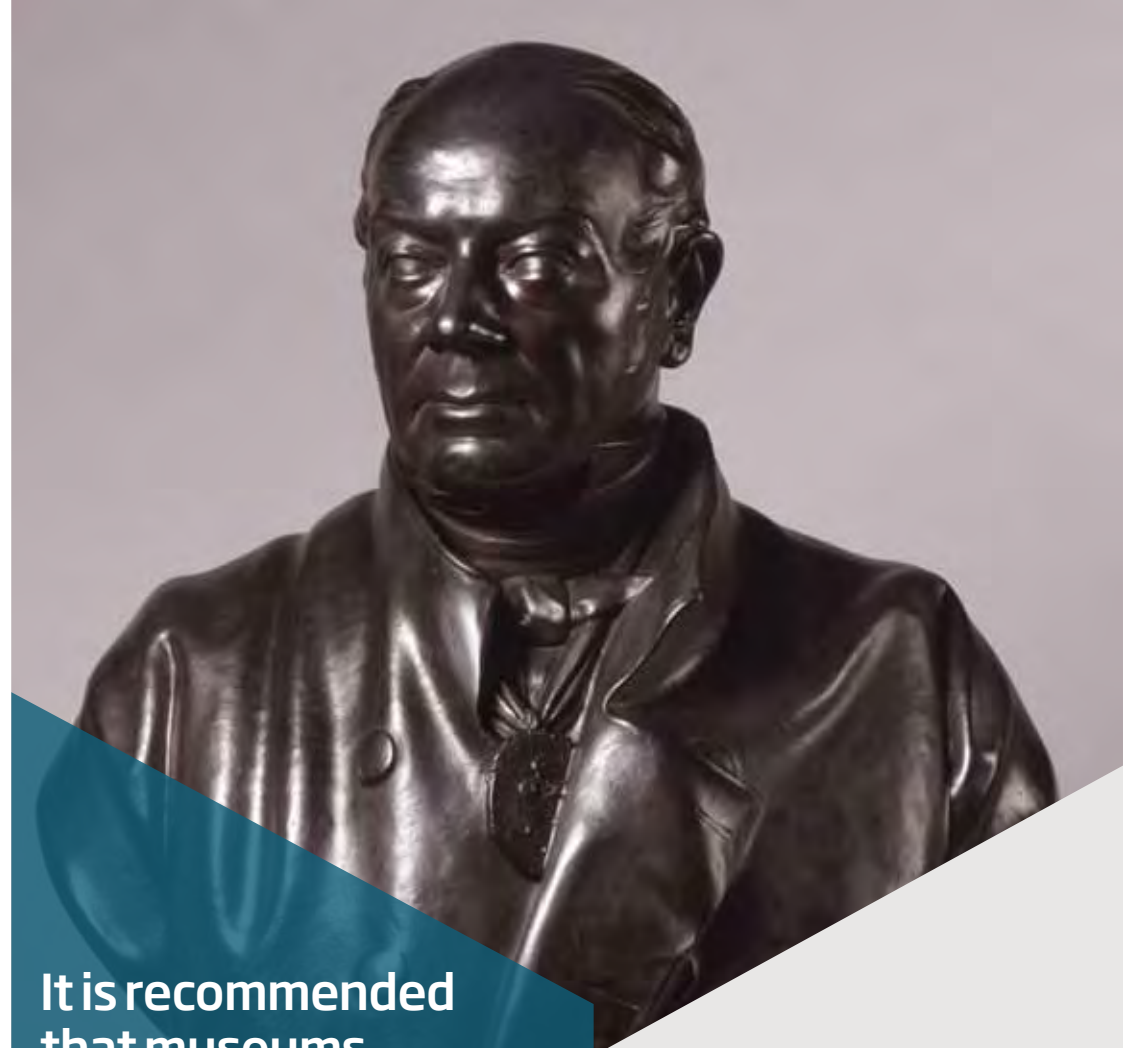
Whether or not a museum chooses to involve donors, it must be able to articulate clearly why it has adopted the approach in question. If a museum does involve donors, clear parameters should be established so that expectations can be managed.

In order to mitigate future problems with donors in relation to the disposal of items, ensure that adequate information relating to the possibility of disposal in the future is provided at the time of all new acquisitions. (See the MA's ethical guidelines on acquisition, which provide guidance on producing entry forms and letters to potential donors: www.museumsassociation.org)

Other stakeholders

It is recommended that museums consider the views of their stakeholders and those who have a vested interest in the collections, such as visitors, researchers, local or source communities and, in the case of contemporary art, living artists. Museums can benefit from involving those outside the museum by using community panels, for example. This is a useful way to meet the requirement for greater transparency and openness.

It may be advisable for museums to adopt a flexible approach to involvement and consultation with others as the appropriateness of consultation may differ depending on the item being removed. For example, the material may relate to a clearly identifiable group or constituency of the local population who may have a strong connection to the item, or it may be of particular relevance or connected to stakeholders overseas.



It is recommended that museums consider the views of their stakeholders and those who have a vested interest in the collections.

3

AFTER AN
ITEM HAS BEEN
SELECTED FOR
DISPOSAL

Once a museum has selected an item for disposal, the current status of the item and the method of its entry into the collection should be investigated. This could affect any proposed course of action and may influence the method of disposal.

Loan: If the item in question is on loan, contact the lender to discuss its return.

Purchase: If the item was acquired with the assistance of external funds, contact funding bodies to discuss any planned course of action.

Donation/bequest: Establish whether there were any conditions laid down at the time of deposition that may affect any planned disposal.

Unaccessioned/ method of entry unknown: The museum must go to reasonable lengths to research the history of an item.

Check that you are legally able to dispose

Review the documentation of the item to ensure that the museum has legal title to remove it and that there are no conditions attached that might prevent the museum from following this course of action. (Take legal advice if necessary.)

If the museum is planning to dispose of unaccessioned items where formal title cannot be established, a risk assessment of this course of action should be undertaken.

Making the decision to remove

Decisions to remove an item from the collection must be made by the museum's governing body, acting on the advice of relevant staff. Decisions to remove must not be made by a member of staff acting alone. The final decision relating to the disposal of an item must be approved by the governing body and documented.

Consequences of an unethical decision to remove

Unethical decisions to dispose of an item may have significant consequences for a museum. These are likely to include:

- loss or damage of public trust in all museums
- adverse publicity and long-term negative perceptions of the museum
- loss of Accredited status
- disciplinary action from the MA (if a member).

These factors are highly likely to jeopardise a museum's ability to secure investment from funding bodies. Unacceptable disposal of an item may also affect working relationships with other Accredited museums, who as a result may be unwilling to loan items or work on collaborative projects.

Once the decision has been made, select the most appropriate method of disposal.





METHODS OF DISPOSAL OF

The following should be of key consideration when selecting a method of disposal:

- there is a strong presumption for keeping items within the public domain
- there is a strong preference for free gift or transfer to other Accredited museums and items should be offered to them in the first instance
- action should be taken that ensure continued public trust in museums.

Whatever method of disposal is selected, the following steps must be taken in all cases:

- identify Accredited museums with suitable collections and approach directly
 - if no museum is identified, inform the museum sector and other relevant groups of availability of items
 - ensure transparency and communicate the process beyond the museum
 - ensure transfer of legal title to any recipient and any appropriate transfer of intellectual property rights
 - document the process.
-

In order to select the most suitable method of disposal keep in mind the desired outcome.

Free gift or transfer to another Accredited museum

It is recommended that where possible preference be given to this method of disposal, as it is the most likely to ensure that items remain cared for and accessible to the public. This approach has been central to the longstanding tradition of mutual cooperation between museums.

Things to consider:

- how would the transfer of the item to another museum help to achieve the desired outcome?
- what is the potential for increased use of the item through transfer to another museum?
- is the receiving museum able to provide adequate care and opportunities for access?
- any conditions of transfer
- public reaction to transfer.

Steps to take:

- ensure that the museum is legally able to remove the item by free gift or transfer
- if possible, identify museums with suitable collections and approach directly
- if no museum is identified directly, inform the museum sector and other relevant groups of availability of items
- once a new recipient is identified, agree terms for transfer (cost, responsibility for transport etc.)
- ensure transfer of legal title to receiving institution
- document the item and the process.

What to do if this method is unsuccessful:

- revisit the decision to remove the item
- consider whether the desired outcome could be achieved through another method of disposal.

Informing the museum sector and relevant organisations:

Unless an item goes directly to another Accredited museum or is being returned or repatriated, the museum sector and other relevant organisations should be informed and offered the items.


To inform the sector a notice can be placed on the MA's Find an Object web listing service: www.museumsassociation.org/collections

This facility allows museums to provide comprehensive information about items they wish to dispose of. Allow at least two months for other museums to express an interest.

Notices can also be placed in Museums Journal and other specialist press or relevant websites.

Exchange of items between museums

Museums may choose to exchange items between themselves. Exchanging collections is common practice in the field of natural history.



In order to select the most suitable method of disposal keep in mind the desired outcome.

Free gift or transfer to another institution/organisation within the public domain⁴

It is recommended that this method of disposal is only undertaken once it has been established that no Accredited museum is able to accept an item.

Things to consider:

- how will transfer of the item to another body within the public domain help to achieve the desired outcome?
- what are the other benefits of transferring the item to another body within the public domain?
- is the potential recipient able to provide adequate care and opportunities for access and use?

There is a strong preference for and tradition of free gift or transfer between museums.

- should conditions be imposed and, if so, what should they be?
- How might the public react to the transfer?

Steps to take:

- identify potential recipients and approach directly
- if successful, once a new recipient is identified agree terms and conditions for transfer (such as: cost and responsibility for transport, any potential future contact, any obligations should the new recipient no longer require the item or be able to provide adequate care or access)
- ensure transfer of legal title to recipient
- ensure transparency and communicate the process
- document the item and the process.

What to do if this method is unsuccessful:

- revisit the decision to dispose of the item
- consider whether the desired outcome could be achieved through another method of disposal.

Return to donor

Museums may consider returning items to donors, especially if it appears impossible to keep them in the public domain. It is recommended that return to a donor is only considered once the item has been offered to

other museums, unless there are extenuating circumstances such as: conditions laid down on donation; an item having a particular personal significance to the donor and a low cultural value; or a strong likelihood that the item will be transferred out of the local area.

Return of items to the descendants of donors may prove problematic and should be given careful consideration.

Things to consider:

- how will the return of the item to the donor help to achieve the desired outcome?
- is the museum legally able to return the item? (see Appendix 2 for advice from the Charity Commission)
- the length of time since the donation was made and the likelihood of the donor's details being up-to-date (It may be useful to set a specific time period when involving donors - for example if the item was donated in the past 10 years, attempts will be made to contact - see Whose views should be sought in the process? on page 11 for more information)
- risk of family disputes over the item
- public reaction to the disposal.

Steps to take:

- contact donor to ascertain whether they would like the item back
- ensure transfer of legal title to recipient
- document the item and the process.

What to do if this method is unsuccessful:

- revisit the decision to dispose of the item
- consider whether the desired outcome could be achieved through another method of disposal.

Footnote

4. See glossary for definition of public domain

Sale of item to an Accredited museum

There is a strong preference and tradition of free gift or transfer between museums. It is recommended that offering items to other museums by sale is not considered in the first instance. Requesting payment from other publicly funded museums may affect the likelihood of a new location being found and make it less likely that items will be retained within the public domain.

However, some museums may choose to sell to other museums in the first instance. This may be because the institution purchased the item with its own funds or has invested a significant amount of money in conserving it. Some museums may be legally required under charity law to sell items (see Appendix 2).

Any money raised as a result of disposal through sale must be applied solely and directly for the benefit of the museum's collection. Money raised should be invested in the long-term sustainability, use and development of the collection (e.g. by creating or increasing an endowment, making new acquisitions or making a significant capital investment which will bring long-term benefit). The use of proceeds from any sale will be monitored through the Accreditation process.

More guidance on the sale of museum collections, particularly financially motivated disposal, can be found in Appendix 4.

Things to consider:

- how will the sale of the item help to achieve the desired outcome?

- what are other benefits to the public from this sale?
- is the current market price or the original purchase price being sought for the item?
- what is the likelihood of another museum being able to purchase the item?
- what course of action will be taken if no museum is able to purchase the item? (e.g. offering the item at a reduced price⁵ or as a long-term loan)
- how will the proceeds of the sale be used?
- public reaction to the sale.

Steps to take:

- if possible, identify museums with suitable collections and approach directly
- if no museum is identified, inform the museum sector and other relevant groups of availability of items (see Informing the museum sector on page 16)
- seek expert independent advice on the item's financial value and recommend any purchaser does the same
- ensure transfer of legal title to recipient
- ensure transparency and communicate the process
- document the item and the process.

What to do if this method is unsuccessful:

- revisit the decision to dispose of the item
- consider whether the desired outcome could be achieved through another method of disposal
- consider an alternative course of action (such as offering the item at a reduced price or as a long-term loan).

Transfer outside the public domain

This course of action should normally only be undertaken after it has been established that no museum (or other organisation within the wider public domain) is able to take the item. Museums should first advertise the availability of the item to museums on the MA's Find an Object web listing service. Transfer outside the public domain is not recommended as an initial course of action.

There may however be circumstances where it is appropriate and the desired outcomes can be met by transferring items to individuals or bodies outside of the public domain, such as enthusiast or specialist groups.

Things to consider:

- how will the disposal of the item help to achieve the desired outcome?
- can adequate long-term care be provided for the item?
- will the public have any access to the item?
- are conditions going to be placed on the transfer? For example, if the recipient no longer requires the item, should it be returned to the museum in the first instance?
- public reaction to the transfer.

Steps to take:

- identify and inform potential organisations or individuals
- if successful, once a recipient is identified agree terms and conditions for transfer (e.g. cost and responsibility for transport; any potential future contact; requirements should the item no longer be wanted at a future date)
- ensure transfer of legal title to receiving body
- ensure transparency and communicate the process
- document the item and the process.

What to do if method is unsuccessful:

- revisit the decision to dispose of the item
- consider whether the desired outcome could be achieved through another method of disposal.

Footnote

5. For more information on sale at a reduced price see Appendix 4



Transfer to museums outside of the UK

Following research carried out as part of a collections review, a museum may decide to dispose of an item to a museum outside the UK. This may be done if it is in the interests of the museum and the wider public benefit. Unless there are extenuating circumstances, such as disposal on grounds of repatriation, transfer to a museum outside of the UK should only take place after items have been offered to Accredited museums in the UK. There may also be legal implications of a disposal to a museum outside the UK (e.g. under charity law) and legal advice should be sought. In exceptional circumstances items may be subject to export deferral by the Secretary of State, in such cases museums should seek specialist advice.⁶

Sale outside the public domain

This course of action must only be undertaken after it has been established that no museum (or other organisation within the wider public domain) is able to take the item. Museums should first advertise the availability of the item on the MA's Find an Object web listing service. It is not recommended as an initial course of action.

In all but the most exceptional circumstances it is unacceptable for a museum to select items for disposal with the principal aim of generating income. There is a significant risk involved in undertaking this course of action, in particular to the reputation of individual museums and the public trust invested in the sector as a whole. This is not recommended and should only be undertaken in exceptional circumstances, with additional support and guidance from the MA and in consultation with

sector bodies. Museums considering this course of action should follow the detailed guidance in Appendix 4.

Any money raised as a result of disposal through sale should be applied solely and directly for the benefit of the museum's collection. Money raised should be invested in the long-term sustainability, use and development of the collection (for example, by creating or increasing an endowment, making new acquisitions or making a significant capital investment which will bring long-term benefit to the existing museum).

Things to consider:

- how will the disposal of the item help to achieve the desired outcome?
- can adequate care be provided for the item?
- will the public have any access to the item?
- are conditions going to be placed on any sale? For example, if the recipient no longer requires the item, should it be offered back to the museum in the first instance?
- what will the proceeds be spent on?
- public reaction and consequences of negative publicity.

Steps to take:

- identify and inform potential organisations or individuals
- select a method of sale
- if appropriate, once a new recipient is identified agree terms and conditions of sale (such as any potential future contact or access to the item, any requirements should the buyer no longer require the item)
- ensure transfer of legal title to new recipient

- ensure transparency and communicate the process
- document the item and the process.

What to do if method is unsuccessful

- revisit the decision to dispose of the item
- consider whether the desired outcome could be achieved through another method of disposal.

Recycling of item

If a new location cannot be found and other methods are not appropriate, a museum may consider recycling an item through sale as scrap or as a gift to a charity.

Things to consider:

- how will this course of action achieve any desired outcome?
- is any potential financial value being realised?
- public reaction to the decision.

Steps to take:

- select the method of recycling; if necessary seek expert advice
- ensure method of recycling does not pose a risk to staff or the public
- ensure transfer of legal title to receiving body
- ensure transparency and communicate the process
- document the item and the process.

Destruction of item

The destruction of items should only take place if an item poses a risk to the health and safety of individuals or the collection.

Things to consider:

- how would the destruction of the item help to achieve the desired outcome?
- health and safety: does the museum have the expertise to destroy the item safely or is another agency better able to undertake this course of action?
- public reaction to the decision.

Steps to take:

- select the method of destruction; if necessary seek expert advice (for example, from the Health and Safety Executive)
- ensure method of destruction does not pose a risk to staff or the public
- ensure that destruction takes place
- document the item and the process.

Footnote

6. For more information about export controls see www.artscouncil.org.uk/what-we-do/supporting-museums/cultural-property/export-controls/reviewing-committee/

Methods of sale

When identifying a method of sale it is important to consider the requirement for openness and transparency and the need to avoid any conflicts of interest. To ensure transparency it is recommended that where appropriate, museums sell items at public auction. Museum staff and members of the governing body must not be allowed to purchase items being disposed of by their museum. It is also best practice that museum staff do not acquire material from other museums. For further advice see Appendix 4.

Direct sale to museum/public institution

Museums should seek a specialist independent valuation. It is recommended that the purchasers also obtain their own independent valuation. A museum may decide to sell at below the market value to ensure acquisition by another museum.

Sale on the open market

If items are not being sold directly to a museum or body within the public domain it is recommended that they are sold at public auction. This ensures that there is openness and transparency. Consideration should be given to the timing of the sale, its location and choice of auctioneer.

Sale online

Museums may consider selling items through an online auction.

Sale to a private individual

Museums must consider the need for transparency and openness; sale to a private

individual (in the first instance) may therefore not be appropriate. However there may be circumstances, for example when a private individual is willing to accept conditions of sale such as providing public access and agreeing to loan to museums, when sale to an individual may be appropriate. Careful consideration should be given to this course of action.

Use of proceeds from disposal:

If money is generated through the disposal of an item, it should be applied solely and directly for the benefit of the museum's collection. Any money raised must be restricted to the long-term sustainability, use and development of the collection. Funds must not be used as a source of revenue. The use of money will be monitored through the Accreditation Scheme.

If in doubt about the proposed use of such restricted funds consult the MA or other sector bodies.

**Museums must
consider the need
for transparency
and openness.**



5 RECORDING THE PROCESS

It is important that all aspects of the disposal process are documented; this should be done to SPECTRUM standards.

Any records should include:

- reasons for disposal
- desired outcome
- opinions and advice considered
- method of disposal
- conclusion of process: retention, transfer, sale etc.
- any conditions attached
- information relating to the item and photographs
- documentation relating to transfer of title
- note of any new location.





DEALING WITH PROBLEMS

Lack of documentation relating to an item

A lack of comprehensive documentation should not automatically prompt an item's disposal, but neither should it discount an item from being considered. In such cases, museums should make reasonable attempts to research an item's history and then weigh up the risk of removing the item from the collection with any potential benefit that may result from this course of action. Articulating the desired outcome will assist in doing this.

Any risk assessment must consider the possibility that the museum does not have legal title to the item in question. If this is the case and the museum proceeds with the disposal, any new recipient must be informed.

(See Collections Trust fact sheet: *Disposing of objects you may not own*)

Unable to find any suitable new location for the item?

There is a strong possibility that you may not be able to find another museum or body in the wider public domain able to take material you wish to dispose of. This may be particularly true of duplicate items or items that are common to numerous collections. If this is the case you may wish to consider the following courses of action:

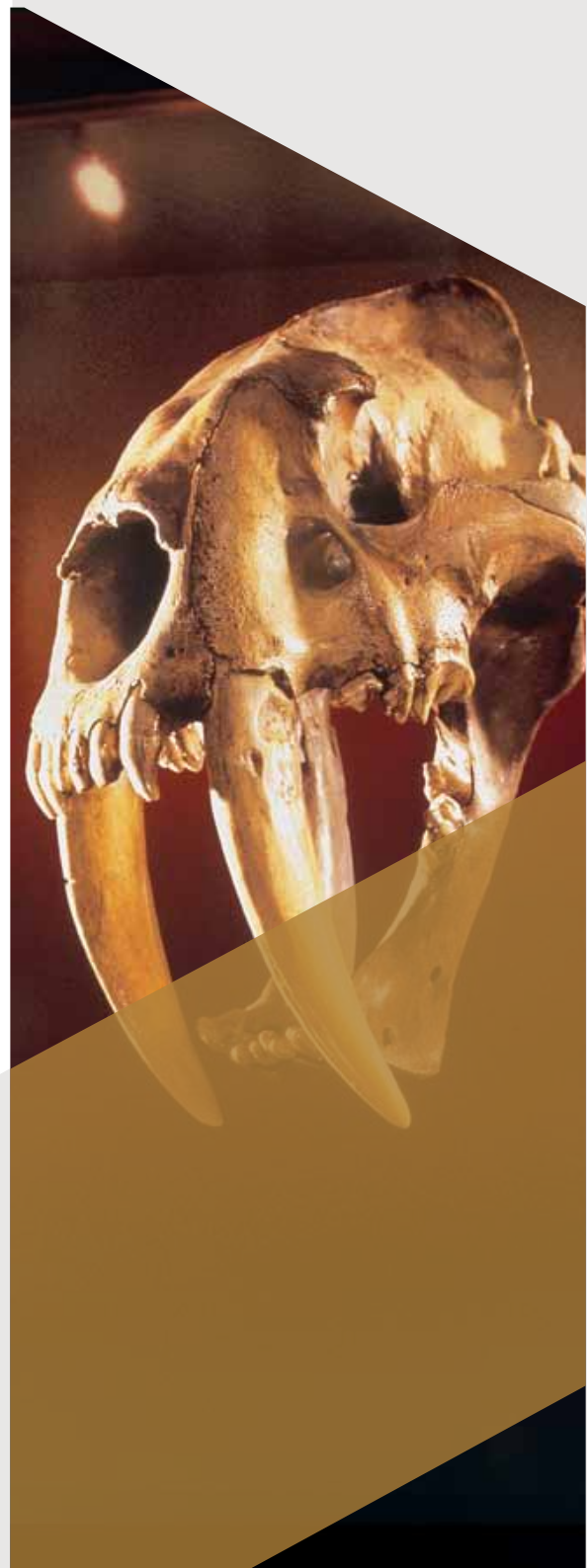
- reconsider the decision to dispose of the item
- depending on the significance of the item, consider retaining it and reconsider possible alternative uses
- consider whether the desired outcome could be achieved through another method of disposal
- consider alternative options (bearing in mind the proposed outcome)
 - long-term loans
 - sale (at auction)
 - recycling
 - destruction
 - retention of item.

Conflicts of interest

As in other areas of museum work, there is potential for conflicts of interest and it is important that they are avoided to protect the reputation of museums and their workforce. Ensure transparency and document the process.

Conflicts can be avoided when:

- the workforce, members of the governing body or those closely associated with the museum are invited to express a conflict of interest
- the workforce, members of the governing body or those closely associated with the museum do not receive direct benefit, financial or other, from a decision to dispose
- the workforce, members of the governing body or those closely associated with the museum are not given, or allowed to purchase, items being disposed of.





COMMUNICATING THE PROCESS

As with all areas of museum practice it is important that museums ensure transparency and openness with the public, their colleagues and stakeholders.


It is important to keep the public informed of plans relating to the disposal of items through press and media. Good proactive communication can do much to increase the public's understanding and awareness of this area of museum practice.

Museums should adopt an open and honest approach that explains the context and potential benefit of the planned course of action. It is important to set out publicly the museum's overall policy on disposal against which individual cases can be explained.

The level, approach and timing of any communication will depend on the nature of the items being disposed of. When considering communication, be clear about its purpose. Is it to provide information, engage people in consultation or seek views?

The whole workforce, including those not directly involved in the disposal process, should be informed about potential disposals, the reasons behind any decisions and any proposed course of action. This will help to ensure that the process is communicated accurately to those outside the museum.

Museums should also consider ways of communicating information to key stakeholders such as Friends of the museum and regular visitors. This could include briefings posted on museum websites and in newsletters.



Good proactive communication can do much to increase the public's understanding and awareness of this area of museum practice.

Glossary

Accreditation Assessing

Organisation: an organisation that assesses museums for Accreditation. In England, Isle of Man and Channel Islands this is done by Arts Council England, in Wales by CyMAL: Museums Archives and Libraries Wales (a division of the Welsh Government), in Scotland by Museums Galleries Scotland, and in Northern Ireland by Northern Ireland Museums Council

Accredited museum: a museum that meets the requirements of the Accreditation Scheme.

Collections development policy: (previously named the acquisition and disposal policy) a requirement of Accreditation. It sets out the principles that museums should use within a framework for responsible and ethical acquisition and disposal of items. The policy applies to material owned and accessioned into the collection and any future plans for collecting.

Compliance report: (only relevant to museums considering a financially motivated disposal). This report should be submitted to the MA and the AAO setting out how a museum's proposed financially motivated disposal meets the requirements of the Code of Ethics and Accreditation. This report will draw on information collected as part of putting together the process review report.

Core collection: collections that are relevant to the purpose of the museum are core. In many cases the museum's entire collections may be core. Defining a museum's core collection should take into consideration:

- the statement of purpose of the museum and the themes and priorities for future collecting and disposal
- the historic legacy of collecting.

Curatorially motivated disposal: this is undertaken as part of the overall process of responsible collections management.

Disposal: the permanent removal of an item from a museum collection.

Final Report: (only relevant to museums considering financially motivated disposal) Once a financially motivated sale has taken place a museum must provide the MA and relevant AAO with a final report detailing the method of sale, the sale price and details of how money raised from the sale will be allocated.

Financially motivated disposal: sale of collections where a primary reason for disposal is to raise funds.

First contact form: (only relevant to museums considering a financially motivated disposal). This document should be completed and submitted to the MA and AAOs at the start of the process, once an in-principle decision to dispose through sale

has been agreed by a museum's governing body. The information contained in this report will allow the two organisations to make a judgement on whether the sale is: a) curatorially motivated, and meets the requirements of the Code of Ethics and Accreditation and the sale can proceed; or b) financially motivated and will require the museum to undertake further actions before a decision in relation to the compliance with the Code of Ethics or Accreditation can be made.

Governing body: this is the organisation which normally owns the collections. If another legally separate organisation or authorised individual has been given powers to acquire and/or dispose of collections on behalf of the governing body, this must be made clear.

Handling collection: items that are used for education purposes and are suitable to be handled by the public. These items may often be duplicates or replicas.

Process review report: (only relevant to museums considering a financially motivated disposal). This report should contain all the key information, evidence and decision-making that relate to a proposed financially motivated sale from a museum collection. This document should be used from the start of the process of considering a financially motivated disposal and should be

continually updated throughout the process as key decisions are made, research is undertaken, and advice and views are sought. The information collected as part of the process review report will inform the compliance report.

Public and society: the word 'public' is used in the Code of Ethics in two senses that interconnect. The idea of society having a legitimate interest in museums and their activities is an underpinning value of the code. It is reflected in the use of the word 'public' in terms such as public domain, public service, public trust and public interest. The word public is also used to characterise those who are users of the museum. (Taken from the MA Code of Ethics for Museums)

Public benefit: any benefit derived from an activity that is available to the public, or a sufficient section of the public, and not for the benefit of the individual.

Public domain: in its broadest sense, and in relation to the removal and relocating of museum objects, the public domain is intended to refer to a location where reasonable public access can be achieved. This is likely to refer to public sector or publicly-funded bodies or those with charitable status that hold items in trust for the public and not as private property.

Set dressing: items that are not part of the accessioned collection, but are owned and used by a museum to enhance exhibitions and displays or for illustrative purposes.

Sleeper: an item on sale (usually at auction) that is an important work of art or a significant object but has not been recognised as such.

Users: individuals and groups with whom the individual museum is actively engaged, to mutual benefit. That sense of the public served by a museum will be reflected in the individual museum's mission and aims, which should define its target audiences. They may include past, current and potential users of the services provided by the museum. (Taken from the MA Code of Ethics for Museums)

Workforce: any person working for a museum, either as a paid employee or a volunteer.

Appendix 1

Resources

Accreditation Standard

The Accreditation Scheme sets nationally agreed standards for museums in the UK. There are currently just under 1,800 museums participating in the scheme, demonstrating their commitment to managing collections effectively for the enjoyment and benefit of users. The standard is available online at: www.artscouncil.org.uk

Collections development policy

The collections development policy (previously known as an acquisition and disposal policy) sets out the principles that museums should use within a framework for responsible and ethical acquisition and disposal of collections. It is a requirement of the Accreditation Scheme.

Code of Ethics for Museums

Developed by the MA Ethics Committee and voted for by MA members, the Code of Ethics defines current consensus over the principles that guide museum practice. It is available online at: www.museumsassociation.org/ethics/code-of-ethics

MA advice on sale

The MA has published selected advice on proposals for financially motivated disposal. It is available online at: www.museumsassociation.org/collections/sale-of-collections

MA Ethical Guidance on Acquisitions

The MA has published guidance on the ethics and practicalities of acquisition. It is available online at: www.museumsassociation.org/download?id=11114

Collections Trust fact sheet: Disposing of objects you may not own

The Collections Trust has produced a factsheet that provides advice and guidance on disposing of objects that museum may not own. It is available online at: www.collectionslink.org.uk/discover/manage-information/610-disposing-of-objects-you-may-not-own

HM Government Code of Practice on Consultation

The code that sets out what people can expect from the government when it runs formal, written consultation exercises on matters of policy or policy implementation. It is available online at: www.berr.gov.uk/files/file47158.pdf

Good Governance: A Code for the Voluntary and Community Sector

The code was created by the Association of Chief Executive Officers (ACEVO), Charity Trustee Networks (CTN), the Institute of Chartered Secretaries and Administrators (ICSA) and the National Council for Voluntary Organisations (NCVO). It is available online at: www.charity-commission.gov.uk/Charity_requirements_guidance/Charity_governance/Good_governance/governancecode.aspx

SPECTRUM: the UK Museum Collections Management Standard

The SPECTRUM standard is used by museums to improve the management, sustainability and use of their collections. It is available online at: www.collectionslink.org.uk/programmes/spectrum

Related organisations

Accreditation Assessing Organisations (AAOs):

Arts Council England
www.artscouncil.org.uk

CyMAL: Museums, Archives and Libraries Wales, a division of the Welsh Government
www.cymal.wales.gov.uk

Museums Galleries Scotland
www.museumsgalleriesscotland.org.uk

Northern Ireland Museums Council
www.nimc.co.uk

Other relevant organisations

Charity Commission
www.charitycommission.gov.uk

Collections Trust
www.collectionstrust.org.uk

Museums Association
www.museumsassociation.org

Office of Scottish Charity Regulator
www.oscr.org.uk

Appendix 2

Additional Guidance from the Charity Commission

Museums that are charities and charitable exhibits and collections

1. Museums and galleries that are charities:

There are museums and art galleries that are charities and hold one or more exhibits and collections. The main purposes for which they hold their property will be the promotion of art and/or the advancement of education. For guidance on whether the purposes of a museum are charitable, see:

www.charitycommission.gov.uk/media/95113/r10text.pdf

In each case the charity trustees need to know and follow the trusts, directions and conditions subject to which they hold the collection or exhibit. Charity trustees have overriding duties to act reasonably and in the interests of the charity; see the Charity Commission's guidance: The Essential Trustee: www.charitycommission.gov.uk/Publications/cc3.aspx

2. Museums and galleries that are not charities:

Museums and art galleries may belong to other bodies that are not charities, e.g. local authorities. However, such institutions often hold charitable exhibits and collections that have been acquired in the past with the intention that they be held separately on trust for the charitable purpose of promoting art or advancing education.

3. Collection-holding charities that are not museums or galleries:

There are charities, having other objects than the promotion of art, which hold significant works of art. Examples include hospitals and colleges of education. These charities will only be able to follow the toolkit in a limited way unless the works are held on a special trust for the promotion of art, because the works are held to further the objects of the hospital, college or other non-art charity, as the case may be.

4. Restrictions on disposal:

If the exhibit or collection in question has been given in perpetuity and there is no power to dispose, the charity trustees will need to take advice from the Charity Commission; the commission will enable them to dispose of the work(s) if this would be in the interests of the charity. Or the trustees may want to lend an exhibit

or collection to another body for public display but, without authority from the court or the commission, they cannot if there is a prohibition in the trusts. If there is nothing to stop them lending, the charity trustees may do so if they are furthering the objects of the charity.

5. Gifts of exhibits and collections are often given on terms that they are to be held permanently, but not always. In some cases the charity trustees have no express power of disposal and in others they have. Where there is no express power of disposal the charity trustees should seek advice. Where charity trustees dispose of exhibits and collections, they must deal with the proceeds as directed in the trusts; such directions will usually be to replace items or invest and spend the income only, but may include the power to spend the proceeds on conservation and repair of the remaining exhibits and collections.

6. Return of items to donors:

Where they have accepted an unconditional gift, charity trustees cannot return items to donors unless this is in the charity's interests. If there is a strong moral obligation and the item has a low cultural value, the trustees should ask the Charity Commission for advice.

7. Sale at less than market price

Charity trustees must comply with charity law and other laws that apply to their charity. Subject to these trusts, powers and duties, trustees have discretion:

- to accept or refuse a donation (of money or property)
- to dispose of property that is no longer required for the purposes of the charity:
 - at full value, or
 - at less than full value if this furthers the charity's purposes or is otherwise in its interests.

8. Governance issues

If a charity trustee or a person or organisation connected with them wished to acquire item on disposal for the benefit of another organisation, the commission would expect the other trustees to ensure that the best return reasonably obtainable for their charity was secured. At the least, the acquiring trustee should be excluded from their discussions, decision-making and all other action taken to manage the conflict of interest.

9. Return of collections

With regard to the return of cultural property or other exhibits or collections belonging to a charity raising issues of restitution, repatriation or spoliation, the Charity Commission set out its views in a memorandum to Parliament's Select Committee on Culture, Media and Sport in April 2000 and a copy of this can be found online at: www.publications.parliament.uk/pa/cm199900/cmselect/cmcmuds/371/371ap50.htm

Much of this advice is based upon guidance provided by the Charity Commission in 2008. Advice may change over time and consequently it is advisable to refer to the commission's website: www.charitycommission.gov.uk

Appendix 3

Six principles of good governance as set out in Good Governance: A Code for the Voluntary and Community Sector.⁷

The members of the governing body are expected to:

- understand their role, their legal duties, and their responsibilities as stewards of cultural items
- ensure that the purposes of the museum are carried out and that the museum acts in the long-term public interest
- work effectively both as individuals and as a team
- exercise effective control so that legal and ethical requirements are complied with
- behave with integrity, maintaining independence in decision-making, and identifying and managing any conflicts of interest
- be open and accountable: members must promote and protect the reputation of the museum and must engage in a consultation process with stakeholders, reflecting upon the information and advice received.

In addition to disclosing any conflicts of interest, the members of the governing body must take care in relation to decision-making; they must authorise a consultation process with stakeholders, and must reflect upon the information and advice received in relation to a prospective sale.

Footnotes

⁷ Good Governance: A Code for the Voluntary and Community Sector

The code was created by the Association of Chief Executive Officers (ACEVO), Charity Trustee Networks (CTN), the Institute of Chartered Secretaries and Administrators (ICSA) and the National Council for Voluntary Organisations (NCVO). It is available online at: www.governancecode.org/

Checklist for all disposals:

Initial steps:

- determine the desirability of undertaking a full review of the collection
- develop a project plan and allocate resources to manage the process
- create an assessment framework to assist in evaluating items within the collection and their subsequent suitability for disposal
- secure the governing body's agreement to the potential disposal of items
- ensure collection documentation is as complete as possible.

Making the decision to dispose:

- make decisions to dispose as part of an overall collections management strategy and in light of a collections development policy, preferably as part of a review of the collection
- articulate the desired outcome of the disposal
- articulate the curatorial reasons behind the proposed disposal with reference to your collections development policy
- seek specialist advice if necessary
- consider the views of donors and stakeholders
- consider the public reaction, and develop a communications strategy
- establish whether the item was purchased or conserved with the aid of external funding bodies; if so, seek views from appropriate bodies
- ensure the museum is legally able to remove the item
- recommend a method of disposal that is likely to achieve the desired outcome.

Things to consider:

- what is the desired outcome?
- if successful, how will the method of disposal help to achieve the desired outcome?
- what are the benefits of this course of action: to the care, use and context of the item; to the museum and its collection; to the broader museum community; and to people's use and enjoyment of museum collections?
- what is the potential for increased use of the item through the proposed course of action? (There may be none in the case of items being recycled or destroyed)
- is the proposed recipient able to provide adequate care and opportunities for access?
- what might the public reaction be to the proposed course of action?
- what are the potential risks in the proposed course of action?

Once the decision has been made:

- identify potential Accredited museum recipients, approach directly
- place a notice on the MA's Find an Object web listing service, in Museums Journal and other specialist publications and websites. Allow at least two months for a response
- if appropriate, inform the donor
- if a new location can be found, agree terms and conditions of transfer (or sale)
- ensure transparency and communicate the disposal to the public
- ensure transfer of legal title to the recipient
- document the process.

What to do if attempt to dispose is unsuccessful:

- reconsider the decision to dispose
- consider possible alternative uses within the museum for the object(s)
- consider whether the desired outcome could be achieved through another method of disposal (transfer to wider public domain/ outside public domain)
- consider alternative options (bearing in mind proposed outcome):
 - long-term loan
 - sale (at public auction)
 - recycling
 - destruction
 - retention of item.

DISPOSAL TOOLKIT
APPENDIX 4:
ADDITIONAL GUIDANCE
ON FINANCIALLY
MOTIVATED DISPOSAL



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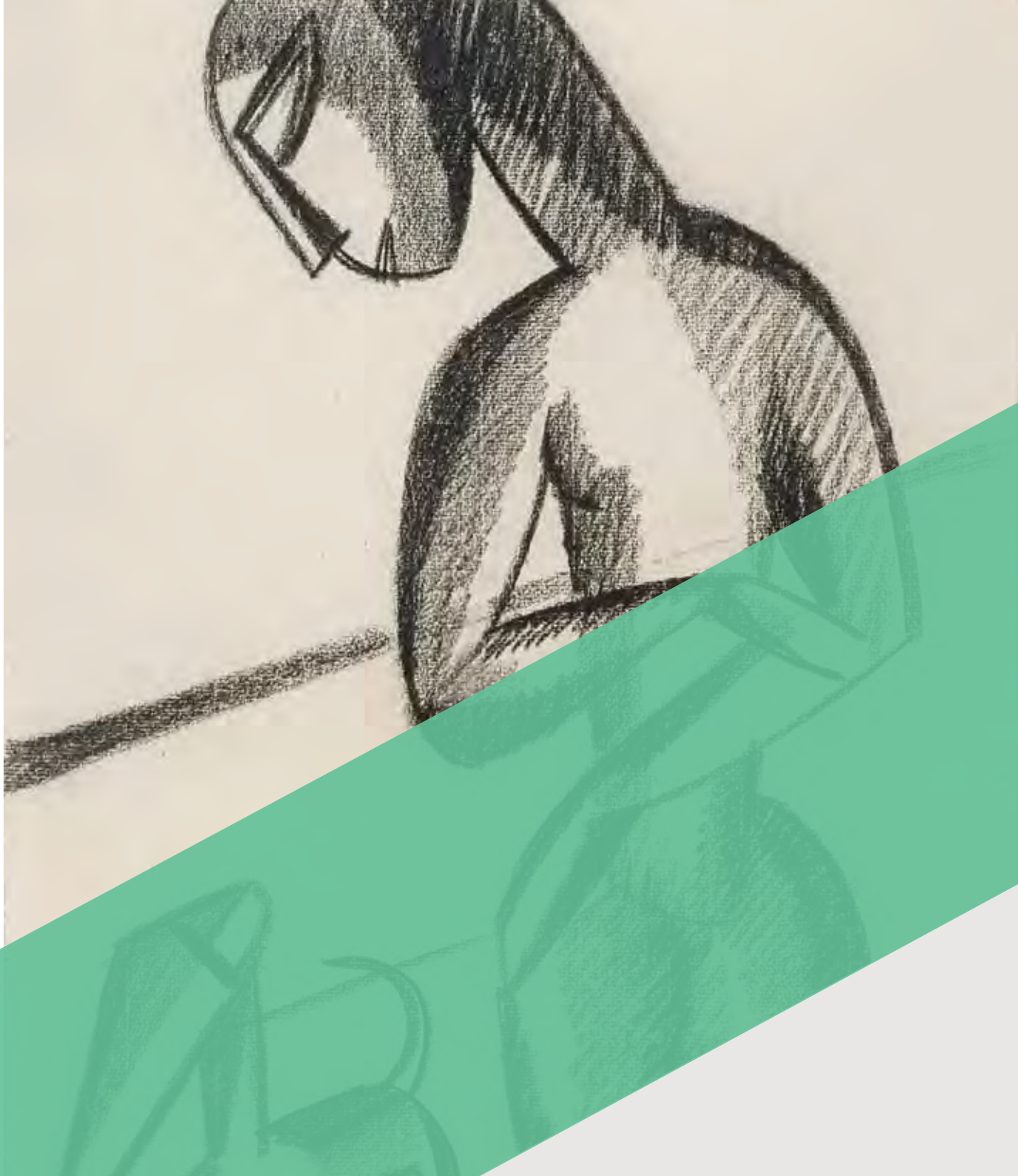
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Acknowledgements

Many people and organisations have contributed to the development of this guidance. Much of the work was undertaken by Professor Janet Ulph of the University of Leicester during an Arts and Humanities Research Council Placement Fellowship at the MA. This guidance is also a result of work by CyMAL: Museums Archives and Libraries Wales, a division of the Welsh Government; Museums Galleries Scotland (MGS); the Northern Ireland Museums Council (NIMC); Museums Association (MA); and Arts Council England, in particular Samuel Rowlands, Accreditation manager.

Introduction

Purpose and scope of the guidance

There are a number of methods that can be used to dispose of items from a museum collection, and general guidance on these can be found in the Disposal Toolkit. This specific appendix has been produced to address sales from museum collections; its primary focus is to provide guidance on financially motivated disposal.

There are certain circumstances in which the sale of an item or items from a collection is acceptable. Curatorially motivated sale may be considered part of responsible collections management. However, in all but the most exceptional circumstances, it is unacceptable for a museum to select items for disposal with the principal aim of generating income. Due to the nature of this type of disposal, additional scrutiny is required. This additional guidance has been produced to help museums make decisions about undertaking this course of action. It sets out a clear process which museums must complete to ensure they comply with the requirements of the Accreditation standard and the MA Code of Ethics, and can demonstrate this.

Using the guidance

This guidance must be used in conjunction with the main Disposal

Toolkit. A museum should only be using this additional guidance once it has thoroughly reviewed the information in the toolkit.

There are five stages that should be addressed before a financially motivated disposal can be completed. This guidance will take you through the stages of the process and outline what needs to be considered and completed at each stage. If you are uncertain at any stage of the process you should contact either the MA or the relevant AAO.

Although this document is believed to be compatible with the law, there will be circumstances in which obtaining specific legal advice is advisable; museums should seek independent legal advice where appropriate or necessary.

Context for disposal

All disposals should take place in the context of a museum's own approved collections development policy and should meet the requirements set out in the MA Code of Ethics and the Accreditation standard. The relevant sections of the Code of Ethics and the Accreditation standard are referred to regularly throughout this document. The relevant sections of the Code of Ethics can be found on page 4 of the Disposal Toolkit and the relevant section of the Accreditation standard can be found at: www.artscouncil.org.uk

Financially motivated disposal

General Principles

As set out in the MA Code of Ethics and as a requirement of being an Accredited museum, there must always be sound curatorial justifications for disposal, even if a primary motivation is financial. Museums should be guided by their own approved collections development policies.

The MA Code of Ethics prohibits financially motivated disposals, apart from in certain exceptional circumstances, as it risks damaging public confidence in museums and the principle that collections should not primarily be seen as financially negotiable assets.

There may be exceptional cases where it can be demonstrated that financially motivated disposal will significantly improve the long-term public benefit derived from the remaining collection. In order to be ethically acceptable, a financially motivated disposal must meet all the requirements of the Code of Ethics. In particular, it must be demonstrated that:

- It will significantly improve the long-term public benefit derived from the remaining collection
- It is not to generate short-term revenue (e.g. to meet a budget deficit)

- It is a last resort after other sources of funding have been thoroughly explored
- Extensive prior consultation with sector bodies has been undertaken
- The item under consideration lies outside the museum's established core collection as defined in the collections development policy.

For all disposals, money raised must be used solely and directly for the benefit of the museum's collection. Money raised must be restricted to the long-term sustainability, use and development of the collection and be allocated to activities that are compatible with the requirements of the Accreditation standard.

For all disposals, it is essential to seek the views of stakeholders (such as donors, researchers, local and source communities and others served by the museum) who have a vested interest in the proposed disposal.

Role of the MA and AAOs

Museums pursuing financially motivated disposal should initially get in contact with the relevant AAO (see Appendix 1 of the Disposal Toolkit) and the MA by using the first contact form. Using this format will ensure that consistent information is provided to both organisations. Below is a summary of how the two organisations will advise on financially motivated disposals and determine whether the proposed actions meet the requirements of

the Code of Ethics and the Accreditation standard.

Because the practice of financially motivated disposal can be complex and is likely to be controversial, the MA and AAOs will consult each other where cases are significant or may lead to a precedent being set.

The MA:

In line with the requirement of the Code of Ethics to consult sector bodies on proposed financially motivated disposal, the MA expects museums to seek formal advice from its Ethics Committee on any proposal for financially motivated disposal. The Ethics Committee is the key decision-making body for the MA in this area of practice. After responding to the first contact form and upon receiving the subsequent compliance report, the Ethics Committee will provide advice about whether it believes the proposed sale is compatible with the Code of Ethics.

Please note that the MA evaluates proposed financially motivated disposals carefully and it is likely to take several months to provide a definitive opinion, particularly as it is often necessary to discuss the proposal at a meeting of the Ethics Committee. As well as considering the overall public benefit of the proposed disposal, the Ethics Committee may raise detailed points about the requirements of the Code of Ethics.

If, after advice and guidance, the requirements of the Code of Ethics are not met and a museum proceeds with the sale, it could lead to disciplinary action by the MA.

AAOs:

The Accreditation Scheme is overseen by the Accreditation Committee and Accreditation panels, which are sub-groups of the committee that meet approximately six times a year.

Accredited museums that are considering undertaking a financially motivated disposal may request advice from the relevant AAO. Advice will be offered based on information provided in the first contact form and compliance report. The museum should seek advice to ensure that the proposal fits with its own Accreditation-compliant collections development policy.

Please note that AAOs evaluate proposed financially motivated disposals carefully and it is likely to take several months to provide guidance, particularly in cases where a precedent may be set and the case is referred to an Accreditation panel.

If a sale proposal is likely to form a precedent for the Accreditation Scheme, the AAO will prepare a report and a recommendation to the earliest Accreditation panel before the sale takes place. If no precedent will be set it will be dealt with by the relevant AAO in the normal way,

where the AAO will provide guidance and update the panel but will not ask the panel for an opinion. In cases where precedent is being set, the panel will consider the assessment and recommendation, focusing on whether the proposal is likely to comply with the requirements of Accreditation. The outcome may be that:

- the proposal complies with the Accreditation standard
- the proposal broadly complies, but should be amended to ensure full compliance; or
- the proposal does not comply with the standard and should be reconsidered.

The panel will:

- provide clear guidance, if necessary, on how the process should be amended to maintain compliance with the Accreditation standard
- provide clarity regarding the museum's Accredited status, and the likely Accredited status following the completion of a financially motivated sale
- direct the relevant AAO to monitor the implementation of the disposal process.

Once a sale has been completed and the final report has been provided, the relevant AAO will provide a second assessment and recommendation to the first available Accreditation panel. This assessment

will outline the process which has been undertaken since guidance was first provided (either by the AAO or a panel). The recommendation and outcome may be:

- full Accreditation (the disposal complies with the standard)
- provisional Accreditation (the disposal complies with standard but improvements have been identified to ensure long-term compliance); or
- removal (the disposal does not comply with standard).

The consequence of non-compliance

In the case of removal for the reason of a non-compliant financially motivated sale, the governing body/ museum will also be excluded from participation in the Accreditation Scheme for a period of five years.

Process for financially motivated disposal

Due to the potentially complex and contentious nature of financially motivated disposal, museums considering this course of action need to undertake a rigorous decision-making process and take into account a range of factors and views. The process that needs to be completed has been divided into a five stages:

Stage 1: Assessment and in-principle decision-making

Stage 2: Planning and investigation

Stage 3: Consultation, advice and making the final decision

Stage 4: The sale

Stage 5: Post-sale and record keeping.

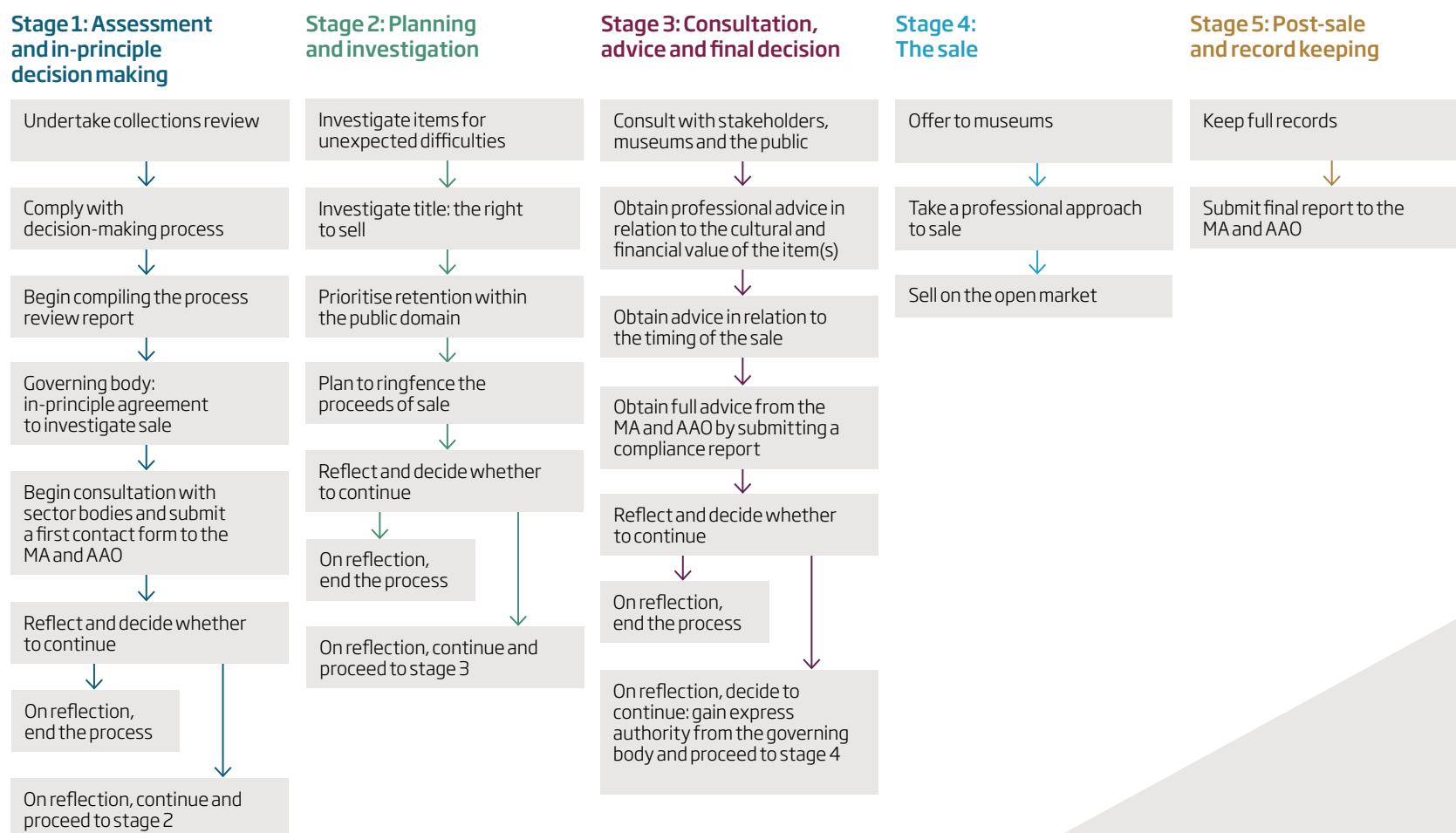
Work required at each stage of the process should be proportionate to the financial and cultural value of the item being considered for disposal through sale.

There are four key documents that need to be completed during the process. They are:

- Process review report
- First contact form
- Compliance report
- Final report.

Further information about each of these documents can be found in this section and a summary can be found in the Disposal Toolkit glossary.

Figure 1. Suggested process to follow for financially motivated disposal



Timetable to consider and undertake a financially motivated disposal

Throughout the process, museums will be required to investigate and gather specific information; consult with and consider the views of a number of different organisations and stakeholders; and make and document a number of decisions. As a result, undertaking this course of action will be time-consuming; however carrying out this work will demonstrate to stakeholders that an organisation has undertaken the due diligence necessary to make these decisions.

At least six months and sometimes over a year will be needed to undertake the first four stages of the process leading to the sale of an item.

Stage 1: Assessment and in-principle decision-making

1.1. Undertake a collections review

1.1.1. Prior to disposal, a thorough collections review should have taken place. The review should identify possible candidates for disposal. For guidance on undertaking a collections review, see: www.museumsassociation.org/collections

1.2. Comply with decision-making processes

1.2.1. Throughout the process of disposal, general principles of good governance must be maintained: see Disposal Toolkit, Appendix 3.

1.2.2. Internal procedures must be observed and maintained to ensure a robust audit trail. Appropriately minuted meetings, complying with the institution's constitution and internal procedures, should be held involving staff and the governing body.

1.2.3. At an early stage, the governing body should record an in-principle agreement to investigate sale, as it should in relation to any programme of disposal.

1.2.4. Decisions to dispose of an object are the responsibility of the governing body of the museum acting on the advice of professional curatorial staff, if any, and not of the

curator of the collection acting alone. Decisions to dispose should be informed by the highest standards of expertise and take into account all legal and other attendant circumstances.

1.2.5. Planning and consultation are particularly important in order to protect the reputation of the museum. Museums will need to demonstrate that the disposal is part of responsible collections management. Great care must be taken to consider any anticipated legal and ethical implications of sale. Early and proper consultation with the public and stakeholders will also be important (see stage 3), together with collecting sufficient information to deal with any enquiries.

1.3. Begin compiling the process review report

1.3.1. It is best practice to have a single file recording all key information and decisions and to update this throughout the process of disposal. This is referred to in these guidelines as the process review report. To ensure accountability and transparency, preparation of the process review report should begin from an early stage.

1.3.2. Preparing the process review report will make it possible to produce information in different forms to serve: internal management needs; governing body decision-making; requests for advice from other bodies (e.g. the MA and AAO); and provision of

information to the public and the media.

1.3.3. As the process of sale continues, the process review report will need to be updated. For example:

- if the number and nature of items selected for disposal by sale is altered after further deliberation, this change should be recorded
- if further research needs to be carried out on the items selected for disposal
- if checks need to be made that the collections review and the reports to the governing body fully justify why the disposal serves the long-term public interest
- whether the intended application of the proceeds of sale will meet ethical guidelines.

1.4. Governing body: in-principle agreement to investigate sale

1.4.1. The governing body should record its decision to investigate sale. Its decision should be informed by a report containing professional advice and demonstrating that the museum is acting in the long-term public benefit. The information gathered for this report can be used again in the process review report.

1.4.2. The report to the governing body should:

- Refer to the collections review process (which will help to answer some of the following points)

- Detail the requirements of the Accreditation Scheme and the MA's Code of Ethics, which are that:
 - the sale will significantly improve the long-term public benefit derived from the remaining collection
 - it is not to generate short-term revenue (for example to meet a budget deficit)
 - it is a last resort after other sources of funding have been thoroughly explored
 - extensive prior consultation with sector bodies has been undertaken
 - the item(s) under consideration lies outside the museum's established core collection as defined in the collections development policy.
- Specify the number and nature of items being considered for disposal. This requires a description of each item and whether it is a duplicate. The condition of the item needs to be clearly stated, bearing in mind that if an item is eventually sold there are legal obligations owed towards any purchaser in relation to the description and condition of the item (Sale of Goods Act 1979, sections 13 and 14). Items can be sold even if they are in poor condition, but their defects must be openly acknowledged.
- Explain why the item is seen as lying outside the museum's core collection (the definition of core collection can be found in the Disposal Toolkit glossary).
- Cover relevant requirements contained in the collections

development policy and, in particular, clauses relating to the museum's statement of purpose, and the museum's themes and priorities for future collecting and disposal.

- Include statements regarding:
 - how the particular items chosen for sale were selected; and
 - why other items were not selected instead. For example, a decision to sell high value items relative to the collection as a whole may require a more detailed explanation of how this decision was arrived at in order to demonstrate that items are not being selected for sale solely on the grounds of their financial value.
- Raise the point that the museum will need to ensure it has legal title to the items, noting any anticipated legal implications of sale. There are legal obligations owed towards any purchaser to transfer legal title (Sale of Goods Act 1979, section 12).
- Provide an explanation regarding how the disposal serves the long-term public interest together with notes of any anticipated ethical implications of the sale. This must include consideration of:
 - evidence relating to why each item was acquired in the first place
 - when and for how long the selected items have been on public display at the museum or elsewhere, or have been used for research or any other activity

- the impact of disposal on the remainder of the collection
- the collecting policies of other museums and other organisations collecting in the same or related areas or subject fields
- any advice obtained
- information regarding outcomes of any consultation to date with stakeholders such as donors, researchers, curatorial staff, governing bodies of other museums and local and source communities, together with any decisions made in the light of that consultation (see stage 3)
- plans in relation to future consultation with stakeholders, particularly in relation to an item's cultural value and the public interest (see stage 3)
- plans in relation to obtaining professional advice on an item's cultural value, its financial value and the timing and manner of sale (see stage 3)
- whether the item would fit better, and be more widely used and accessible, in another museum's collection
- details of the reasons for proposing sale rather than free transfer to another museum
- whether similar items (such as duplicates) in the collection have been or are being transferred to other museums
- plans in relation to disposal of other material of a similar nature

- how priority will be given to keeping the item in the public domain.

- Agree to seek formal advice from the MA and AAO and begin consultation with sector bodies (see stage 1.5.)

1.4.3. The report to the governing body will often become a public document, so particular attention should be paid to communicating the proposal in a manner which safeguards the reputation of the museum.

1.5. Begin consultation with sector bodies

1.5.1. Museums are encouraged to seek advice at the earliest possible stage. At the latest, this should be as soon as the governing body has given in-principle agreement to investigate sale.

1.5.2. If the sale might be seen as financially motivated, the views of the relevant AAOs and the MA must be formally sought at this stage by completing the first contact form, which is available from either organisation.

1.5.3. Upon completion of the first contact form, the museum will receive responses from the MA and the AAO either:

- confirming that on the basis of the information provided, the plans for the sale meet the requirements of the Code of Ethics and Accreditation; or

- confirming that further information in the form of a compliance report will be required later in order to form a view on whether any proposed sale satisfies the requirements of the Code of Ethics and Accreditation.

1.5.4. If requested, museums should confirm that a compliance report will be supplied later (see stage 3.4) to enable further advice to be provided in relation to compliance with Accreditation and the Code of Ethics.

1.6. Reflect and decide whether to continue

1.6.1. Reflect on the advice from the AAO, the MA and anyone else who has been consulted to date and decide whether to proceed to stage 2.

Stage 2: Planning and investigation

2.1. Investigate items for unexpected difficulties

2.1.1. Some items are seen as deserving of special protection because they are viewed as pre-eminent for their national, scientific, historic or artistic interest. Pre-eminence has a legislative basis in assessing objects for Acceptance in Lieu (S 230 Inheritance Tax Act, 1980), Conditional Exemption, Private Treaty Sales, and as of July 2012, the Cultural Gifts Scheme. It is therefore good practice to confirm that the item selected for disposal is not pre-eminent, which is assessed using the following questions (see section 11.23 of www.hmrc.gov.uk/inheritancetax/conditionalexemption.pdf for further information):

- Does the object have an especially close association with our history and national life?
- Is the object of especial artistic or art-historical interest?
- Is the object of especial importance for the study of some particular form of art, learning or history?
- Does the object have an especially close association with a particular historic setting?

2.1.2. If the item is viewed as pre-eminent, it should only be transferred or sold to another UK museum, to retain it within the public domain and the UK.

2.1.3. Museums should seek further advice and undertake more research where an item from the collection lacks a detailed history of ownership. Great care needs to be taken in describing items so that a purchaser is aware of any problems in relation to their provenance. In particular, museums should pay attention to three specific concerns:

A. Illicit material

Reasonable efforts should be made to investigate the provenance of the item. If there is any risk that the item may be illicit, experts in the relevant field should be consulted and searches of relevant electronic databases such as the Art Loss Register should be made.

B. Fakes and forgeries

An item should not be sold without further research if it is evident that more work is needed in relation to its authenticity. If it is discovered that an item is a fake or forgery:

- This fact must be disclosed to a purchaser in order to avoid liability
- The museum should make best efforts to ensure that there is no risk that the item could be presented as genuine by, for example and where appropriate,

registering the item with the Art Loss Register.

C. 'Sleepers'

Museums should avoid a hasty sale where there is a possibility that further research might reveal that the item has a far greater financial or cultural value than originally appreciated.

2.1.4. Research efforts should be proportionate to the apparent cultural value of the item. Greater care may be needed where it is known that an item originates from another country and where there is a possibility that the source nation may wish to make a claim for repatriation.

2.2. Investigate title: the right to sell

2.2.1. The governing body must have legal title to an item.

2.2.2. The following matters need to be considered and recorded in the process review report:

- Can it be established by reference to accession and other records that the item is owned by the institution? There are a number of ways in which a museum can establish ownership. For example, a Deed of Gift or a letter or note from the donor; a letter of an executor or administrator where items have been left to a museum in a Will; a copy of the Will itself; or a receipt written out by museum staff.

- Are there any restrictions imposed upon the items which are being considered for sale? Any agreements with donors must be taken into account. For example, it should be considered whether there is a restriction:

- because the item is part of the 'permanent endowment' of the institution and is therefore inalienable. For example, conditions may have been imposed upon items which formed part of the original collection of a museum and which can be found in the governing document when it was established as a charity; or these conditions may have been agreed at the time when the item was accepted by the museum

- by virtue of a trust or condition imposed by a donor either regarding his/her original gift of the item itself or because it was acquired out of funds he/she provided. Although a donor may simply transfer an item to a museum without imposing any conditions, this cannot be assumed. Records will therefore need to be checked. A donor might require the item to be given to another charity if the terms of the gift are not met, or it should be returned. However, in these circumstances, the donor could be approached to see if he or she is willing to give up any right to demand the return of the gift.

- Are there any statutory restrictions preventing sale? See, for example,

section 3(4) of the British Museum Act 1963; sections 4 and 6 of the Museums and Galleries Act 1992; and section 8(3) of the National Heritage (Scotland) Act 1985.

- As regards museum items owned by local authorities, under which statutory provisions is the local authority proposing to exercise its power of sale?
- Was the item acquired with assistance from an external funding body, and if so, what were the terms (if any) of the grant and do they involve repayment of the grant on sale?
- Are there any tax implications in relation to the sale?

2.2.3. Advice should be sought where the answer to any of these issues is unclear.

Note: if the museum has acquired possession of an item by way of loan, it must not be sold or otherwise disposed of because, in addition to ethical considerations, this could give rise to a liability to compensate not only the owner but also the purchaser.

2.3. Prioritise retention in the public domain

2.3.1. Priority should be given to keeping the items in the public domain. Expressions of interest must be sought from other museums (and, in the case of Accredited museums,

from other Accredited museums in particular). Museums should advertise the sale on the MA's Find an Object web listing service. Before any public sale, museums must be given enough time to consider acquiring the item: at least two months is necessary for this purpose.

2.3.2. To increase the likelihood of retention in the public domain, consider sale at an undervalue to another museum. A museum governing body will ordinarily seek the best price for the item in order to benefit the museum's remaining collection. However, where the museum collection is held in trust for the benefit of the public (and this will be the case, for example, if it is registered as a charity with the Charity Commission), it is not obliged to seek the best market price for an item where it is selling this item to another museum with charitable purposes. This is because sale at a discount will benefit the public by ensuring that the item is retained within the public domain.

2.3.3. The governing body of a museum contemplating a sale at less than the market price should ensure:

- that this course of action can be justified as in furtherance of the museum's own purposes and that it is in the museum's best interests;
- that the members of the governing body are satisfied that the item will

remain in the public domain and will be accessible to the public; and

- that any restrictions which may have been placed on the item when it was originally donated continue once the sale has been completed or any restrictions the selling charity put on the use of the item are met.

In addition:

Local authority museums may consider transfers at less than market value to other museums. For example, a substantial discount in the market value can be offered when land and buildings, as well as the museum collection, are being transferred under a community asset transfer to further local, social, economic and environmental wellbeing, in accordance with the Localism Act 2011.

There may also be circumstances where a sale to another museum or organisation in the public domain at less than the market value may be advisable by taking account of the need to improve the quality of services for the benefit of the public and local communities.

Local authority museums will need to consider whether the disposal of any item adversely impacts upon those groups with protected characteristics under the Equality Act 2010. Retention of the item in the public domain could mitigate any adverse impact.

2.4. Plan to restrict the proceeds of sale

2.4.1. If an item is sold, museums should restrict the proceeds of sale to ensure that they are spent solely and directly for the benefit of the collections.

2.4.2. The proceeds of sale should be applied for the long-term sustainability, use and development of the collection. Proceeds cannot be spent upon short-term measures, such as to meet a budget deficit.

2.4.3. In the case of Accredited museums, this normally means the purchase of further acquisitions, although in exceptional cases, improvements relating to the care of the collections in order to meet or exceed Accreditation requirements relating to the risk of damage to and deterioration of the collections may be justifiable.

2.4.4. In the case of Accredited museums wanting to spend funds on care of collections, advice should be sought from the relevant AAO on the use of such restricted funds. The use of these funds will be monitored through the Accreditation process.

2.4.5. If the museum intends to create an endowment trust, the sole purpose of the endowment trust should be the long-term sustainability, use and development of the collection and must reflect the guidance provided by the

Code of Ethics and the collections development policy set out above.

2.5. Investigate other sources of funding

2.5.1. Financially motivated disposal must be the last resort after other sources of funding have been thoroughly explored. Thorough investigation of other sources of funding is likely to include: trusts and foundations; major public and lottery funders; private givers; commercial exploitation of the museum's assets; local authorities; and European sources of funding.

2.6. Reflect and decide whether to continue

2.6.1. Reflect on information gathered and decide whether to continue to stage 3 (involve the governing body in the decision if appropriate). Ensure the process review report is up to date.

Stage 3: Consultation, advice and final decision

3.1. Consultation with stakeholders, museums and the public

3.1.1. The process of consultation and taking advice may provide an opportunity to learn more about the items which have been selected for sale, but should also be seen as a further opportunity for reflection. The governing body should take full account of consultation findings in making its final decision.

3.1.2. This process should be carried out in an open and transparent manner and with care and sensitivity to public perceptions.

3.1.3. Stakeholders must be consulted in relation to the sale. These include: the donor, the donor's family, researchers, local and source communities and others who have an interest in a proposed sale. Where appropriate, the views of colleagues and sector bodies should be sought.

3.1.4. Consult a minimum of two other relevant museums in relation to the items which are being considered for sale. Include discussion of the intrinsic cultural value of the items and the availability of similar items to the public.

3.1.5. One method of consultation is to place an advert on the MA's Find an Object web listing service announcing that a museum is considering sale of an item. Museums can use this as an opportunity to test their rationale for sale and to seek further information about the items and their context.

3.1.6. Consult local communities and other interested members of the public by publicising the sale in a manner which is appropriate in the circumstances. This may include displaying the item in the museum for the duration of the public consultation, involving the media and providing details of the proposed sale on the museum's website. Museums should make an effort to not only to obtain comments from the public in relation to aspects of the proposed sale, but also to seek information about the item under consideration.

3.1.7. In line with HM Government Code of Practice on Consultation, the public consultation should last for a minimum period of 12 weeks prior to the final decision about the sale, and should include full details of all the items proposed for sale.

3.1.8. Museums should make every effort to ensure that the process of disposal by sale is transparent and well considered, and they should reflect on the contents of the responses to their consultation

process. In addition, the consultation process can be used by a local authority museum to explain how any disposal might affect people, particularly those with protected characteristics under the Equality Act 2010.

3.2. Obtain professional advice in relation to the cultural and financial value of the item(s)

3.2.1. Museums are expected to take advice in relation to:

- an item's cultural value
- an item's financial value
- the manner in which an item will be described.

3.2.2. On each issue, advice should be sought from a minimum of two independent experts in the field. Where qualified to do so, an expert may advise on more than one issue. Independent experts could include academics, auction houses, dealers, and specialists in museums or elsewhere.

3.2.3. The advice sought should be reasonable and proportionate to the context and will depend upon the cultural and financial value of the item, and whether there is a complete history in relation to its provenance.

3.2.4. The advice should be retained as part of the museum's collections records.

3.3. Obtain advice in relation to timing of the sale and its impact

3.3.1. Advice should also be sought from a minimum of two experts who operate in the relevant market (such as auction houses and dealers) in relation to the timing of the sale and the state of the market, not only in general but in relation to the items which it is proposed to sell. If it is proposed to sell a number of similar items, or a number of works by the same artist, advice should include whether such sales should be staggered over a period of time.

3.3.2. If an item has been acquired from a living artist, advice must be sought in relation to the impact of any sale on the market in relation to the value of the artist's other work, with a view to ensuring that the artist's livelihood is not seriously affected.

3.4. Obtain full advice from the MA and AAO

3.4.1. The museum should now be in a position to provide all the information required by the MA and AAO so that they can advise fully on whether the proposal meets the requirements of the Code of Ethics and Accreditation. Museums should submit this information in the form of a compliance report, which should draw on the process review report that they have been compiling since the start of the process.

3.4.2. The compliance report should focus on how the financially motivated disposal will serve the long-term public interest.

3.4.3. The compliance report should include:

- The extent to which the circumstances are considered to be exceptional
- The extent to which, and the manner in which, the sale will significantly improve the long-term public benefit derived from the remaining collection. This might include, for example, plans to purchase a new item or items to join the permanent collection, or the creation of an endowment fund to increase the long-term sustainability, use and development of the collection
- Plans to advertise the proposed sale amongst other museums or public institutions, including both electronic forms of communication such as the MA's Find an Object web listing service, and publication in journals such as Museums Journal, for a period of at least two months
- Whether the sale is a last resort after other sources of funding have been thoroughly explored. Note: there needs to be evidence that a range of options have been explored, not all of them monetary. Exploration of other funding sources needs to be proportionate to the amount of money concerned.

3.4.4. The compliance report should confirm that:

- the sale is not intended to generate short-term revenue
- extensive consultation with sector bodies has been undertaken
- the item under consideration lies outside the museum's established core collection as defined in the approved collections development policy.

3.4.5. The compliance report should state what will happen to the proceeds of sale, which will need to be ring-fenced where possible (see stage 2.4). In the case of some Local Authority museums, ring-fencing the money may not be possible. In these cases the use of proceeds should be clearly articulated and money allocated accordingly in a way that is compatible to Accreditation and the MA Code of Ethics.

3.4.6. The MA and the relevant AAO will advise the museum on their compliance with the requirements of the Code of Ethics and Accreditation. The MA evaluates proposed financially motivated disposals carefully and it is likely to take several months to provide a view and guidance on any proposals, particularly as it is often necessary to discuss the proposal at a meeting of the MA's Ethics Committee. The AAO will prepare a report to present to the earliest Accreditation panel. The panel will consider the assessment

and recommendation, focusing on whether the proposal will comply with the requirements of Accreditation. (See page 6.)

3.5. Reflect and make final decision: gain express authority from the governing body

3.5.1. After consideration of all of the relevant documents and professional advice detailed above, the governing body should reflect and decide whether to proceed with the sale and if so, formally agree to the financially motivated disposal. Ensure the process review report is up to date.

Stage 4: The sale

4.1. Offer to museums

4.1.1. All sales should be announced to museums prior to an approach that is likely to result in the object leaving the public domain, e.g. open market sale by auction. Announcements relating to sale by museums will indicate the number and nature of specimens or objects involved, and the basis on which the material will be transferred to another institution. Announcements for sales that comply with the Code of Ethics will normally be placed on the MA's Find an Object listing service, in Museums Journal and in other specialist journals, where appropriate.

4.1.2. A period of at least two months will be allowed for an interest in acquiring the material to be expressed. In cases where the item is culturally important, it is recommended that a period of at least six months is allowed.

4.1.3. When a museum is willing to consider free transfer or sale at less than market rate to another museum in order to keep the object in the public domain (see stage 2.3.1), it should state this intention in advertising. The museum should carefully consider any interest they receive from museums wishing to acquire the item(s) to ensure they reconcile the public benefit achieved through money raised from a sale

with the wider public benefit of the item(s) being retained in the public domain.

4.1.4. If the announcement is placed by an Accredited museum and, at the end of this period, no expressions of interest have been received from any other Accredited museum, the item may be offered to other museums or organisations in the public domain.

4.1.5. Members of the governing body and museum staff must not purchase items being disposed of by the museum.

4.2. Take a professional approach to sale

4.2.1. Once it is clear that the sale is in the long-term interests of the public and no museum has been able to acquire the item, aim to maximise the financial return (subject to offering the item to another museum at a lower value, see stage 2.3.1). This will usually mean that there is an open market sale by auction.

4.2.2. Consideration should be given to matters such as the timing of the sale and its location, the choice of auctioneer and their contract terms (such as whether it is possible to negotiate fee waivers).

4.2.3. Museums can, subject to advice, consider selling items online, but in doing so, they should choose the online auction site with care in order to protect their reputation.

4.3. Sell on the open market

4.3.1. Having ensured that all the requirements of Accreditation and the Code of Ethics have been met, confirm the decision to sell and, if appropriate, sell the item(s).

Stage 5: Post-sale and record keeping

5.1. Keep full records

5.1.1. The process of documenting the sale should be transparent.

5.1.2. The process review report should be completed and full records should be kept of the process of transfer or sale, including a detailed description of the item transferred or sold, in accordance with the SPECTRUM procedure on deaccession and disposal. These should be accompanied by photographic records where practicable. Arrangements should be made to ensure that they are available for future reference.

5.1.3. The form recording transfer of title, which should include the name and contact details of the recipient or purchaser, should be retained for future reference.

5.1.4. Steps must be taken to ensure that the process review report, which will include records of decision-making, the professional advice obtained and minutes of internal meetings, is preserved.

5.2. Submit final report to the MA and AAO

5.2.1. Provide a final report to the MA and the relevant AAO detailing the method of sale, the sale price

and details of how money raised from the sale has been or will be allocated in line with guidance set out in 2.4. above.

5.2.2. For Accredited museums, this information will be used in decision-making about the museum's compliance with the Accreditation standard and whether the museum's status within the scheme is altered. Where a museum remains fully or provisionally Accredited, this information will also be used in future monitoring of the museum.

A glossary and sources of further information and resources can be found in the main Disposal Toolkit document, which can be downloaded at: www.museumsassociation.org/collections/disposal