



Scottish Museums Council response to the Museums Association's consultation on revisions to the Code of Ethics

i) The Scottish Museums Council

The Scottish Museums Council (SMC) is the strategic agency and membership body for non-national museums in Scotland. Our vision is for a welcoming museums and galleries sector that opens doors and celebrates collections, inspiring creativity, learning and enjoyment for all.

Our membership includes all local authority, university and regimental museums and a large number of independent museums. Together, they manage over 340 sites and vary in size from small voluntary trusts to large metropolitan services. SMC is acknowledged by the Scottish Executive as its main adviser on local museums and galleries, and the main channel of support for the sector.

ii) Introduction

SMC welcomes the Museums Association's timely review, 10 years since its publication, of the disposal element of its *Code of Ethics for Museums*. The value of this framework is that it defines and articulates what the sector agrees is best practice in principal and action. It must reflect current values and context in order to continue to be meaningful and workable.

There has been much discussion in recent years about disposal. The MA raised the issue in its 2005 publication *Collections for Future* and held a UK-wide consultation on the subject in Autumn 2006. It is about to launch its new Effective Collections programme, where encouraging a more pro-active approach to disposal is a key strand.

The MA also recently organised a Disposal Forum to assist with the production of a new 'Disposal Toolkit'. This has been designed to bring together existing guidance, case studies and information to build confidence in the museum workforce when making and enacting decisions to dispose. SMC was pleased to have been involved with this work and we hope there will be opportunity for a Scottish launch of the new resource ahead of the disposal workshops which are to be run next year under the banner of Effective Collections.

In Scotland, the subject remains high on museum agendas and features as an integral part of 'Shaping Collections', a key priority in *A National Collections Development Strategy for Scotland's Museums* published by SMC in October 2006 (http://194.200.63.26/pdfs/Publications/Collections_Development_Strategy.pdf). Disposal is discussed here as an essential element of constructive collections development and as something which can have as positive an outcome as acquisition when handled in a considered, strategic manner.

iii) SMC consultation response

Guiding principles – proposed new wording

The Museums Association's Code of Ethics:

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 that ensures 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 care or context of, items or collections. Responsible disposal takes place as part of a museum's long-term collections policy, for sound curatorial reasons and in order to increase public benefit.

6.8 Recognise that formal title and guardianship for 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 Keep collections as far as possible in the public domain to maintain public confidence in museums. 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. Wherever possible do not sell items from a permanent collection, or otherwise transfer them, 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 Refuse to undertake disposal principally for financial reasons unless in exceptional circumstances where significant long-term improvements to the collection would result, where the item falls outside the core collection, and only after all other sources of funding have been explored.

6.12 Apply 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 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).

6.13 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. Incorporate criteria and procedures for disposal in the museum's collections policy.

6.14 Consider, and where appropriate seek the views of stakeholders (such as donors, researchers, and source or local communities) who may have a vested interest in a proposed disposal.

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

6.16 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.

6.17 Consider requests for return of human remains, and other culturally sensitive material with understanding and respect for the beliefs of communities of origin.

For additional, more detailed guidance on all aspects of disposal see the Museums Association *Disposal Toolkit*

SMC submitted a full response to the MA's UK-wide Disposal Consultation in October 2006, and we would refer you to that as context for this response.

Below we have provided comment on key points as follows:

1) Paragraph 6.0 - Guiding principle.

The change from the existing guidelines strong presumption '*...against disposal out of the public domain*' to the proposed '*...in favour of the retention of items in the public domain*' marks a simple but important shift in emphasis.

The existing statement provided some museums the rationale they needed to avoid considering disposal altogether. The positive language suggested to replace it confirms there are in fact a variety of options in disposal which ought to continue to provide opportunity for public benefit.

2) Paragraph 6.10

This paragraph combines existing statements to acknowledge that whilst priority should continue to be given to disposal by gift to other Registered/ Accredited museums, there does exist a hierarchy of other options which concludes – as a last resort - with sale or transfer out of the public domain.

It is important to make clear however that **sale must only ever be considered in exceptional circumstances**, so we suggest it would be helpful to re-order the sentence which mentions sale as follows: *Wherever*

possible do not transfer items from a permanent collection out of the public domain. Sale should only ever be considered in exceptional circumstances.

Clarification of current guidance is much needed to acknowledge that in some circumstances, some museums either are *restricted* in what they can dispose of at all (due to statutory reasons or conditions attached to bequests etc) or are legally *obliged* to explore possibility of disposal through sale (if, for example, they are constituted as charities and required to consider their collections as assets). The proposed amend therefore suggests greater flexibility – though the inclusion of ‘Legal Context’ advice in the Disposal Toolkit will be essential in defining in just what circumstances this is the case.

In preparing the final draft of the Toolkit the MA has already sought advice from the Charities Commission which deals with the matter in England. OSCR (Office of the Scottish Charity Regulator) is the independent regulator and registrar of Scottish Charities and is the organisation to approach for similar advice on the Scottish context.

3) Paragraph 6.11

This paragraph, a significant rewording of existing guidelines, will be considered contentious as it sanctions ‘financially motivated sale in exceptional circumstances’.

However, SMC believes this change reflects the financial context in which museums exist today – and that the Toolkit’s clear definition of prior conditions to be met, along with full explanation of appropriate process’ to be undertaken, should prevent its abuse. Whilst sale of items from permanent collections must always be of concern, we applaud the MA for putting the necessary framework in place to ensure that where it does happen, up to date ethical guidance and practical support is now in place to ensure due diligence.

The conditions suggested - that the item proposed for disposal must fall outside the museum’s core collection; that any income generated will be used to ensure significant long-term improvements to the collection, and that all other sources of possible funding for the desired significant long-term improvements have been explored – should prevent ill-considered/ motivated actions. They should also ensure that the opportunity for positive, strategic benefit to the core collection is the driver of any consideration to dispose.

4) Paragraph 6.12

This statement stresses the point in existing guidance that any monetary gain from disposal must be used directly for the long term benefit or sustainability of collections, and not the museum or governing organisation. It now also illustrates exactly what form this might take, i.e. the creation or increase of an endowment or acquisition fund, or the undertaking of a relevant capital investment.

5) Paragraphs 6.13-6.15

All 3 paragraphs enforce the need for transparent decision-making and clear communications around disposal, with the new paragraph (6.14) promoting consultation with stakeholders where appropriate, and so ensure this happens.

Such an approach is essential not only to win over public opinion or to demystify collections management processes, but to explain the rationale – and restrictions - for collections development with museum staff and governing bodies.