

Ethical guidelines

Advice from the Museums Association

Ethics Committee

Acquisition

Guidance on the ethics
and practicalities of acquisition



**MUSEUMS
ASSOCIATION**

▶ Image courtesy of the
Building of Bath Museum

Acquisition

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

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Introduction

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Image courtesy of the Ballymena Museum, County Antrim



The Museums Association Ethics Committee has prepared these guidelines, which aim to help all who work for or govern museums in the UK to apply ethical principles when acquiring items for the permanent collection.* They include basic principles, which are derived from the Museums Association's (MA's) Code of Ethics for Museums and also underpin the Museum Registration Scheme overseen by the Museums, Libraries and Archives Council (MLA). The guidelines do not aim to give advice on the law.

This second edition takes account of developing views outlined in publications produced since the first edition of these guidelines in 1996. The web version of these guidelines may be updated from time to time to take account of developing thinking about acquisition. You are advised to consult this version at www.museumsassociation.org to check for updates.

You will need to use your judgement in applying these guidelines in specific situations. If you are unsure about a proposed course of action – or feel that it may breach these guidelines – you are encouraged to seek the confidential advice of the MA in advance.

The MLA endorses these guidelines and joins the MA in commending them to museums. The registration scheme embraces the principles set out here; these guidelines attempt to specify best practice and provide greater detail than the registration standard. Many of the points here will already be embodied in your museum's acquisition policy; it may prove useful to incorporate others.

For the purposes of these guidelines **acquisition** is the process of obtaining legal title to an item with the intention of using it for museum purposes.

Accession is the act of formally including the item in the permanent collection and recording it in the register of the permanent collection (accessions register).

[* note: The guidelines also offer limited advice on the process of obtaining items that will not be accessioned such as those for handling, loan, destructive research or demonstration collections that are separate from the permanent collection.]

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Basic Principles

Image courtesy of the
Corinium Museum, Cirencester



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Selecting items to acquire

These basic principles are taken from the Code of Ethics for Museums. [Cross references to related sections of the code are given in square brackets.] Museums and all who work for or govern museums in the UK are expected to follow them. They apply equally to gifts, bequests, purchases and acceptance in lieu. Further guidance on their interpretation can be found in sections 3–7 below.

2.1 Collect according to detailed, published policies that state clearly what, how and why the museum collects. Frame the acquisition policy in the light of the museum's stated mission. Specify criteria and parameters for future acquisitions that include topics, time periods and geographical areas. [Code 5.1]

2.2 Acquire an item only after thorough consideration of its long-term value, how it will be used and the availability of contextual information. [Code 5.2]

2.3 Acquire an item only if the museum can provide adequate, continuing long-term care for the item and public access to it, without compromising standards of care and access relating to the existing collections. [Code 5.3]

2.4 Cooperate rather than compete with other UK museums when collecting. Recognise that other institutions collecting in the same or related fields may have a stronger claim to acquisition of a particular item. Resolve disputes with other museums constructively and in the best interest of the public. Take account of the interests not only of other registered museums but also of related public organisations, such as archives. [Code 5.5]

2.5 Take account of arguments for and against leaving items in their original context. Recognise that individuals or communities may have a stronger claim to certain items than the museum. [Code 5.6]

2.6 Do not acquire an item if there is cause to believe that collecting it recently damaged its original natural, historic, cultural or social context unless, in the opinion of a range of experts, there is an exceptionally strong reason for acquiring it. [Code 8.1]

2.7 Exercise due diligence when considering an acquisition. Verify the ownership of any item being considered for acquisition and that the current holder is legitimately able to transfer title. [Code 5.7]

2.8 Reject any item if there is any suspicion that, since 1970, it may have been stolen, illegally excavated or removed from a monument, site or wreck contrary to local law or otherwise acquired in or exported from its country of origin (including the UK), or any intermediate country, in violation of that country's laws or any national and international treaties, unless the museum is able to obtain permission from authorities with the requisite jurisdiction in the country of origin. Reject any item that lacks a secure ownership history, unless there is reliable documentation to show it was exported from its country of origin before 1970. (For limited exceptions see section 4 and appendix H.) [Code 5.10-5.11]

2.9 Reject any item if there is any suspicion that it was wrongfully taken during a time of conflict, unless allowed by treaties or other agreements. [Code 5.8]

2.10 Examine carefully the implications of, and record the reasons for, accepting items that will not be immediately accessioned into the permanent collection. (Acceptable reasons may include loan, demonstration, handling, testing or retention pending a final decision to accession into the permanent collection; see appendix D.) [Code 5.4]

2.11 Principles 2.6-2.9 apply equally to inward loans, including loans for temporary exhibitions.

3.1 Discriminate carefully in selecting items to be acquired. Because of the costs of collection care and access, no acquisition is free. Make decisions about acquisition with caution. Seek and act on advice, whenever necessary, from colleagues in other museums, museum support bodies, curatorial advisers and consultants. Obtain, when necessary, specialist expertise through contracts or consultancies when acquiring an item.

If you are thinking about whether to acquire an item for a museum's permanent collection consider all of the following

3.2 The origin and ownership history of the item (see section 4).

3.3 Whether the item falls within the criteria set by the acquisition policy; if not, see appendix B.

3.4 The relevance, importance and long-term value of the item.

3.5 How the museum will use the item.

3.6 The condition of the item.

3.7 The price of the acquisition including: purchase price, transport costs, immediate conservation costs, documentation and research costs.

3.8 The museum's ability to safeguard the item and provide access and expertise in the long term.

3.9 The moral rights of individuals, groups, societies or peoples to hold the item.

3.10 The possibility of preserving the item in situ; in some cases it may be appropriate to leave the item in situ even if acquiring it for a museum collection.

3.11 The interests of other registered museums and other public institutions (such as archives), which may have a legitimate interest in acquiring the item. The item may be better housed elsewhere for reasons of collections care, public access, use, or context. Take account of the desirability of cooperative acquisition between registered museums covering the same subject area.

3.12 The quality of information associated with the item, particularly information about its context.

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Due diligence, ownership history and illicit traffic

Image courtesy of the Astley Cheetham Art Collection, Stalybridge



If you are thinking about whether to acquire an item for the museum's collection (or borrow it on loan) investigate its origin and ownership history by considering all of the following

4.1 Confirm the legal title of the present owner of the item and the right of the owner to transfer title to the museum. Investigate whether there are any third-party claims on the item.

4.2 Perform due diligence checks to ensure that there is no suspicion that since 1970 the item might have been exported, acquired, sold, illegally excavated or removed from a monument, site or wreck, or otherwise transferred in contravention of:

- UK law
- if applicable, the law of the country of origin of the item and the law of any other country through which the item has passed
- international law and international conventions on the protection or export of cultural property or natural history conservation (whether the UK government is a signatory to the treaty or not; see section 4.9).

In addition, it is normally unacceptable to acquire antiquities of unknown provenance. (For limited exceptions see section 4.3.)

4.3 Reject any item that lacks secure ownership history and do not acquire it, unless:

- there is reliable documentation to show that it was exported from its country of origin before 1970; or
- in the best judgements of experts in the field concerned the item is of minor importance and has not been illicitly traded; or
- in the case of items of UK origin, the museum is acting as an externally approved repository of last resort (see appendix H); or
- in the case of objects originating outside the UK, the museum is acting as a place of temporary safety (in which case do not accession the item;

see appendix H)
• also see sections 4.4 and 4.15

4.4 Under some government policies, laws or conventions there may be procedures to give museums consent to acquire an item that would otherwise be unacceptable under the law or convention. In such cases it is vital to obtain such consent before acquiring the item. It will often be necessary to obtain approval of the government of the country of origin as well as that of the UK government.

4.5 It is sometimes acceptable to accession an item of unknown provenance found on museum premises or offered by another museum or public institution. However, make and record attempts to ascertain the ownership and provenance of the item, as difficulties with legal title may arise in future.

4.6 Reject any item if there is any suspicion that it was wrongfully taken during a time of conflict, unless allowed by treaties or other agreements. Carefully assess the significance of any gaps in the ownership history of an item during the Holocaust period, 1933–45 (see further information).

4.7 Refrain from acquiring an item if there is any suspicion that it has recently been removed insensitively from its original context unless, in the opinion of a range of experts, there is an exceptionally strong reason for acquiring it.

4.8 Reject any item if there is any suspicion that it has been stolen unless, in exceptional circumstances, this is to bring it into the public domain, in agreement with the rightful owner.

4.9 Comply not only with treaties which have been ratified by the UK government, but also uphold the principles of other international treaties intended to curtail the illicit trade, if legally free to do so (see appendix G).

4.10 Seek advice from colleagues in other museums and appropriate experts both in the UK and overseas for any information or advice that may be necessary to inform judgement regarding the legitimacy of items considered for

acquisition or inward loan. Be transparent in your actions. Do not take risks alone.

4.11 Decline to offer expertise on, authenticate, or otherwise assist the current possessor of any item that may have been illicitly obtained, unless it is to assist law enforcement or to support other organisations in countering illicit activities. It may be acceptable to record information about suspected illicit items, but do not allow the information to be used inappropriately for personal or institutional benefit. Take advice from impartial experts if necessary.

4.12 Report any suspicion of criminal activity to the police. Report any other suspicions of illicit trade to other museums collecting in the same area and to organisations that aim to curtail the illicit trade (see appendix F).

4.13 Avoid appearing to promote or tolerate the sale of any material without adequate ownership history through inappropriate or compromising associations with vendors, dealers or auction houses. Do not borrow items if there is any suspicion that they may be illicit. Refuse to lend items to any exhibition that appears likely to include illicitly traded items.

4.14 Prior to acquiring an item be aware of the terms and conditions of any funding bodies assisting financially in the acquisition. Consider consequences for the museum in the event of the item being returned to the rightful owner if it later emerges that the item was illicitly traded (despite the best endeavours of the museum to ensure this was not the case when the acquisition was made).

4.15 If it is not possible to obtain documentation to confirm an item's provenance then it is acceptable instead to obtain a written statement from an individual who knows the item's history. In the case of high-risk categories of material these must be sworn statements (affidavits) made by the vendor/donor or his/her agent. This only applies if you have no suspicion that the item might otherwise fall below the standards set out elsewhere in section 4.

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Acquisition procedures: all types of acquisition

Once an item has been selected for acquisition, the following procedures are good practice

5.1 Ensure that the final decision to acquire the item is made appropriately within the procedures of the museum and that no one exceeds their powers. Ensure the governing body has approved the acquisition, if necessary.

5.2 Obtain unambiguous evidence of the transfer of title to the museum. Ensure that the owner completes a transfer of title form (for details see Spectrum in further information). Take care when acquiring items from minors that they have the legal right to transfer title to the museum. It is normally best to obtain the written agreement of the person's parent or guardian.

5.3 Where possible acquire copyright and other rights in the item through informed consent. Note that these may not belong to the owner of the item, but to the 'author' – artist, photographer, etc (also see 7.6).

5.4 Avoid any risk of conflicts of interest during an acquisition. Prevent any person or organisation with any possibility of financial or personal gain from the acquisition from involvement in making the decision to acquire the item. Where a conflict of interest might arise, ensure that the public interest prevails; obtain a written declaration of interest and keep it on record. This applies, for example, if the item is being purchased from or donated by a member of the governing body.

5.5 Purchasing items from a member of staff is discouraged. If a museum does nevertheless decide to purchase an item from a member of staff, then do not pay more than the price the member of staff paid for it if purchased recently. Otherwise, obtain independent valuations and ensure that the individual selling to the museum plays no part whatsoever in the museum's decision-making concerning the purchase.

5.6 Require any individual or organisation collecting on behalf of a museum to apply the same standards of behaviour as would the museum itself.

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Acquisition procedures: extra considerations for specific types of acquisition

These points apply in addition to those in sections 2–5

6.1 Gifts and Bequests

6.1.1 Unwanted offers

a A museum is under no obligation to accept an offer of a gift or a bequest. If the items offered do not meet the criteria set out above in sections 3 and 4, refuse them, firmly and tactfully, explaining the reasons why. Note that a museum that does not wish to accept a gift or bequest must make this clear in writing; if this is not done it may inadvertently become the legal owner by default.

b Refuse unwanted, unsolicited offers in writing and return them, even if the museum has been advised that they need not be returned.

c Consider informing the intending donor (or their representative) about other registered museums that may be interested in the unwanted items, or suggest that they may wish to offer them to registered museums in general; for example, via a notice in Museums Journal. Alternatively suggest that the donor may wish to offer the items to other organisations such as schools or reminiscence groups.

d Do not forward the item to another museum (or organisation) without receiving prior permission in writing from both the museum and the intending donor.

e With prior agreement from the donor it may be appropriate to accession only a selection of the items offered, if necessary accepting others only on the condition that the museum does not have to retain them. Do not accession such items and prevent any suggestion that they have been part of the museum's permanent collection. Consider imposing a condition to this effect on the new owner, if they are passed on.

6.1.2 All types of donations

a Ensure the donor is aware of the financial value and cultural significance of the proposed gift. It is fair to suggest that he or she seeks an independent valuation or assessment (for further advice on obtaining items from individuals see 6.2.6).

b It may be appropriate to suggest to the donor that a financial donation would be welcome to support the long-term costs associated with the acquisition.

c If appropriate, agree the form of acknowledgement that will be made to the donor, and ensure that it is made.

6.1.3 Unconditional donations

Make very clear to the donor the terms on which the museum is willing to accept the item. To prevent future misunderstanding, stress that the item may not be on permanent public display and that title will be permanently transferred to the museum (for guidance on recommended wording to use regarding unconditional donations refer to appendix E).

6.1.4 Conditional donations

a If the donor wishes to apply conditions to the gift, carefully consider the resource and other management implications before deciding whether to proceed with the acquisition. The governing body must agree in advance to accept any conditions as it will be responsible for ensuring that they are carried out, often in perpetuity. Record the wishes of the donor and put in place administrative mechanisms to ensure that they are complied with.

b It is wrong to lead a donor to believe that conditions attached to a gift are perpetual when they may not be. Donor's conditions can be perpetual only when they are in the form of a charitable trust. If the museum is willing to accept perpetual conditions, suggest to the donor that the gift is made under a deed that constitutes the item with charitable status. Take specialist legal advice, and advise the donor to take their own specialist legal advice, if this is being considered.

6.1.5 Unsolicited anonymous donations:

Discourage unsolicited anonymous donations. Dealing with these can be legally problematic. The Museum Documentation Association (MDA) can give a limited amount of further advice.

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Continued...

Image courtesy of the Petrie Museum of Egyptian Archaeology, UCL



6.2 Purchases

6.2.1 If purchasing from a dealer or auction house always bear in mind the advice caveat emptor – buyer beware.

6.2.2 Inspect and check the condition of the item. If necessary take specialist advice and commission an independent condition report. Ask about any conservation or restoration work carried out on the item. Inspect any existing scientific report; if necessary, commission independent scientific tests to determine authenticity.

6.2.3 Secure the item on the most favourable terms possible in cases when the item is on open sale. This includes items offered by private galleries, dealers and auction houses, and at all types of public sale.

6.2.4 Where an item is acquired from a dealer, research the value of the item, using independent valuations. Expect to negotiate a museum discount.

6.2.5 Where an item is on offer at auction attempt to bid at the auction, rather than wait until a dealer has purchased it. Research the likely bidding level. Do not disclose interest, which could lead to an inflation of the price (but see 6.2.7). Consider using an agent to bid on the museum's behalf for items of high financial value.

6.2.6 If an individual member of the public offers an item for sale directly to the museum, make it clear if the museum does not intend to pay the full market price. It is good practice to suggest that the seller seeks an independent valuation if they have not already done so. Although the widest public interest would be served by paying the lowest possible price, weigh against this the duty to deal fairly with individuals. This will enhance public confidence in the museum. (Note that there may be financial benefits to both the museum and the vendor if the item is purchased under private treaty sale.)

6.2.7 When purchasing at auction be aware of the auction house's standard terms and conditions on legal title and

illicit trade. In order to satisfy the requirements of section 4, you will usually need to seek assurances and information additional to that published in the auction catalogue. This is more important than concealing your interest in the item (see 6.2.5).

6.2.8 When purchasing from a dealer do not make any assumptions about the legitimacy of the item. Ask for written confirmation and documentary proof to meet the requirements of section 4. Obtain written assurances that the person purporting to sell the item has evidence that they are the actual owner; the owner confirms that they are empowered to sell the item and transfer title to the museum; to the best of the owner's knowledge and belief there are no third party claims on the item.

6.2.9 If an appeal is made to raise funds to purchase a proposed acquisition, specify in the appeal document the use that will be made of money raised if the acquisition is not made (for example specify whether, if it proves impossible to raise enough money, those funds raised will be put towards other future acquisitions, collections care, or public services). Also ask donors if their contribution can be made public.

6.2.10 If grants or other outside funds, including funds from a Friends' organisation, are used to purchase an acquisition, then the governing body must approve any conditions in advance. Record them and put in place administrative mechanisms to ensure that they are complied with.

6.2.11 If unwanted items accompany an item purchased for the collection (for example as part of a mixed lot at auction), do not accession them into the permanent collection. They may be retained outside the permanent collection, for example as handling material, or they may be offered to other museums or sold. Prevent any suggestion that they have been part of the museum's permanent collection. It may be sensible to impose a condition to this effect on the new owner.

6.3 Fieldwork

6.3.1 Do not acquire an item if there is cause to believe that collecting it recently damaged its original natural, historic, cultural or social context unless, in the opinion of a range of experts, there is an exceptionally strong reason for acquiring it.

6.3.2 Exercise sensitivity and seek professional advice whenever acquiring items or information from fieldwork. Always consider the desirability of recording and preserving items where they are. Uphold guidelines issued by relevant bodies such as the Oral History Society and the Museum Ethnographers Group.

6.3.3 Obtain documentary evidence that all items have been collected legally, without infringing either the national laws in countries of origin or international regulations such as CITES (see appendix G). Do not acquire if this evidence is not provided.

6.3.4 Communicate clearly with individuals and communities (and, if outside the UK, authorities in the country where fieldwork is taking place) over the purpose that the item or information would serve in the museum.

6.3.5 Have open discussions about the ownership of copyright and other intellectual property rights in the items and information collected.

6.3.6 If necessary translate documents transferring title and dealing with other rights into a language that can be easily understood by the person asked to sign the documents.

6.3.7 Obtain information about the item or context, such as field notes and photographs.

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After acquisition

Image courtesy of the Stained Glass Museum, Ely



6.4 Human Remains

Human Remains legislation, policy and practice are changing at the time of publication (2004). They seem likely to continue changing for several years. You are advised to seek up-to-date advice

6.4.1 It is not possible to obtain legal title to human remains (an exception to this may apply if human skill has been applied to the remains). The usual principles that apply to acquisition do not all apply to human remains. It is preferable to formulate a museum's holding of human remains in terms of rights and responsibilities rather than ownership.

6.4.2 It is normally unacceptable to purchase human remains.

6.4.3 Make checks to ensure that human remains being considered by the museum are properly authorised. This is a complex area of law; take specialist advice. Be aware that human remains obtained as part of an archaeological excavation may require reburial as a condition of the permission that was given for the exhumation.

6.4.4 Consider acquiring human remains only if the museum has the expertise to do so and adheres to a published policy.

Once an item has been acquired, the following are good practice

7.1 Confirm that transfer of title documentation has been completed and that the museum intends to retain the item in perpetuity. (If there are doubts about whether the item should be in the permanent collection, see appendix C.)

7.2 Update the museum's records. Carry out documentation procedures as described in Spectrum including accessioning the item into the permanent collection.

7.3 Record information about the item and its context. Undertake further research if necessary.

7.4 Display or store the item in appropriate conditions.

7.5 Make the item and related non-confidential documentation publicly accessible as soon as possible. Do not allow the need to care for items, in terms of security and conservation, to unreasonably compromise the provision of public access.

7.6 If the item was a gift, send a letter of acknowledgement to the donor.

7.7 Record information about copyright and other rights. It is particularly important to attempt to obtain such information if the museum has not acquired any copyright along with the item. There may also be a need to take account of other rights, such as any arrangements with third parties in respect of reproduction rights in the item (see further information).

7.8 It is good practice to report all acquisitions to the governing body, at least annually, even if it is not part of museum procedures for the governing body to formally approve them. This will enable the governing body to be aware of the long-term resource implications and to satisfy itself that the acquisition policy has been adhered to. It is best practice for the governing body to receive regular reports of what has been acquired, how each item meets the objectives of the acquisition policy, the

resources required to acquire the item and the estimated long-term cost of the acquisition.

7.9 Open acquisition procedures to external audit, especially details of due diligence enquiries made to determine the legitimacy of an acquisition.

Appendices

Appendix B

Items outside the scope of the acquisition policy

Appendix C

Reviewable collecting

Appendix A

Unacceptable acquisitions

A.1 From the above, it is clear that the following categories of item cannot normally be acquired ethically:

- items to which the museum cannot obtain title, or that may have been illegally sold, acquired, exported or otherwise transferred
- items for which there is any suspicion that they have been excavated, removed, sold, acquired, exported or otherwise transferred in contravention of any national or international treaty (with the limited exceptions in section 4)
- items outside the museum's acquisition policy (for possible exceptions see appendix B)
- items better owned by another museum or public institution for reasons of care, access, use or context
- items for which the museum cannot provide long-term care and access
- items better held for moral reasons by individuals, groups, societies or peoples.

B.1 If, in very exceptional circumstances, your museum is considering acquiring an item that does not meet the criteria of the acquisition policy (for example, an unexpected gift or bequest, or something that needs to be urgently 'saved' because it would otherwise be destroyed) then pay particular attention to:

- whether a different registered museum, (or other public organisation,) would be a better owner of the item for reasons of use, context, care or public access
- whether the museum has the resources to provide long-term care for, and access to, the item (to ensure that it really will be 'saved')
- whether acquiring the item would be at the expense of care for, and access to, items already in the collection.

B.2 The governing body must approve the acquisition in advance. If a museum collects such an item, it may be best to delay accessioning it into the permanent collection, pending a review (see appendix C).

B.3 In the light of the acquisition, it may be valuable to consider revising the acquisition policy.

C.1 If a museum is unsure about the long-term value of a proposed acquisition, it may wish to obtain legal title to it, but delay accessioning it into the permanent collection pending a review. After a stipulated period, assess the item and decide whether to:

- accession to the permanent collection
- use for museum purposes other than the permanent collection, such as a handling or education collection
- remove from the museum's ownership
- review again in the future.

C.2 Opinions are divided about the desirability of such an approach. It would allow a museum time for careful consideration before accessioning items. However, it could lead to indecision and a large quantity of 'reviewable' items of uncertain status that are inadequately cared for, inaccessible and badly documented, and for which resources never become available. It is clearly essential that there is a regular formal review process, for example by an acquisition committee, with adequate record keeping. It is also essential that all requirements in sections 3–7 are met, even though the acquisition is reviewable.

Appendix D

Collecting other than for the permanent collection

D.1 Museums obtain items for purposes other than the permanent collection. For example:

- for regular demonstration/use/operation
- for handling/loan/education
- for spare parts/destructive testing.

D.2 Practices vary from museum to museum. In some, demonstration or handling collections are part of the permanent collection, but in others they are separate. If the latter applies, to avoid any future misunderstanding, it is important to make it clear to the donor that the museum does not intend to retain the item in perpetuity. It may be necessary to agree what the museum can do with the item when it is no longer required.

D.3 Ensure that the criteria laid down above in sections 4-6 about, for example, the provenance of the item, the fairness of the purchase price and the legal title of the current owner are met, as if the item was being acquired for the permanent collection.

D.4 It is also wise to obtain contextual information about the item; it will be useful for many reasons and in particular if the item is required for the permanent collection in future. Properly document items outside the permanent collection.

D.5 Accession all items that the museum intends to retain permanently into the permanent collection.

Appendix E

Guidelines for donors to museums who give items unconditionally

E.1 It is recommended that any information a museum distributes to donors regarding unconditional donations should include the information below. This wording was developed in consultation with the Local Government Ombudsman for England.

E.2 For use before, or at the time, a transfer of title is signed by the donor

The museum is grateful for your generous gift. So that we can accept your gift we ask you to sign a form, called a transfer of title form. We can only accept your gift without conditions. This means that your gift will become the museum's property and you and your family will not be able to claim the gift back. In addition, we will not have to consult you about any use we make of your gift. This includes how it is displayed and whether it is lent to other museums. If, in exceptional circumstances, we no longer require it, we will dispose of it in accordance with the guidelines of the Museums Association, which favour transfer to another museum. Our collections are large and this means that very few gifts are put on permanent public display. When not on display they are carefully stored and are available for research and education purposes.

E.3 For use if a transfer of title has already been signed (for example as part of a letter of acknowledgement)

The museum is grateful for your generous gift. Your signature on our transfer of title form means that you have given the gift to the museum without conditions. This means that your gift is now the museum's property and you and your family will not be able to claim the gift back. In addition, we will not normally consult you about any use we make of your gift. This includes how it is displayed and whether it is lent to other museums. If, in exceptional circumstances, we no longer require it, we will dispose of it in accordance with the guidelines of the Museums Association, which favour transfer to another museum. Our collections are large and this means that very few gifts are put on permanent public display. When not on display they are carefully stored and are available for research and education purposes.

Appendix F

Organisations that may be contacted where there is suspicion that an item has been illicitly traded

F.1 At the time of publication there is as yet no single formal system for investigating and dealing with items that may have been illicitly traded. It is clear from section 4 that a museum must not acquire such items. In addition there is a duty to report the items to at least one organisation with expertise on, or interest in, the illicit trade in cultural material. Such organisations include:

- the police – both locally and the arts and antiques squad of the Metropolitan Police, if criminal activity is suspected
- HM Customs and Excise
- the Department for Culture, Media and Sport (the DCMS cultural property unit has UK-wide responsibility for many aspects of illicit trade) www.culture.gov.uk
- high commissions, embassies or other authorities of the country of origin, if known
- the Art Loss Register www.artloss.com
- the Commission for Looted Art in Europe (for art spoliated in the Nazi period in particular) www.lootedartcommission.com
- Invaluable www.invaluable.com
- the Illicit Antiquities Research Centre at the McDonald Institute for Archaeological Research, University of Cambridge www.mcdonald.cam.ac.uk/IARC/home.htm
- experts in other museums, particularly the British Museum.

Appendix G

International conventions

G.1 Conventions with which the UK must comply:

- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- Unesco 1970 Convention on the means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

G.2 Conventions that should also be considered:

- Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954 and its first and second protocols; the UK is working towards accession)
- Unidroit 1995 Convention on Stolen or Illegally Exported Cultural Objects
- Unesco 2001 Convention on the Protection of the Underwater Cultural Heritage
- Unesco 2003 Convention for the Safeguarding of the Intangible Cultural Heritage.

Details of these treaties can be found on the Unesco website www.unesco.org/culture/laws/html_eng/conven.shtml

For CITES see www.cites.org

Appendix H

Important items 'at risk' that may have been illicitly excavated, removed or traded

H.1 A museum faced with an important illicit item is faced with a dilemma: if it rejects it, the item may disappear into the art trade, or the hands of a private collector, never to be seen again. In general the consensus is that the museum should nevertheless reject the item. Thinking on this area is still developing but there may be two exceptions.

Objects illicitly removed from a country during recent or continuing war, conflict or other instability

H.2 In this case a museum may wish to take temporary custody of an item until it can safely be returned to its country of origin. If so the following principles must be adhered to:

- obtain approval of an organisation with appropriate, internationally recognised authority such as Unesco, the International Council of Museums or legitimate authorities in the country of origin
- do not purchase the item
- do not take direct ownership of the item, but hold the item temporarily in trust on behalf of the people of the country of origin
- follow the advice of organisations with appropriate internationally recognised authority. Review the situation regularly. Return the item to its country of origin as soon as advised to do so
- publish full information about the museum's activities and full details of any items it is holding for temporary safety.

Items, particularly archaeological items, that appear to originate within the local collecting area of the museum but do not have a clear ownership history

H.3 There are legal risks in acquiring such items; take specialist advice. In many cases legal considerations will make it impossible to safely acquire the item. Do not take the advice here as a substitute for legal advice.

H.4 If a museum is offered an item of importance that appears to originate from its local collecting area but lacks secure ownership history it may feel it appropriate to act as a 'repository of last resort' for the item and so acquire it. Thinking in this area is not fully developed, but adhere to the following principles:

- consider doing this only if the item is of unusual importance and will make a significant contribution to knowledge
- consult widely and publicly in an attempt to determine the true history of the item and whether there is a rightful owner
- take advice from experts in other museums about the acceptability of acquiring the item. Request this advice formally and record it permanently so that a proper audit can be made of the decision. Do not act alone
- take care that any payment for the item does not stimulate illicit activity
- if in spite of all these checks a rightful owner later emerges, the museum will of course, have to give the item to them and may not be able to obtain any compensation for any price it paid for the item
- the museum may be subject to criminal or civil proceedings.

Further information

Image courtesy of Colchester Museum



Basic principles

The version of these guidelines on the MA website may be updated from time to time to take account of developing thinking in this area. www.museumsassociation.org

The basic principles in these guidelines follow those contained in the following documents: Code of Ethics for Museums: Ethical Principles for All Who Work for or Govern Museums in the UK, Museums Association 2002, especially section 5

Museum Registration Standard, Museums, Libraries and Archives Council, 2004

Standards in the Museum Care of Collections, vols 1–5, Museums and Galleries Commission, 1992–95

Benchmarks in Collection Care for Museums, Archives and Libraries: A Self-Assessment Checklist, Resource, now Museums, Libraries and Archives Council, 2002

Documentation and record keeping

Spectrum: The UK Museum Documentation Standard, second edition, revised and edited by Jeff Cowton, Museum Documentation Association, 1997 (new edition forthcoming). MDA, The Spectrum Building, The Michael Young Centre, Purbeck Road, Cambridge, CB2 2PD Tel: 01223 415760 Fax: 01223 415960 www.mda.org.uk/spectrum.htm

The law and International Conventions

Publications and website of the Institute of Art and Law, 1–5 Cank Street, Leicester LE1 5GX Tel: 0116 253 8888 Fax: 0116 251 1666 www.ial.uk.com
The Legal Status of Museum Collections in the UK, Museums and Galleries Commission, 1996

A Legal Primer on Managing Museum Collections, Marie C Malero, Smithsonian Institution Press, 1985, ISBN 0 87474 697 3 (pbk) or 0 87474 656 6 (hbk), deals with the law in the United States of America, but also covers many other issues related to acquisition
Spectrum as above

Unesco website: portal.unesco.org/culture/en

The long-term cost of acquisitions

The Cost of Collecting: Collection Management in UK Museums, Barry Lord, Gail Dexter Lord and John Nicks, 1989, ISBN 0 11 29046 9, HMSO

Human remains

The Report of the Working Group on Human Remains, Department for Culture, Media and Sport, 2003

Guidelines on Human Remains, English Heritage and the Church of England, forthcoming (2004)

Copyright

A Guide to Copyright for Museums and Galleries, Peter Wienand, Anna Booy and Robin Fry, 2000, ISBN 0 415 21721 0, Routledge

also see the MDA website www.mda.org.uk

Other

Ethical Guidelines Number 2, Disposal: Guidelines on the Ethics and Practicalities of Disposal, Museums Association, 1996

Selection, Retention and Dispersal of Archaeological Collections: Guidelines for use in England, Wales and Northern Ireland, Society of Museum Archaeologists, 1993 www.socmusarch.org.uk

Stealing History: The Illicit Trade in Cultural Material, Neil Brodie, Jenny Doole and Peter Watson, The McDonald Institute for Archaeological Research, MA/ ICOM UK, 2000, ISBN 1 902937 10 4

Ministerial Advisory Panel on Illicit Trade, Report, Department for Culture Media and Sport, 2000

Statement of Principles on the Spoliation of Works of Art During the Holocaust and World War II, National Museum Directors' Conference, 1998. Associated information at www.nationalmuseums.org.uk

Cultural Property: Return and Illicit Trade, House of Commons Culture, Media and Sport Committee, 2000

Cultural Objects: Developments Since 2000, House of Commons Culture, Media and Sport Committee, 2003

Specific advice

Further detailed advice on specific cases can be provided by:

Ethics, The Museums Association, 24 Calvin Street, London E1 6NW Tel: 020 7426 6955 Fax: 020 7426 6961 Email: info@museumsassociation.org www.museumsassociation.org

The Museums, Libraries and Archives Council, 16 Queen Anne's Gate, London SW1H 9AA Tel: 020 7273 1444 Fax: 020 7273 1404 Email: info@mmla.gov.uk www.mla.gov.uk

Your regional/national agency for museums, archives and libraries, or other relevant regional/national support body.

It is recommended that prior advice be taken if there is any likelihood of breaking these guidelines.

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Image courtesy of the
Willis Museum, Basingstoke



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