

# Culture, art and heritage in times of austerity

OVERCOMING THE KEY CHALLENGES FACING LOCAL AUTHORITY  
MUSEUMS AND ART GALLERIES

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**Winckworth**  
Sherwood

## FOREWORD

**Museums and art galleries have been increasingly under the spotlight in recent years and, as Neil Mendoza wrote in the introduction to his independent review, “*England has world-class museums of exceptional reputation. Three of our national museums are in the top ten most visited museums in the world*”.**

This independent review was undertaken in response to the 2016 Culture White Paper. Whilst it was concerned, principally, with all England’s museums, it contained important sections with recommendations for local authorities and the future of collections generally.

There are currently some unhelpful limitations on local authorities’ abilities to manage their museums and art, best illustrated by the small percentage on display and their value (£2.3 billion).

This pamphlet is based upon our submission to the Mendoza Review and has been updated to take into account recent developments and reports. The pressure upon local authority museums and art galleries grows with as reinforced in Sir David Cannadine’s recent report “Why Collect?”.

The original submission was largely the work of Andrew Taggart when he was at Winckworth Sherwood, under the guidance of Simon Randall CBE and Joanna Bussell.



## INTRODUCTION

The Museums Association definition of a museum<sup>1</sup> states that:

*‘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.’*

This definition includes art galleries with collections of works of art, as well as museums with historical collections of objects – so when we refer to ‘museums’ we are also referring to galleries.<sup>2</sup>

In total, the Museums Association estimates that there are about 2,500 museums in the UK.<sup>3</sup> The majority of these museums are accredited under an Accreditation Scheme administered by Arts Council England in partnership with relevant bodies in Wales, Scotland and Northern Ireland.<sup>4</sup>

This figure of around 2,500 comprises various different types of museums, including national museums run and funded directly by central government, university museums, independent museums, historic property and heritage sites, National Trust properties, regimental museums and armouries, and unoccupied Royal Palaces.<sup>5</sup>

There are also a substantial number of local authority museums, which generally house collections that are of regional and local interest and which reflect local history and/or heritage, including

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<sup>1</sup> Museums Association, frequently asked questions

<sup>2</sup> Ibid

<sup>3</sup> Ibid

<sup>4</sup> Arts Council – What we do / supporting museums accreditation scheme

<sup>5</sup> Museums Association, frequently asked questions

industrial and social heritage, although some may also have items of national and international importance.<sup>6</sup> These include major regional museums, county-wide services, major urban museums and galleries and a variety of smaller, district authority museums.<sup>7</sup> Many local authority museums have a long history, often deriving from collections given to local communities by societies or individuals as far back as the 1800s for the benefit of the public, and which were housed in municipal museums or buildings.<sup>8</sup>

These museums are generally owned and/or managed by town, parish, borough, city, or county councils and other local authority bodies and are largely funded by state subsidy<sup>9</sup>. However, increasing numbers of museums are now being managed by other organisations such as museum trusts and community groups on behalf of local authorities. It is also worth bearing in mind that many local authorities provide grant aid and other forms of support to some of the independent museums which are managed outside local or central government.<sup>10</sup>

It is difficult to determine exactly how many local authority museums there are across the UK. One indication was given in July 2015 by Bethany Rex, a doctoral researcher at the International Centre for Cultural and Heritage Studies at Newcastle University, who suggested in an article for 'The

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<sup>6</sup> Ian Lawley, *Local authority museums and the modernizing government agenda in England* (2003)

See also House of Commons Culture Media and Sport Committee, *Caring for our collections*, 6<sup>th</sup> Report of Session 2006-07

<sup>7</sup> Ibid

<sup>8</sup> Ibid. See also Bethany Rex, *The Guardian*, *Who runs local museums and how are they surviving the funding crisis?* (10 July 2015)

<sup>9</sup> Ibid

<sup>10</sup> Ian Lawley, *Local authority museums and the modernizing government agenda in England* (2003)

Guardian' that there are 700 local authority museums in England.<sup>11</sup> However, no figure was given for the UK as a whole.

The latest Arts Council statistics on accreditation at the time of writing, from September 2017, suggest that, of the 1,723 accredited museums across the UK, 513 (29.8%) are owned by local authorities.<sup>12</sup> If, hypothetically, the same proportion (29.8%) of non-accredited museums were local authority museums, the total number of local authority museums across the UK (both accredited and non-accredited) would be around 745 (29.8% of 2,500 museums).<sup>13</sup>

Whatever the exact figure is, it is clear that a very substantial number of the UK's museums – both accredited and non-accredited – are local authority museums, and that they play an important part in the UK's cultural life.

It is, however, also clear that authority museums are facing a number of significant difficulties. This paper is intended to consider some of the key challenges facing local authority museums and to set out some proposals to address these challenges.

## **CHALLENGES FACING LOCAL AUTHORITY MUSEUMS**

### **Reductions in taxpayer funding and lack of a statutory basis**

As mentioned above, local authority museums are largely funded by state subsidy (i.e. taxpayer funding). However, local authority museums have faced significant reductions in state funding in recent years due to the climate of 'austerity' and the cuts in local authority funding that this has entailed. Local authority museums have been particularly affected because museums are not and

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<sup>11</sup> Bethany Rex, The Guardian, *Who runs local museums and how are they surviving the funding crisis?* (10 July 2015)

<sup>12</sup> See Arts Council, *What we do supporting museums accreditation*

<sup>13</sup>  $0.308 \times 29.8\% = 745$

never have been a statutory service which local authorities must provide – they are an optional, discretionary service only<sup>14</sup>.

Although the Public Libraries and Museums Act 1964 places a statutory duty on local authorities to provide a comprehensive and efficient library service, no such duty is provided for museums. The lack of a statutory basis for local authority museums means two things.

Firstly, provision for local authority museums is not currently reflected in the formula that determines the level of revenue support for local authorities from central government.<sup>15</sup>

Secondly, the fact that museums are not a statutory service inevitably leaves them in a precarious position when compared to statutory services which local authorities are required to provide, such as housing or adult social care. This has been highlighted by the budget cuts in recent years under the Coalition Government from 2010-2015, and more recently under the majority Conservative Government which was elected in May 2015.

This has led to sector bodies such as the Museums Association issuing dire warnings about the future of the museum sector:

*“As the cuts to government departments and local government bite deeper there is every possibility of the closure of all or part of some museum services and the sale of museum collections. There were cuts of 5% in the 2013 spending review on top of an average of 20% cuts (more in real terms) already endured by museums. Some buildings and services cannot survive –*

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<sup>14</sup> Ian Lawley, *Local authority museums and the modernizing government agenda in England* (2003)

<sup>15</sup> Ibid

*particularly in local government, which is suffering some of the worst funding cuts.*<sup>16</sup>

Indeed, significant numbers of museums in recent years have had to reduce access to sites by closing whole or parts of sites in response to the reductions in funding<sup>17</sup>, and many museums have had to reduce opening hours, cut staff numbers or hours, abolish free entry to the public and curtail temporary exhibitions, free events, school visits and outreach work.<sup>18</sup>



In some cases museums have had to close entirely – according to a map of museum closures maintained by the Museums Association, as at July 2015 around 49 museums across the UK have closed since 2005<sup>19</sup> and 40 museum closures between 2011 and 2016. These include local authority museums such as the Museum of South Somerset in Yeovil (previously run by South Somerset District Council) and Stamford Museum in Lincolnshire (previously managed by Lincolnshire County Council), both of which closed in 2011<sup>20</sup>. There have been a number of further museum closures, with more at risk of closure

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<sup>16</sup> Museums Association, Campaign fighting the cuts

<sup>17</sup> Ibid

<sup>18</sup> Ian Youngs, BBC News, *Council cuts put free museum entry in doubt* (23 July 2015)

<sup>19</sup> See Museums Association, Funding cuts and museum closures

<sup>20</sup> Patrick Steel, Museums Association, *Cuts start to take effect at local authority museums* (1 April 2011)

and/or reduced opening hours. These threats have been articulated in the Art Council England's submission to the Museums Review in 2016.

On top of the cuts that local authorities and museums have already endured in recent years, the Department for Culture, Media and Sport (DCMS) and the Department for Communities and Local Government (DCLG) have been asked to prepare for and to model further proposed cuts of 25% and 40%, ahead of the comprehensive spending review in November 2015<sup>21</sup>.

The review reduced central government expenditure on local authorities between 2015/16 to 2019/20 from approximately £12 billion to £6 billion, taking into account the planned ability to retain 100% of their business rate income. As Sir Peter Bazalgette, the then Chairman of ACE, said in April 2016, local government needs to encourage innovative partnerships with shared services, creating charitable trusts and working with the higher sector.

### **Government White Paper**

The White Paper presented to Parliament in March 2016 was the first in over 50 years and contained many recommendations and aspirations. As the, then, Minister of State, Ed Vaizey MP, wrote in the introduction "*Over the past 70 years public support has championed culture for all, giving people everywhere the right to expect the best; preserved our collective heritage; and extended ever-greater access*"<sup>22</sup>. The White Paper heralded a wide-ranging review of museums, the fruits of which are eagerly awaited.

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<sup>21</sup> Patrick Steel, Museums Association, *Government departments model 40% cuts* (29 July 2015)

<sup>22</sup> DCMS: The Culture White Paper Cm. 9218

## Limited alternative funding options

There are some additional sources of funding for local authority museums, including Arts Council England (ACE) and the Heritage Lottery Fund<sup>23</sup>. ACE, for example, has a range of funding schemes and programmes for museums, which in part reflects the fact that it has now assumed responsibility for museum and library sector development and improvement in England from the Museums, Libraries and Archives Council<sup>24</sup> and is now the “*development organisation for English regional museums*”.<sup>25</sup>



*The Somnambulist, John Everett Millais*

These programmes provide millions of pounds of funding to museums every year and include a museum development grants programme<sup>26</sup>, a major partner museums

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<sup>23</sup> Arts Council, Supporting museums designation scheme

<sup>24</sup> Arts Council, Museums galleries and libraries eligibility funding

<sup>25</sup> Arts Council, Museum resilience fund 2015-2018

<sup>26</sup> Arts Council, Museum development funding

programme<sup>27</sup>, a museum resilience fund<sup>28</sup>, miscellaneous strategic funding<sup>29</sup> and various other schemes including a Preservation of Industrial and Scientific Material (PRISM) fund and other funds on specific areas such as improving the collections of museums.<sup>30</sup> ACE has, for example, recently offered significant support to Walsall Metropolitan Borough Council to keep open its art gallery.

However, accreditation under the Accreditation Scheme is a requirement to access at least some of these funds, such as the Arts Council's major partner museums programme and museum resilience fund<sup>31</sup>, as well as at least one Heritage Lottery Fund programme<sup>32</sup>. The designation development fund<sup>33</sup> also requires museums to be registered under a separate Designation scheme.<sup>34</sup> Accreditation is also important with regard to ensuring the reputation and credibility of a museum with regard to funding agencies generally, and the eligibility of a museum for support from other public services, the National Lottery or private sector funding<sup>35</sup>.

These funding programmes are an imperfect solution at best, since they largely depend on Government funding – for example to ACE through the DCMS (as set out above) and because they

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<sup>27</sup> Arts Council, Major partner museum funding 2015-2018

<sup>28</sup> Arts Council, Museum resilience fund 2015-2018

<sup>29</sup> Arts Council, Strategic funds investment 2015-2018

<sup>30</sup> Arts Council, Apply for funding and What we do supporting museums

<sup>31</sup> See e.g. Arts Council England, *Major partner museum grants programme 2015/16–2017/18 Guidance for applicants* (page 15). See also Arts Council England, *Museum resilience fund 2015-18* (page 10)

<sup>32</sup> Nicola Sullivan, Museums Association, *Uncertainty over funding for Northampton Museum expansion* (28 July 2015)

<sup>33</sup> Arts Council, Renaissance designation development fund

<sup>34</sup> Arts Council, Supporting museums designation scheme

<sup>35</sup> Farrer & Co – seminar on art and heritage

also have their own additional onerous conditions and requirements which museums need to comply with. These include ensuring compliance with eligibility criteria and the requirements of the application process as well as further conditions which must be complied with if or when the grant is actually awarded. For example, the major partner museums programme entails compliance (by museums who successfully apply) with onerous requirements in areas including support for ACE's strategic framework; fair pay, equality and diversity requirements; organisational resilience; and keeping in regular contact with an ACE relationship manager, including through providing them with extensive information either on a rolling basis or as requested by them from time to time.<sup>36</sup>

There are of course other possible sources of funding including private investment, grants from other organisations, philanthropy and donations to museums. There are also steps that museums can take to save money by achieving efficiency savings through combining services with other local authorities or setting up museum trusts to run museums. However, we believe that local authority museums are not doing enough to promote or take advantage of possible opportunities in this area, and do not have sufficient support from the Government to do so.<sup>37</sup> We will return to this later.

## **Accreditation**

As indicated above, the majority of museums across the UK are accredited under an Accreditation Scheme, which is currently administered by ACE in partnership with relevant bodies in

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<sup>36</sup> Arts Council England, *Major partner museum grants programme 2015/16–2017/18 Guidance for applicants*

<sup>37</sup> See e.g. House of Commons Culture, Media and Sport Committee, *Funding of the arts and heritage*, 3<sup>rd</sup> Report of Session 2010-11

Wales, Scotland and Northern Ireland.<sup>38</sup> The Scheme sets nationally agreed standards for museums in the UK, supports them in planning and developing services and enables them to assess their current performance. Application for accreditation is not obligatory but is often required for access to various funds and programmes. It has been developed since its commencement to keep up to date with changes in the sector.<sup>39</sup>

Eligible museums must meet the Museums Association definition of a museum (as set out earlier), hold a long-term collection of artefacts, have a formal constitution or governing document, provide two years of relevant accounts, meet all the relevant legal, ethical, safety, equality, environmental and planning requirements, and be committed to forward planning to improve the service for users<sup>40</sup>

When making an application for accreditation, the application guidance lists a large range of possible documents which museums may be required to submit. Many will not have each as a separate document – for example, all collections policies may be combined within one collections management policy. Museums must however be able to evidence where the information is situated, if multiple elements are combined into one larger policy or plan.

**The full list of documents in the guidance is as follows:**

- governing document
- organisation structure

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<sup>38</sup> Museums Association, Frequently asked questions and Arts Council, What we do

<sup>39</sup> Arts Council, Supporting museums accreditation scheme

<sup>40</sup> Arts Council, Supporting museums accreditation scheme – how do I apply?

- succession procedures
- management agreements or service level agreement - where present forward plan, in date, approved
- two years of relevant financial accounts
- two years of relevant financial accounts for management organisation - where relevant workforce chart
- template volunteer agreement
- evidence of appropriate professional expertise
- Museum Mentor agreement, if appropriate, approved
- environmental sustainability policy statement, approved
- collections development policy, in date, approved
- documentation policy
- care and conservation policy
- collections documentation plan, where backlog exists
- care and conservation plan
- access policy statement<sup>41</sup>

Clearly, this is a very cumbersome process for museums to go through. Although we accept that there are some benefits<sup>42</sup> to museums from the Accreditation scheme – which should, in

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<sup>41</sup> Arts Council England (& others), *Accreditation guidance: An introduction* (June 2014)

<sup>42</sup> Ibid

theory, make this process worth all the effort – it is not clear that the scheme is quite as beneficial as ACE assume. For example, a major report from University College London (UCL) in 2008 found that accreditation was not a factor encouraging greater visitor numbers. Instead, factors such as management strategy, marketing and publicising the collection, providing access to groups, and having a designated or national collection were all more significant.<sup>43</sup>

In addition, the Accreditation Scheme places significant restrictions on local authority decision making. For example, as we will explore below, it places significant restrictions on any attempts by museums to sell items from their collections, even where the proceeds of such sales would be used to improve facilities or collections and/or to acquire new items.

It is therefore far from clear that the Accreditation process or the restrictions that come with accreditation are worth the hassle under the system as it currently stands. We hope that the Accreditation Review being undertaken by ACE will address these issues.

## **Displaying collections**

Of course, it is the items stored and displayed by a museum that make a museum what it is. Visitors are hardly going to visit a museum if there is nothing to see. As the Museums Association's definition of museums makes clear, the whole point of museums is to obtain "*collections*" of various objects, to hold those in trust for society and to make them accessible for inspiration, learning and enjoyment.

These collections can vary significantly in size or nature depending on the museum. According to the Museums Association, out of the 2,500 UK museums (of all types), 25% of

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<sup>43</sup> Suzanne Keene (& others), University College London, Institute of Archaeology, *Collections for People* (2008)

these museums have 1,001-5,000 objects in their collection; 15% hold 5,001-10,000; 25% hold 10,001-50,000; 15% hold 50,001-500,000 and a few hold significantly more.<sup>44</sup>

However, it is clear that one of the major, ongoing and consistent challenges facing museums – including local authority museums – is how they manage their collections. Although there is – given the figures above – no easy way of knowing exactly how many items are or are not in storage at any time, various sources have painted a fairly consistent picture which suggests that the vast majority of collections in the vast majority of museums are ‘gathering dust’ in storage, rather than being put on display and therefore made accessible to the general public.



*A River Bank, LS Lowry*

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<sup>44</sup> Museums Association figures

For example, the report from UCL in 2008 – which was primarily on the subject of collections – suggested that approximately 90% of museums' collections are in storage<sup>45</sup>, an estimate which has also been supported by more recent news reports<sup>46</sup>. The UCL report also highlighted that, when museums were grouped by subject areas (e.g. Military, Geology, Ethnography, Film), at least 20% of the museums in almost every subject area had 95-100% of their collections in storage, with some subject areas having as many as 50%, 60%, 70% or more of their museums with 95-100% of collections in storage<sup>47</sup>.

Not only are huge amounts of collections in storage, they are often in storage for a very long time. Research by the Art Fund which was cited in 2011 asked 100 museums about their reserve collections and their views on current practice on disposals, and found that 89% of those museums had objects in storage that had not been displayed, touched or consulted for more than 10 years.<sup>48</sup>

Most recently, a major report by the Taxpayer's Alliance found that the government, local authorities and other public bodies across the UK own a combined art collection which is estimated to be worth at least £3.5 billion and which comprises over 8 million works of art, but that less than 3% of this art is on display<sup>49</sup>.

The findings, based mainly on Freedom of Information requests,

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<sup>45</sup> Suzanne Keene (& others), University College London, Institute of Archaeology, *Collections for People* (2008)

<sup>46</sup> See e.g. BBC Newsnight and BBC News England and London

<sup>47</sup> Suzanne Keene (& others), University College London, Institute of Archaeology, *Collections for People* (2008)(page 50)

<sup>48</sup> Farrer & Co, *Foul Play or Opportunity Knocks? Deaccessioning and disposals in UK museums* (Edited highlights from Farrer & Co conference 10 May 2011, The National Gallery)

<sup>49</sup> Jennifer Salisbury-Jones, The TaxPayers' Alliance, *Government Art* (August 2015)

suggest that the bulk of these headline figures relate to local government collections – the report found that local authorities across the UK owned an estimated 5.5 million works of art, worth around £2.3 billion, of which less than 1.5% is on display<sup>50</sup>. The 2015 research also found that a number of local authorities had less than 1% of their collections on display, with Carlisle and Buckinghamshire having only 0.02% and 0.04% of their collections on display.<sup>51</sup>

We do recognise that there are some limitations on museums and galleries with regard to the number of items they can display. For example, we realise that they need to take care of their collections, that there is limited space for displaying items, that some items will not be suitable or appropriate for public display for whatever reason, and also that many items not on public display can be viewed through other arrangements (e.g. by appointment).

However, we believe that museums could and should do much more to manage their collections better and to ensure that more items from their collections are on display, and/or are accessible to the public through other means such as loans or sharing arrangements or by leasing them to other museums or other appropriate institutions. This view is in fact already accepted by the vast majority of museums – the UCL report, for example, also found that 73% of all museums believed that their collections could be better used<sup>52</sup>.

An interesting report from The Museums Association in April 2012 entitled *Effective Collections: Achievements and Legacy* contained a number of important recommendations dealing with

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<sup>50</sup> Ibid

<sup>51</sup> Ibid

<sup>52</sup> Suzanne Keene (& others), University College London, Institute of Archaeology, *Collections for People* (2008)

support for collection sharing or loans and the principle of improved use of collections and their review.

Not only would this ensure a greater variety of items are accessible to more people, it would also ensure that collections are used in the best way possible and encourage continued donations and sales of items to museums. If, for example, someone donates a collection of items to a museum, it is fair to assume that they will expect them to be displayed by that museum, rather than being kept in storage where few people, if any, will ever see them. Indeed, in many cases, items will be bequeathed specifically to museums to be put on public display. If items and collections are not displayed when it is expected that they will be, there is a considerable risk that people will be put off from selling, donating or bequeathing items or collections to museums.

We are certainly aware of a number of cases where collections gifted to museums for public display have been hidden from view for many years. This is an unacceptable situation and is unsatisfactory from the point of view of the former owner of the collection, from the point of view of the museum and from the point of view of the public, particularly taxpayers. For example, the Cecil French Bequest to the London Borough of Hammersmith and Fulham is worth around £18 million and includes many valuable paintings, and the bequest was left to the council with the express wish that the paintings should be on permanent display in public libraries – yet these paintings are languishing in storage, against the specific wishes of the donor<sup>53</sup>.

As Will Gompertz, the BBC's Arts Editor, argued in response to the Taxpayers' Alliance report, "*...there is far, far too much art that is owned by authorities and museums that is merely gathering dust in storerooms across the country, which really ought to be made available to the public. There's many a school*

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<sup>53</sup> Harry Phibbs, ConservativeHome, *The state is hoarding a £3.5bn art collection kept hidden from the public* (5 September 2015)

*wall, for instance, that would benefit from a high quality art work.*"<sup>54</sup>

This sentiment was echoed in even stronger terms in 2011 by Sir Simon Jenkins, then Chairman of the National Trust:

*"The hoarding instinct is, I have to say, close to being immoral. I feel more strongly about this than anything we're discussing. I just cannot take vast amounts of fine art sitting in basements in London any more than I can take them sitting in attics all over the country. People painted pictures for other people to look at them. If we cannot show them the pictures, we should give them to someone else who can. The idea that there is something ideologically grand about constantly acquiring works of art so scholars can see them is the ultimate form of elitism."*<sup>55</sup>

### **Disposal of items from collections**

One of the most controversial and difficult issues for museums is whether or not items from collections should be sold (otherwise known as 'disposal' or 'deaccessioning'). The Museum Association's Code of Ethics, the museum sector's written principles for best practice, formerly had a strong presumption against disposal. This was relaxed slightly in 2007 to allow for financially motivated disposal, but only in 'exceptional circumstances' which are set out in detail in the Code.<sup>56</sup> The Code of Ethics is being reviewed, but in general it provides that museums should act as guardians of the long-term public interest in collections and that all museums should sustain their financial viability irrespective of any valuation placed on items in its

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<sup>54</sup> BBC News, *Britain has a 'hidden' art collection worth £3.5bn* (4 September 2015)

<sup>55</sup> Farrer & Co, *Foul Play or Opportunity Knocks? Deaccessioning and disposals in UK museums* (Edited highlights from Farrer & Co conference 10 May 2011, The National Gallery)

<sup>56</sup> Ibid

collections.<sup>57</sup> More specifically, it also provides that museums should:

- Balance the duty of maintaining and enhancing collections for future generations with that of providing appropriate services to today's public.
- 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.
- Avoid transferring items out of the public domain wherever possible.
- Base decisions to dispose on clear, published criteria as part of the institution's long-term collections policy, approved by the governing body. Ensure transparency and carry out any disposal openly, according to unambiguous, generally accepted procedures. Manage the process with care and sensitivity to public perceptions.
- Seek the views of stakeholders (such as donors, researchers, local communities and others served by the museum) who have a vested interest in a proposed disposal. In some cases consent from the donor may be a legal requirement. Where appropriate seek the views of colleagues and sector bodies.
- Refuse to undertake disposal principally for financial reasons, except in exceptional circumstances, on the basis that financially-motivated disposal risks damaging public confidence in museums and the principle that

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<sup>57</sup> Museums Association, *Code of Ethics for Museums* (2008)

collections should not normally be regarded as financially-negotiable assets.

- Consider financially-motivated disposal only in exceptional circumstances and when it can be demonstrated that:
  - it will significantly improve the long-term public benefit derived from the remaining collection
  - it is not to generate short-term revenue (for example to meet a budget deficit)
  - it is as a last resort after other sources of funding have been thoroughly explored
  - extensive prior consultation with sector bodies has been undertaken
  - the item under consideration lies outside the museum's established core collection as defined in the collections policy.
- Ring-fence any money raised as a result of disposal through sale, if this exceptional circumstance arises, solely and directly for the benefit of the museum's collection. Money raised must be restricted to the long-term sustainability, use and development of the collection. If in doubt about the proposed use of such restricted funds consult sector bodies.
- Openly communicate and document all disposals and the basis on which decisions to dispose were made<sup>58</sup>.

As can be seen, this is a very comprehensive and restrictive list. Although these provisions are technically non-binding, the Code

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<sup>58</sup> Ibid

of Ethics is seen as best practice for the sector and compliance with the Code's provisions relating to disposal is required not just for Museums Association membership but also by the Accreditation Scheme for museums as a minimum standard to follow – meaning, in short, that accredited museums must comply with it.<sup>59</sup> This significantly restricts local authority decision-making, particularly for local authorities which have accredited museums or wish to have their museums accredited.

The definition of exceptional circumstances has been tested by an increasing number of museums attempting to raise money through disposal of items in their collections, many of which were local authorities under financial pressure due to cuts in Government funding. Perhaps the best recent example of this is the sale of a statue of Sekhemka, an Egyptian official, by Northampton Borough Council.



*Statue of Sekhemka*

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<sup>59</sup> Arts Council England (& others), *Accreditation Scheme for Museums and Galleries in the United Kingdom: Accreditation Standard* (October 2011)

The statue of Sekhemka was sold by Northampton Borough Council at auction in July 2014 for nearly £16 million<sup>60</sup>. The council sold the statue in order to help fund a multi-million pound expansion of Northampton's Museum and Art Gallery, which was needed in order to display more of the historic artefacts kept in storage as well as to provide education events<sup>61</sup>. This expansion work is currently proceeding.

However, this was a highly controversial decision which led to local campaigns calling for the retention of the statue and extensive condemnation in the museums and cultural sector. After completion of the sale, Northampton Borough Council's museums service lost its accreditation.<sup>62</sup>

The sale also directly led to an unprecedented joint statement by a UK-wide group of 10 museums funding, membership and development bodies on 27 March 2015, which stated that these bodies will not seek to work with museums whose governing bodies choose to sell objects from their collections in a manner that contravenes the Accreditation Standard and the Museum Association Code of Ethics.<sup>63</sup>

The controversy also led to the Department for Culture, Media and Sport imposing a temporary export ban (i.e. deferring the granting of an export licence) on the statue to prevent it leaving the UK, as it had been sold to an overseas buyer and would

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<sup>60</sup> BBC News, *Egyptian statue Sekhemka sells for nearly £16m* (10 July 2014)

<sup>61</sup> BBC News, *Sekhemka Egyptian statue: Northampton stands by sale* (22 July 2015)

<sup>62</sup> Geraldine Kendall, Museums Association, *Northampton loses £240,000 HLF bid after sale of Sekhemka* (12 November 2014)

<sup>63</sup> Arts Council England (& others), *Joint Statement – Unethical Sale from Museum Collections* (27 March 2015)

otherwise have been exported.<sup>64</sup> This decision was made on the advice of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest (RECWA), an independent body administered by Arts Council England, which advises the Secretary of State for Culture, Media and Sport on whether a cultural object, intended for export, is of national importance under specified criteria.<sup>65</sup> No buyer was found for the statue.

The principal basis for the loss of accreditation was the fact that the proceeds were being used to expand the museum to exhibit more of the Council's pre-eminent shoe collection which was considered contrary to the Code of Ethics. The actual wording of this element of the Code is important. As set out above, the Code states that proceeds of disposal through sale should be ring-fenced solely and directly for the benefit of the museum's collection and restricted to the long-term sustainability, use and development of the collection.

It could be argued that the sale did actually conform to the Code as then currently stood (and therefore also the Accreditation Standard). particularly as the Council also clearly complied with various other provisions of the Code, including the requirement for prior consultation with stakeholders and sector bodies, and the fact that the statute was not part of the museum's 'core' collection. Interestingly, the wording of the Code has subsequently been updated in November 2015 following consultation, although the outcome of the Northampton case would have been the same.

This matter raises some very serious questions for the museums sector, and particularly for the Museums Association and Arts Council England. It is unfair and unrealistic to place such cumbersome restrictions on the ability of local authority museums

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<sup>64</sup> Arts Council England, *Export ban on Statue of Sekhemka* (30 March 2015). See also Department for Culture, Media and Sport, *Deadline for Sekhemka Statue extended* (11 August 2015)

<sup>65</sup> Ibid

to arrange their own collections in the way they see fit, to invest in other artefacts, and to dispose of items which are not core to their collection and which could bring considerable benefits to the museum and to the collection if sold. Further, these restrictions compare poorly to restrictions on private collectors who are free to dispose of items in their collections as they see fit. Although we are not suggesting that local authorities should be subject to no scrutiny or regulation in this area, there is a strong case for significantly relaxing the current regime on disposals – especially when the vast majority of collections held by local authority museums are being held in storage rather than being put on display to the public.

On a broader level it is also worth remembering that local authorities have numerous responsibilities, many of which are, at least in the eyes of Parliament, more important than running museums. It is unfair to prohibit local authorities from selling items which they do not need and which they are not using, but there is also a case to suggest that the prohibition on using funds from such disposals for purposes such as covering budget deficits or keeping critical services running is also unreasonable. Arts, culture and museums are obviously very important, but so are schools, libraries, housing and social care, and they have a higher ranking in the eyes of Parliament and of the law, given that local authorities have responsibilities and duties set out by statute for these areas in a way which they do not for museums.

It is therefore difficult to see why a local authority should not be able to sell an unused, unneeded or duplicate item from one of their museums (which is not part of that museum's core collection) in order, for example, to prevent a damaging reduction in social care services, or to keep a community centre open, or to deal with unexpected costs arising from population changes and immigration, or even to reduce a budget deficit or pay off debts, particularly given that such ongoing debts will cost local authorities huge amounts of money every year in debt interest.



*Part of a 230-piece collection of antique Chinese ceramics*

It is also worth noting that, despite what seems to be almost universal condemnation from the arts, culture and museums sector for disposal from museums, there are people in the sector who understand that there is a clear need to dispose of some items from museum collections in certain circumstances.

For example, a major conference held by law firm Farrer & Co in 2011 at the National Gallery discussed the issue of disposals from collections in UK museums, and was addressed by a range of high-profile speakers including the then Culture Minister Ed Vaizey MP and a number of UK and international museum and gallery directors and professionals. A number of those present were open to, or supportive of, disposal of items from collections in certain circumstances, with some speakers even expressing interest in or support for the way museums operate in the USA – in particular the ‘trade up’ model which allows museums to sell items which are seen as lesser, inferior or lower-quality, in order to acquire better, superior or higher quality items.<sup>66</sup>

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<sup>66</sup> Farrer & Co, *Foul Play or Opportunity Knocks? Deaccessioning and disposals in UK museums* (Edited highlights from Farrer & Co conference, 10 May 2011, The National Gallery)

The conference heard that, contrary to conventional wisdom, disposal of items from collections is not necessarily opposed by the public, nor does it prevent people from donating to museums. Hilary Bracegirdle of the Royal Cornwall Museum, for example, noted that a sale of Victorian paintings had not negatively affected the Museum's relationship with the public or donors:

*"I was asked at my interview how I felt about deaccessioning and I immediately said it would be a terrible thing to do for financial gain because it would undermine the public's confidence in ever giving anything to a museum...But I've been very surprised by the reaction both in terms of when we've consulted the public and in terms of what has happened subsequently...When we did our public consultation we only had one letter against...Indeed, converse to received wisdom, we have never before been offered so many paintings and from very interesting collections"*<sup>67</sup>

The level of public support was also noted by a speaker from Bolton Metropolitan Borough Council, which was, at the time, proposing to sell artworks to raise funds towards moving all of the Museum's collections into greatly improved and more accessible storage: *"the most interesting poll we've had was in our daily newspaper in Bolton where people broadly supported what we want to do."* As the speaker pointed out, although the public may not like disposal of items from museums, they do not like their children's centres closing either.<sup>68</sup>

This was also true of American museums, as another speaker noted: *"We often think here that people won't give to collections if they find out that stuff given ten years earlier has been sold off...but people do continue to give vigorously in America to institutions that have sold off stuff bought by a previous generation of millionaire benefactors."*<sup>69</sup>

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<sup>67</sup> Ibid

<sup>68</sup> Ibid

<sup>69</sup> Ibid

## Archaeological and other historical finds

Museums can also come under pressure from unexpected developments relating to archaeological and/or other finds, with recent examples including the discovery of the skeleton of Richard III in Leicester<sup>70</sup> and the Staffordshire Hoard, which is on display at the Potteries Museum & Art Gallery, a local authority museum run by Stoke-on-Trent City Council<sup>71</sup> and shared with Birmingham Museum and Art Gallery, and such finds are both a burden and an opportunity for any museums involved. Much of Roman Britain remains to be unearthed and this, coupled with the activities of metal detectorists, will significantly increase pressure for exhibition space.

## RECOMMENDATIONS

### 1. **Introducing a new approach to reviewing, displaying and sharing of collections**

*The Government, museum sector bodies and local authorities should ensure that a significantly higher proportion of local authority museum collections are on public display or otherwise accessible to the public, whether within the museum itself or shared with other facilities in the local area or across the country, including other museums as well as schools, libraries, community centres and council-owned buildings.*

As we have noted above, local authority museums have only a tiny proportion of their collections on public display. Museums should not be hoarding vast quantities of items for many years in storage, depriving the public of the chance to see them and ignoring the

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<sup>70</sup> See e.g. Grieg Watson, BBC News, *Richard III: Greatest archaeological discovery of all?* (12 February 2013)

<sup>71</sup> Welcome to Stoke-on-Trent Museums and Staffordshire Hoard

wishes of donors who gave these items to museums with the intention that they should be on public display.

Many more of these items should either be on display in museums, or shared with other organisations or institutions that will make use of them such as schools. Indeed there are already initiatives in place such as 'Loan Box' schemes (see below) and initiatives to get art into schools or made available more generally, such as the 'BBC Your Paintings' scheme, run by the BBC in partnership with the Public Catalogue Foundation<sup>72</sup>.

We propose that:

- (a) Local authority museums should conduct a comprehensive review of their collections to ensure that they are fully aware of all the items they contain.
- (b) After this review, as many of these items should be placed on public display in the museum as possible, whether permanently or on a rotating/temporary basis.
- (c) Museums should also actively make efforts to share their collections more widely, both locally and around the UK. Where possible this should be done both in a general sense and in response to specific occasions such as anniversaries of important historic events – the recent anniversaries of the beginning of World War I (and subsequent events) and the Battle of Waterloo are two good examples of such events.

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<sup>72</sup> See e.g. BBC News, *Art masterpieces on show in schools* (1 October 2013)

- (d) As sharing and loaning of collections can both be time-consuming and costly, requiring specialist expertise, we suggest that DCMS, together with the museum and heritage sector, creates a new charitable entity specifically to promote the touring of collections, building upon the work being undertaken by the Touring Exhibition Group. The role of this new entity would be to harness expertise in the promotion, marketing, curating, care of important travelling exhibitions, their display around the UK (and abroad) plus fundraising from philanthropists or crowd-funding for specific exhibitions or displays. This was referred to in ACE's Submission to the Mendoza Review, November 2016.

These efforts could include:

- (i) Providing items on loan to be displayed at other appropriate institutions, particularly in the local authority area. As Cllr Harry Phibbs has suggested: *"They could be displayed in the foyers of schools and GPs surgeries. They could raise morale on a trip to the dentist. Hospitals, libraries, leisure centres, town halls. There is no shortage of places they could be displayed"*<sup>73</sup>
- (ii) Providing items on loan to private organisations, including charities and businesses. This could include arrangements allowing the museum to charge for the loan of these items in order to obtain some welcome additional income or perhaps introducing a time share arrangement as promoted in the USA. As the then Culture Minister Ed Vaizey MP has argued, *"I would have no*

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<sup>73</sup> Harry Phibbs, ConservativeHome, *The state is hoarding a £3.5bn art collection kept hidden from the public* (5 September 2015)

*trouble with a museum lending a picture to a major local business for display in its public area but also charging for the privilege*<sup>74</sup>

- (iii) Making greater use of “Loan Box” schemes which are already used by at least some local authority museums to bring historic items into school classrooms.<sup>75</sup>
- (iv) As suggested in an interesting paper by Janet Ulph of the School of Law at Leicester University entitled *Dealing with UK Museum Collections: law, Ethics and the Public / Private Divide*, local authorities should be more innovative with their Collections:
  - (a) Sale and leaseback of items enabling the local authority to receive an injection of cash and yet continue to display the item;
  - (b) Co-ownership by sale of “share” in the object with proportionate periods of display rights between the joint owners;
  - (c) Simple lease / loan of the object to an interested party in exchange for rent or other cash payment.

## **2. Simplifying and loosening the restrictions on decision-making by local authority museums,**

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<sup>74</sup> Farrer & Co, *Foul Play or Opportunity Knocks? Deaccessioning and disposals in UK museums* (Edited highlights from Farrer & Co conference, 10 May 2011, The National Gallery)

<sup>75</sup> See Guildford, Tameside, Colchester and Ipswich museums and galleries

## **particularly regarding the sale of items from collections**

*The Government should intervene to significantly ease and simplify the restrictions and red tape on local authority museums into a more “light-touch” system of regulation – particularly with regard to the sale or disposal of items from museum collections for financial reasons.*

As we have seen, there are significant restrictions placed upon the decision-making abilities of local authorities with regard to their museum services – whether by the Code of Ethics, the Accreditation Scheme, the requirements or conditions of various funds and programmes, or other restrictions.

This is particularly the case with regard to the sale or disposal of items from collections, which makes it more difficult for local authority museums to manage their collections or to put as much of them as possible on display or to interpret them in the best way possible. These restrictions also contribute to the “*disastrous inertia*”<sup>76</sup> which leads to such huge amounts of culturally and financially valuable items gathering dust in storage and being locked away in vaults, because they are too difficult to sell and are not being put on display for whatever reason. They could be sold to free up much-needed space and the proceeds could be used to plug a gap in the local authority’s budget in limited circumstances, or to provide additional/better buildings (as in the Northampton case) or to acquire more/better objects (a common practice in the USA) which will,

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<sup>76</sup> Harry Phibbs, ConservativeHome, *The state is hoarding a £3.5bn art collection kept hidden from the public* (5 September 2015)

critically, actually end up being put on display in the public, whether in the museum or elsewhere.

When local authorities are hoarding a veritable treasure trove of culturally and financially viable items, the vast majority of which are not on display, it is not unreasonable to expect local authorities to consider whether or not it is appropriate to sell them, and for the Government and museum sector bodies to make it easier for those local authorities to do so if they choose, provided they act reasonably. It is worth emphasising again that, according to the Taxpayer's Alliance, local authorities own an estimated 5.5 million works of art, worth around £2.3 billion, less than 1.5% of which are on display to the public – and those figures do not in any way account for the many more items held by local authority museums which are not "*works of art*".<sup>77</sup>

We propose that:

- (a) The Government should intervene to simplify and ease the restrictions on local authority museums in order to create a more flexible approach, including but not limited to the restrictions on disposal of items from collections and permitting sale of low value items (up to £5,000) or duplicates, without restriction.
- (b) The Government could also consider moving responsibility for the Accreditation scheme to the DCMS and working with the Museums Association to make the Code of Ethics far less restrictive despite the changes in November 2015.

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<sup>77</sup> Jennifer Salisbury-Jones, The TaxPayers' Alliance, *Government Art* (August 2015)

- (c) Once these changes are brought into effect, local authority museums should carefully consider which items from their collections could be sold and whether they should be sold. As Jonathan Isaby of the Taxpayer's Alliance argues, in the context of works of art: *"No-one is proposing a wholesale sell-off of art owned by the government, but nonetheless the scale of the collection is staggering. Public bodies and local authorities should make an effort to display more of their art for people to enjoy, and they also need to take a good hard look at their art portfolio and think about what does and does not need to be retained"*.<sup>78</sup>

**3. Creating more opportunities for local authority museums to save money, to generate or acquire additional income and to acquire additional items/collections**

*The Government should work with the museum sector and local authorities to improve opportunities for fundraising, income generation and acquisition of new items/collections for local authority museums, particularly through setting up museum trusts, making better use of philanthropy and private investment and considering incentives such as expanding the scope of existing tax reliefs on donated items and collections.*

Despite the close attention we have paid in this paper to the important matters of improving collections management and how to approach the disposal of items from collections, there is also much more that local authority museums could do to make efficiency savings or to generate or acquire additional income. This is particularly important in the current financial climate, due to the lack of funding available and the extensive

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<sup>78</sup> Ibid

conditions currently attached to many of the alternative funding opportunities. We therefore address this matter in some detail here.

Some local authorities have already taken steps to generate more income and to make efficiency savings, including through merging museum services and/or transferring museum services from local authorities to newly established museum trusts. Examples include the merger of the museum services in Colchester and Ipswich<sup>79</sup>, the current successful Norfolk Museums & Archaeology Service by 8 different local authorities<sup>80</sup>, the formation of Tyne & Wear Archives & Museums as a joint service by several local authorities<sup>81</sup>, and the transfer of services to newly formed charitable trusts such as Derby Museums Trust<sup>82</sup> and the York Museums Trust<sup>83</sup>, as well as a range of new single facility trusts.

These initiatives save money for the local authorities concerned through economies of scale and also have the capacity to raise additional funds. Charitable trusts, for example, have access to certain sources of funding which councils cannot access or are less able to access (a philanthropist, for example, is more likely to donate to a charity than to a local authority), as well as being able to benefit from various exemptions and reliefs from taxes and business rates. The more independent, arms-length relationship with the local authorities also allows the trusts to be more innovative and commercially focused when raising funds and generating income and means they are less tied to changes in local authority

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<sup>79</sup> Colchester and Ipswich museums

<sup>80</sup> Patrick Steel, Museums Association, *Merging museum services* (1 November 2013)

<sup>81</sup> Tyne & Wear museums governance structure

<sup>82</sup> Derby Museums website

<sup>83</sup> York Museums Trust website

funding. We have advised many local authorities on the successful transfer of local authority services, including arts and museum services, to newly-established charitable trusts and other organisations over the past two decades, and these organisations continue to go from strength to strength.<sup>84</sup> This includes advising Derby City Council on the successful transfer of its museums and art galleries to a new charitable trust – Derby Museums Trust – and completing similar transfers of museums and art galleries to charitable trusts for other local authorities including City of York Council, Coventry City Council, Peterborough City Council and Wakefield Metropolitan Borough Council<sup>85</sup>.

The Mendoza Review<sup>86</sup> highlighted the importance of dynamic collection curation and management, including proposing that museums had “*an active programme of assessing and, where appropriate, rationalising their collections*”, although the review stopped short of loosening the restrictions on disposals.

The Review contained a useful section stressing the importance of placemaking and local priorities for museum and heritage, particularly upon increasing visitor numbers and delivering cultural education. Another inquiry Phase 1 Report from the Calouste Gulbenkian Foundation<sup>87</sup> and a paper from the Local

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<sup>84</sup> Simon Randall and Joanna Bussell, Winckworth Sherwood, *Trusts for Big Society - The growing role of trusts in the culture, library and leisure sectors*

<sup>85</sup> See e.g. Winckworth Sherwood, *Winckworth Sherwood secures future of Derby’s museums and art galleries* (6 November 2012)

<sup>86</sup> The Mendoza Review: an independent review of museums in England (November 2017)

<sup>87</sup> Calouste Gulbenkian Foundation UK Branch, *Rethink relationships: Inquiry into the Civic role of arts organisations* (2017)

Government Association<sup>88</sup> highlighted the importance of both the civic role of arts organisations and their important role with local authorities in shaping the places where we live through sharing history and cultural identity.

Museums and art galleries have a huge role in the lives of people, communities and places, and have often proved to be a catalyst for regeneration, as has occurred in Wakefield with the Hepworth Wakefield Gallery, and in Margate with the Turner Contemporary Art Gallery.

Some museums have gone even further and are now supported by museum development trusts, which are registered charities and which specifically focus on fundraising for the museums – for example, Tyne & Wear Archives & Museums is supported by the Tyne & Wear Archives & Museums Development Trust, which raises funds from individual donors, trusts and foundations to support a wide variety of museum activities.<sup>89</sup>

The merging of services or the creation of museum trusts are, however, only partial solutions. The House of Commons Culture, Media and Sport Select Committee, in their 2011 report on 'Funding of the arts and heritage', also made a number of recommendations in this area, suggesting for example that arts and heritage organisations could be encouraged to become more commercially aware, to explore other funding streams and to gain extra funding from philanthropy and private investment. The Committee also suggested that the Government could incentivise private giving to arts and heritage through considering ideas such as match

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<sup>88</sup> Local Government Association and the Chief Cultural and Leisure Officers Association: People, Culture and Place (February 2017)

<sup>89</sup> Tyne & Wear Museums development trust

funding, a local honours system or reforms to the tax or Gift Aid system to encourage contributions.<sup>90</sup>

We believe there are also additional points that need to be considered by the Government and local authority museums including reviewing policies on charging/entry fees and income generally, and encouraging the greater use of Gift Aid on entry fees. There may also be specific incentives which could be provided or expanded to encourage donations to museums. In particular, there are already schemes in place which provide tax incentives on certain items donated to museums, both during lifetime and after death, but we believe these schemes could be expanded.

For example, there is already a Cultural Gifts Scheme which enables UK taxpayers to donate “*important*” works of art and other cultural objects for the benefit of the public or the nation during their lifetime. In return for donating an item under this scheme, donors receive a tax reduction based on a set percentage of the value of the object they are donating.<sup>91</sup> There is also an Acceptance in Lieu scheme which is administered by ACE and provides an opportunity for the offsetting of some or all inheritance tax, capital transfer tax or estate duty bill with regard to administration of a person’s estate after death by offering a pre-eminent work of art to a public collection in lieu of payment.<sup>92</sup> Unfortunately, both of these schemes are somewhat limited in their scope, as they only apply to items or objects which are defined as “*pre-eminent*” items under a strict set of criteria. We see no reason why these schemes cannot

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<sup>90</sup> House of Commons Culture, Media and Sport Committee, *Funding of the arts and heritage*, 3<sup>rd</sup> Report of Session 2010-11

<sup>91</sup> Arts Council, Tax incentives and cultural gifts scheme

<sup>92</sup> Arts Council and Museums Association, Tax incentives and acceptance in lieu scheme

be expanded to cover a wider range of objects or items – perhaps by loosening the pre-eminence criteria. After all, the importance or pre-eminence of a work of art or cultural object is to some extent a subjective decision – for example, a painting or other item may well be seen as unimportant by some people but seen as important by others.

We propose that:

- (a) Local authorities that still run their museum services directly should carefully consider combining museum services with other local authorities or transferring their museum services to charitable museum trusts or other organisations.
- (b) More local authorities could also set up museum development trusts for their museum services to assist with fundraising efforts.
- (c) The Government should work with museum sector bodies and local authorities to encourage local authority museums to improve their financial position and generate more income by becoming more commercially aware, exploring other funding streams, seeking out extra funding from philanthropy and private investment and reviewing policies on entry fees where appropriate. The Government should also encourage museums to make better use of their collections to generate income, for example by leasing items to businesses for a fee as suggested earlier.
- (d) The Government should undertake a review of the funding and tax arrangements applicable to arts, heritage and museums, including a review of tax exemptions and reliefs to encourage more

financial donations and donations of items or collections to local authority museums. In particular, the Government should consider expanding the scope of the Cultural Gifts Scheme and the Acceptance in Lieu tax scheme.



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