

MUSEUMS  
ASSOCIATION

DISPOSAL TOOLKIT  
APPENDIX 4:  
ADDITIONAL GUIDANCE  
ON FINANCIALLY  
MOTIVATED DISPOSAL

ARTS COUNCIL  
ENGLAND

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## 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](http://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.

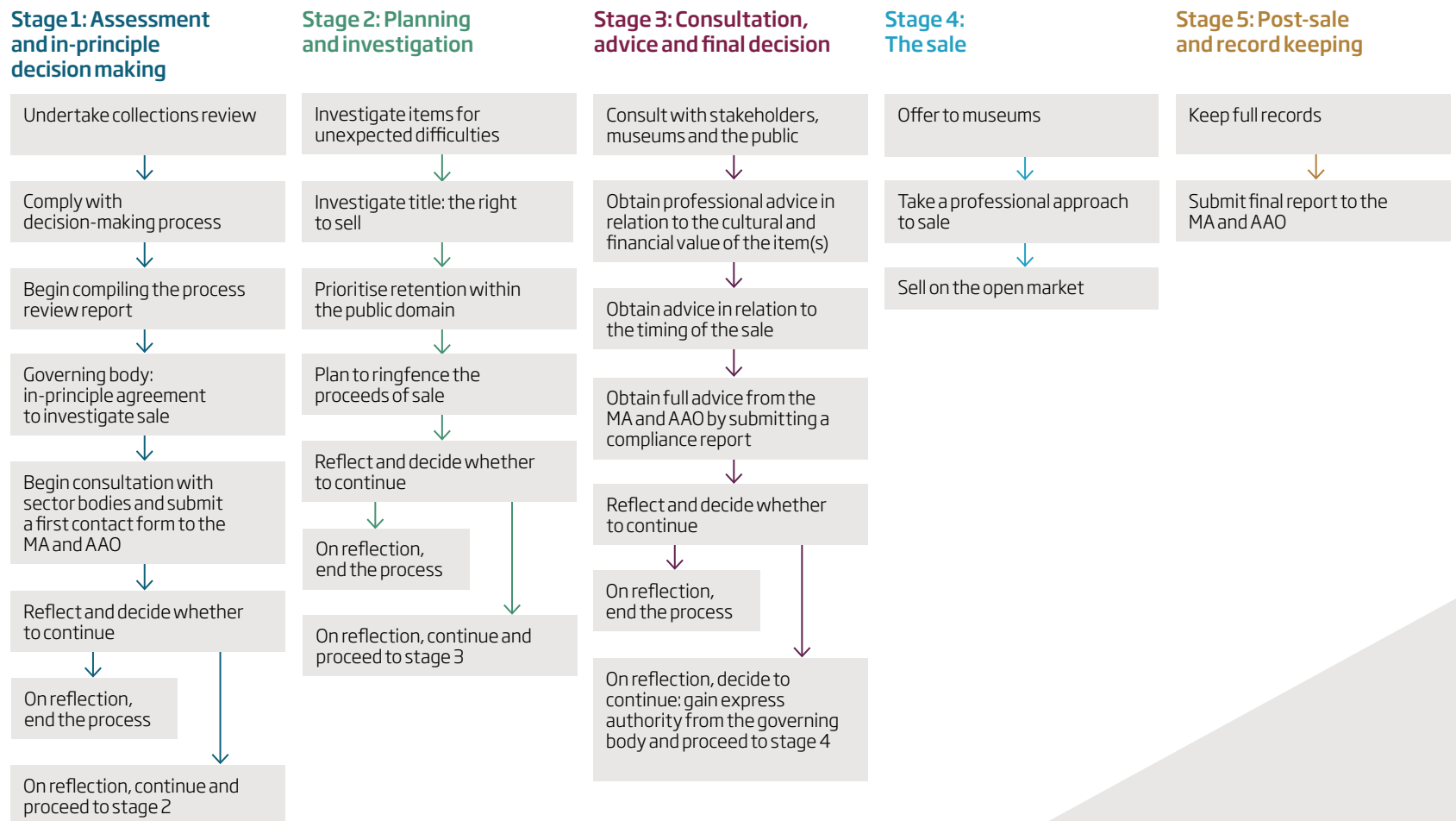
Work required at each stage of the process should be proportionate to the financial and cultural value of the item being considered for disposal through sale.

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](http://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](http://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](http://www.museumsassociation.org/collections/disposal)