

Disposal toolkit

Guidelines for museums



**MUSEUMS
ASSOCIATION**

**EFFECTIVE
COLLECTIONS**

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Fairbairn
FOUNDATION

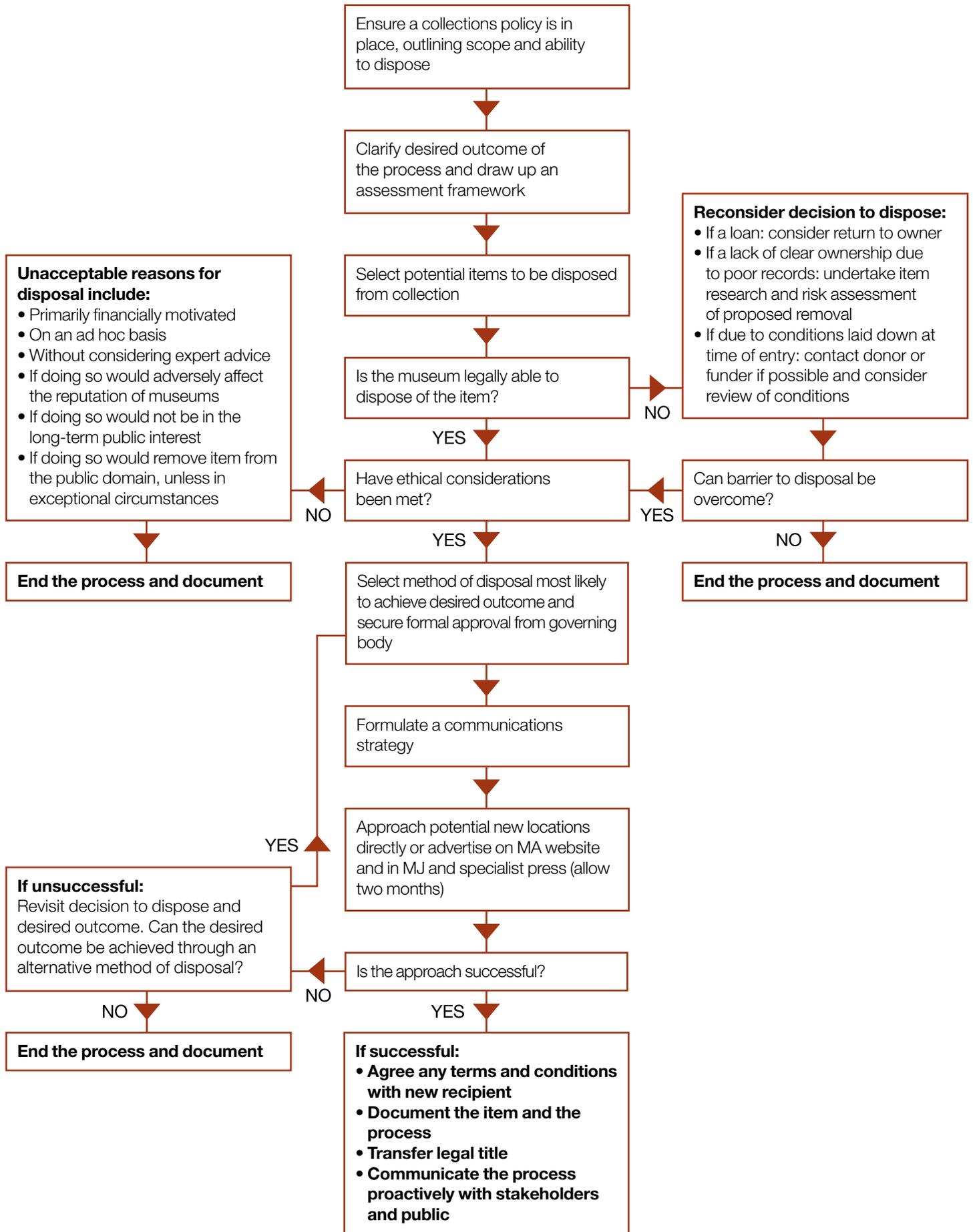


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See the Museums Association website
for additional information and guidance:
www.museumsassociation.org

Disposal flowchart



Guiding principles

Extract from the MA Code of Ethics for Museums

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 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 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 registered or 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, or 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 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 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.



1

Introduction

This toolkit provides general information and guidance on disposal for all museums.

‘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.’

Museums Association (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 and that they evolve. Museums must balance the safeguarding and retention of items within their collections, with the need to review and develop collections, to acquire new 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. 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 public access and use. Disposal should not be undertaken in isolation, but should be part of ongoing collections development, including continued acquisition.¹

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 Museums, Libraries and Archives Council’s (MLA’s) Museum Accreditation Scheme and standards of the Collections Trust (formerly MDA) to support museums to consider and undertake responsible disposal.

Purpose of the toolkit

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

The guidance is supported by additional information, case studies and advice in the disposal section of the MA’s website: www.museumsassociation.org/collections

Scope of the toolkit

This toolkit provides general information and guidance on disposal that is applicable to all museums. It is acknowledged that each category of museum collection encounters specific issues relating to disposal, but it is not within the scope of this document to deal in detail with individual categories. Museums may wish to seek further subject-specific advice from additional sources.

The guidelines do not cover in detail disposal through return or repatriation of items. Museums with collections that may be the subject of requests for repatriation or return are advised to create separate policies and procedures to address this.²

¹ Except in the case of closed collections

² Further advice on this can be found on the Cultural Property website www.culturalpropertyadvice.gov.uk



Using the toolkit

The advice provided is underpinned by the MA's Code of Ethics for Museums; reference to relevant aspects of the code should be considered when making decisions. This guidance should be used in conjunction with existing museum 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.

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 clearly why it has adopted this approach.

If you are uncertain or concerned about any course of action a museum is considering undertaking 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 and the MLA Museum Accreditation Scheme.

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 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 statutory 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, or method of, removing items from a collection.

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

It is vital that 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.

Managing the process

Undertaking a review of collections and the subsequent disposal of items can be a significant amount of work requiring considerable resources. Careful planning and good management is needed 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 (which 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 p10, Whose views should be sought in the process?

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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 in 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:

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

Incidental outcomes:

- resources freed up to better care for and utilise other parts of the collection
- creation, or optimising of 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 a process of disposal a museum should establish clear selection criteria by which to judge each decision. Creating a framework for assessing items within a collection, that can be used in a collections review, provides a useful guide when making decisions.

Decisions must be:

- made within the context of a collections policy
- 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)
- on an ad hoc basis (ie other than as part of a long-term collections policy)
- without considering advice from someone with specialist knowledge of the 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.



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

Items that fall outside the museum's collections policy

All accredited museums must have a collections policy in place. This guides future acquisitions and shapes the collection. Museum collections evolve and it may be that certain objects no longer fall within the core collection as defined by a museum's collections 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 current collections 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 yes, then there is a strong argument for retention
- might it be better used by another museum?
- 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 (eg 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 eg education, handling or set dressing?
- 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. 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?
- might 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, for example for handling 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 curate or use appropriately, or lack adequate resources to care for. In cases where there is little expectation that the museum will be able to provide suitable care it may be more appropriate to remove items and place them 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 are unable to be used. Such items may be considered for disposal.

Things to consider

- is the item beyond repair?
- what would be the cost of conserving/repairing the item?
- is the cost of conserving and repairing the item within the resources of the museum?
- is another owner, such as 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 cases items may not be of use and as a result a museum may consider removing them from the collection. (See section 6, Dealing with problems.)

Things to consider:

- has every effort been made to research the item's history?
- can the museum find a use for this item – for education, object handling, set dressing etc?
- 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, due to the material they are made from, are hazardous to the public or staff 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 staff?
- is it possible to remove the risk and still retain the item?
- how can the item be destroyed safely?
- what legislation may affect the items retention/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'. This is not common practice in the UK and as such careful consideration should be given to 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 is the potential impact on the collection through the loss of the item?
- how does this course of action serve the public interest?

Items that are selected for their potential to generate income

Museums may consider selecting an item on the basis that it has the potential to generate income. In all but the most exceptional circumstances this is unacceptable and could result in significant consequences. In certain exceptional circumstances financially-motivated disposal (ie sale) may be acceptable. These are strictly limited cases when all of the following conditions are met:

- 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 policy.

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.

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 staff

It is good practice to involve a range of museum staff in discussions about, and selection of, items to be removed. This might include staff from other subject disciplines or other museum functions such as those working in 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. Potential sources of advice include: museums with similar collections, subject specialist networks, universities and specialists. 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 may make need to be taken into consideration before any disposal decision can be made. Repayment of any funds provided may be required.

Donors

Opinion on the involvement of donors in the disposal process is varied but museums are encouraged to consider the sensibilities of donors, as part of any due diligence process, when making decisions.

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 the 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, such as 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 to what lengths 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, for example only those who have donated items in the past ten to 20 years
- an agreement only to write to the last known address (not to undertake work to obtain a new address if a donor has moved)
- whether a period of time will be given for donors to respond to information relating to a proposed disposal.

Whether or not a museum chooses to involve donors, they must be able to articulate clearly why they have adopted this approach. 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 provides guidance on producing entry forms and letters to potential donors.

Other stakeholders

Museums are recommended to 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 of the museum, for example through the use of community panels. This involvement is a valid and useful way of meeting 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 disposed of. 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.



3

After an item has been selected for disposal

Once a museum has selected an item for disposal the method of entry and the current status of the item 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 if there were any conditions laid down at the time of deposition that may affect any planned disposal.

Unaccessioned/method of entry

unknown: The museum needs to 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 would prevent the museum from following this course of action.

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

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. Any final decision to remove must be approved by the governing body and documented.

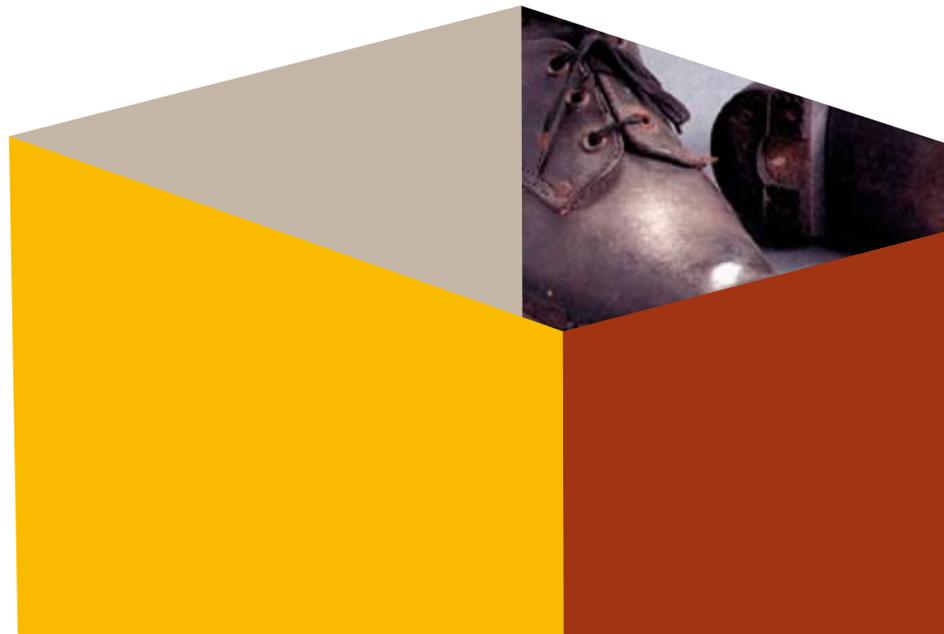
Consequences of unacceptable decisions to remove:

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
- possible expulsion from the MA (if a member).

These factors are likely to jeopardise a museum's ability to secure money 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 together on collaborative projects.

Once the decision has been made, select a method of disposal that is most likely to lead to the desired outcome.



4

Methods of disposal

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 another accredited museum, and items should be offered to them in the first instance
- actions should be taken that ensure the 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 (see p14, Informing the museum sector)
- 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 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 the 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 and 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.

In most instances free gift refers to museums within the UK, however research into the provenance and the cultural significance of an item may lead to the conclusion that transfer to a museum overseas is the most appropriate course of action. The loss of the item to the UK public and the potential care and use provided by a recipient overseas must be considered in any decision.



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 item.

To inform the sector a notice can be placed on the disposal noticeboard on the MA website:

www.museumsassociation.org/collections

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

Notices can also be placed in appropriate specialist press.

Exchange of items between museums

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

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

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 the transfer of the item to another body within the public domain³ help to achieve the desired outcome?
- what are the other benefits of transferring the item to another body within the public domain?
- is any potential recipient able to provide adequate care and opportunities for access and use?
- should conditions be imposed and if so, what?
- public reaction 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.



³ See Glossary for definition of public domain

Return to donor

Museums may consider returning items to donors, especially if it appears impossible to keep them in the public domain. Unless there are extenuating circumstances such as: conditions laid down on donation; an item having particular personal significance to the donor; or a strong likelihood that the item will be transferred out of the local area; it is recommended that return to a donor is only considered once the item has been offered to other museums.

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)
- 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 ten years attempts will be made to contact – see section on Whose views should be sought in the process 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.

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 only considered in exceptional circumstances. Requesting payment for items from other publicly-funded museums may affect the ability of a new location being found, and makes it less likely that they 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.)

Unless legally obliged to do so, or if significant museum resources have been expended on an item, it is recommended that items that have been donated are not offered by sale to other museums in the first instance (unless a donor has explicitly agreed to this).

Any money raised as a result of disposal through sale, if this exceptional circumstance arises, 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 (such as by creating or increasing an endowment, making new acquisitions or making a significant capital investment which will bring long-term benefit). Accreditation rules state that museums wishing to spend the proceeds on anything else must seek permission from the MLA.

Things to consider:

- how would the sale of the item help to achieve the desired outcome?
- what are the other benefits to the public from this sale?
- is the current market price being sought or the original amount paid for item?
- what is the likelihood of another museum being able to purchase the item?
- what course of action will you take if no museum is able to purchase the item? (Such as offering the item at a reduced price 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 p10, Informing the museum sector)
- seek expert and independent advice on the item's value and recommend any purchaser does the same
- ensure transfer of legal title to recipient
- ensure transparency, 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. It is not recommended as a first 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 any transfer such as: if the recipient no longer requires the item should it be returned to/ or offered back 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 (such as: cost and responsibility for transport, any potential future contact, any requirements should the item no longer be wanted)
- 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.

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. It is not recommended as a first course of action.

In all but the most exceptional circumstances it is unacceptable for a museum to select items for disposal for 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 extreme circumstances, with additional support and guidance from the MA and in consultation with sector bodies. (See p10, Items that are selected for their potential to generate income.)

Apply any money raised as a result of disposal through sale, 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 (such as by creating or increasing an endowment, making new acquisitions or making a significant capital investment which will bring long-term benefit). Accreditation rules state that museums wishing to spend the proceeds on anything else must seek permission from the MLA.

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

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

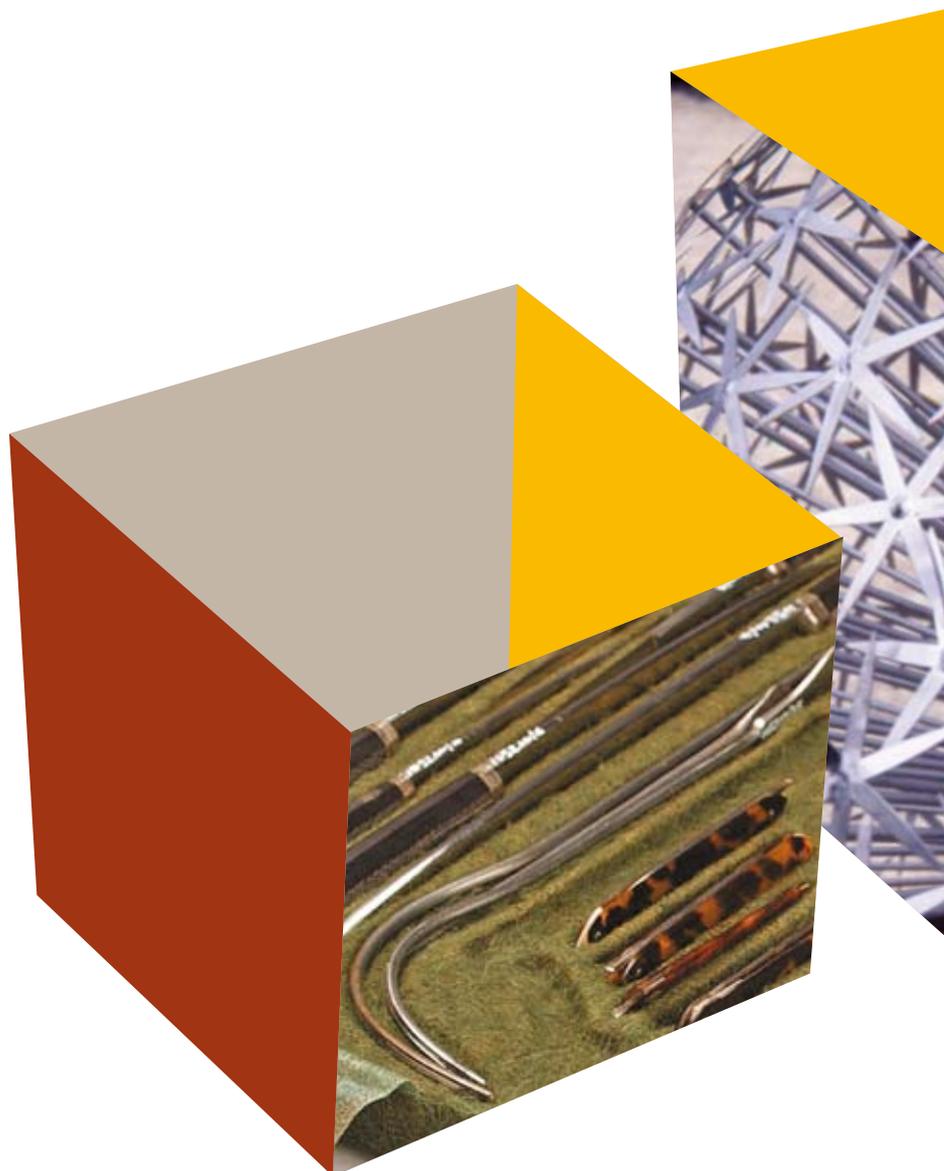
The destruction of items should only take place if an item poses a risk to the health and safety of individuals or the collection.

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
- 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.



5

Recording the process

Methods of sale

When identifying a method of sale it is important to consider the need 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 should 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.

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.

Public auction

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.

eBay (or similar site)

Some museums may think about selling items through eBay. When considering this method museums are advised to weigh up the benefits of openness and transparency that this would bring, and the potential damage to their reputation for using a largely unregulated site.

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.

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.

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

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 photograph of item if appropriate)
- documentation relating to transfer of title
- note of any new location.



6

Dealing with problems

Lack of documentation relating to an item

A lack of comprehensive documentation should not automatically prompt an item's disposal, neither should it discount an item from being considered. In such cases museums should make all 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 of this.

See MDA fact sheet: Disposing of objects you may not own.

Unable to find any suitable new location for an 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
 - corporate loans
 - sale (at auction)
 - recycling
 - destruction.

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 staff. Ensure transparency and document the process.

Conflicts can be avoided when:

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

7

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?

All staff, 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 staff 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.

For additional advice on communicating the process, dealing with the media and writing a press release see the disposal section of the MA's website www.museumsassociation.org/collections

If you require any further advice please contact the MA.



Glossary

Accredited museum

This refers to any museum that has accredited or registered status.

Collections policy

As minimum standard all accredited museums should have in place a collections policy that covers the scope of the collection, acquisition and disposal. Museums are encouraged to expand their collections policy to include the care and potential use of the collection.

Disposal

The permanent disposal of an item, through a variety of methods, from a museum collection.

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).

Public and society

The word 'public' is used in the code 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, 2008

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 core collection, but are owned and used by a museum to enhance exhibitions and displays or for illustrative purposes.

Staff

Any person working for a museum, either as a paid employee or a volunteer.

Users

Users are all those 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 corporate 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, 2008

Appendix 1

Related Organisations

Charity Commission
www.charitycommission.gov.uk

Collections Trust (formerly MDA)
www.collectionstrust.org.uk

CyMAL: Museums, Libraries and Archives Wales
<http://new.wales.gov.uk/topics/cultureandsport/museumsarchiveslibraries>

Museums Association
www.museumsassociation.org

Museums, Libraries and Archives Council
www.mla.gov.uk

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

Scottish Museums Council
www.scottishmuseums.org.uk

For more information on the Accreditation Scheme visit:
www.mla.gov.uk/website/programmes/accreditation

Appendix 2

Additional guidance from the Charity Commission

Museums which are charities and charitable exhibits and collections

1. Museums and galleries which are charities:

There are museums and art galleries which are charities and which hold one or more exhibits and collections. They hold their property for general purposes for the promotion of art and may hold some parts of their collections or exhibits on special trusts. 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.

2. Museums and galleries which are not charities:

Museums and art galleries may belong to other bodies which are not charities, eg local authorities. How they deal with the exhibits and collections they hold generally is governed by their own rules, but it is hoped that members of the MA will subscribe to the guidance in this toolkit. However, such museums and art galleries often hold charitable exhibits and collections which have been acquired with the intention that they be held separately on trust for the charitable purpose of promoting art.

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 are 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 or the college or other non-art charity, as the case may be.

4. If the exhibit or collection in question has been given in perpetuity, and there is no power to dispose, the charity trustees will have 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 can't 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 object of the charity; or they must get a commensurate material return; or they must demonstrate that the loan is part of an arrangement whereby the charity's interests in furthering its objects are served, for example, the charity trustees take a loan of an exhibit or collection in return to further the object of their charity better.

5. Gifts of exhibits and collections are often 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, and 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. Where they have accepted an unconditional gift, charity trustees cannot return items to donors. If there is a strong moral obligation, the trustees should ask the commission for advice.

7. There are circumstances where charity trustees may in the interests of their charity have to dispose of works of art from their collections outside the principles in this toolkit. If they do not have the power to dispose, the commission may give them the power. They may have to dispose in order to settle debts in which case they would have to get the best price reasonably obtainable unless, exceptionally, the trusts allowed them to accept less; or they may transfer works to another museum to enable them to be or to continue to be exhibited to the public where the charity is winding up or the trusts grant a power to do this.

8. If a charity trustee or a person or organisation connected with him or her wished to acquire an exhibit or collection on disposal either personally or 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 and decision making and all other action taken to manage the conflict of interest. Guidance on this subject jointly produced by the Department for Culture, Media and Sport and the commission is to be published soon. Until that is available, charity trustees may consult the commission.

9. 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 at: <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmcomeds/371/371ap50.htm>

Images courtesy of:

Blackburn Museum & Art Gallery; Grant
Museum of Zoology and Comparative
Anatomy, London; East Ayrshire Arts
and Museums; Museum of East Asian
Art, Bath; Thackray Museum, Leeds;
York Museums Trust



Checklist for all disposals

Steps to take:

- determine the desirability of undertaking a full review of the collection
- develop a project plan and allocate resources to manage the process
- consider creating an assessment framework to evaluate 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 policy, and preferably as part of a review of the collection
- articulate the desired outcome of the disposal
- articulate the (curatorial) reasons behind the proposed disposal
- seek specialist advice if necessary
- consider the views of donors and stakeholders where appropriate
- 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 the public'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 Museums Association website and in Museums Journal and other specialist publications (if appropriate); 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 remove is unsuccessful:

- reconsider the decision to remove
- depending on significance of the item consider retaining it, and reconsider possible alternative uses within the museum
- 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
 - corporate loan
 - sale (at public auction)
 - recycling
 - destruction.

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