

Cheltenham Borough Council

Cabinet – 27th September 2011

Review of the Art Gallery & Museum's Acquisitions & Disposal Policy

Accountable member	Cabinet Member Sport and Culture, Councillor Andrew McKinlay
Accountable officer	Jane Lillystone, Museum, Arts & Tourism Manager
Accountable scrutiny committee	Social and Community
Ward(s) affected	ALL
Key Decision	Yes
Executive summary	<p>- Cheltenham Art Gallery & Museum (CAG&M) is an Accredited Museum – under the National Scheme of Museum Accreditation (within the UK) – and to comply with the requirements of the scheme, CAG&M has an obligation (every five years) to review its existing Acquisitions & Disposal (A&D) Policy, and to ensure that it meets the current Standard. The Museum's A&D policy was last updated in 2006, and is now due to be reviewed / revised. A copy has been included within Background papers. The museum's governing body must also formally approve the revised policy.</p> <p>- With reference to the stated aims of the A&D Policy, the revised document sets-out CAG&M's statement of purpose, details of the permanent collections that are held by the Museum, and the procedures for the acquisition and disposal of its collections in relation to its stated aims.</p> <p>- With specific regards to the disposal procedure, Cabinet is being asked to consider two statements under section 12f – for a decision on which procedure should be included within the revised policy.</p> <p>- In conjunction with the approval of the revised policy – and in light of the disposals procedure – Cabinet members are also being asked to consider a specific request for the return of a clock given to the Art Gallery & Museum in 1963. Background information with regard to this request is included within 2 / 2.3 – and under section 4, three options have been included for Cabinet to consider, in relation to this particular request.</p>
Recommendations	<p>For Cabinet to:</p> <ol style="list-style-type: none">1. Consider and make a decision regarding which statement to include under section 12f within the proposed Acquisitions & Disposal Policy for Cheltenham Art Gallery & Museum..2. Formally approve the revised Acquisitions & Disposal Policy for Cheltenham Art Gallery & Museum in Appendix 5, incorporating the decision made at 1. above, and confirm that the policy will again be reviewed in 2016.3. Consider the request for the return of a clock - given to the Art

Gallery & Museum in 1963 - and make a decision with regards to the three options outlined in this report.

<p>Financial implications</p>	<p>None directly arising from this report</p> <p>Contact officer: sarah.didcote@cheltenham.gov.uk, 01242 264125</p>
<p>Legal implications</p>	<p>The clock referred to in this report is held by the council under s139 LGA 1972 (predecessor is LGA 1933) which provides that a local authority may accept, hold and administer—</p> <p>(a) for the purpose of discharging any of their functions, gifts of property, whether real or personal, made for that purpose; or</p> <p>(b) for the benefit of the inhabitants of their area or of some part of it, gifts made for that purpose.</p> <p>On the basis of documentation in the possession of the council, the benefactors did not place any specific restrictions or conditions on the disposal of the clock. In those circumstances, Cabinet is not restricted by any conditions imposed by the benefactors but, in deciding whether to dispose of the clock, it is necessary to consider the fact that :</p> <ul style="list-style-type: none"> ○ it is disposing of a Council asset - which means that an open and transparent disposal procedure should be implemented to achieve best value (see paragraphs 12g-12o of the Acquisitions & Disposal Policy for Cheltenham Art Gallery & Museum-if agreed by Cabinet) and ○ it is disposing of a museum piece held under s139-which means that national and local polices and guidance should be carefully considered in reaching its decision (as set out in this report) <p>If Cabinet decides to loan the clock, then a formal loan agreement should be entered into to protect the collection piece.</p> <p>Contact officer: Shirin Wotherspoon, shirin.wotherspoon@tewkesbury.gov.uk, 01684 272017</p>
<p>HR implications (including learning and organisational development)</p>	<p>None directly arising from this report</p> <p>Contact officer: julie.mccarthy@cheltenham.gov.uk, 01242774355</p>
<p>Key risks</p>	<p>Please refer to attached Risk Assessment</p>
<p>Corporate and community plan Implications</p>	<p>The report aligns directly to the following outcome within the Council's Corporate Strategy:</p> <p>Arts & Culture are used as a means to strengthen communities, strengthen the economy and enhance & protect the environment</p>

Environmental and climate change implications	None
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Background

- 1.1** Cheltenham Art Gallery & Museum's statement of purpose is: "To preserve and develop Cheltenham's unique collections for the future – and to make them accessible to an increasingly broad public in a way that communicates, educates and inspires". This links into the Museums' Association definition of a museum (1998): "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. Cheltenham Art Gallery & Museum has been an Accredited Museum since 2005.

The Museums, Libraries and Archives Council (MLA) Accreditation Scheme sets nationally agreed standards for museums in the UK (underpinned by the Code of Ethics from the Museums Association). To qualify for the scheme, museums must meet clear basic requirements on how they care for and document their collections, how they are governed and managed, and on the information and services they offer to their users. Accreditation benefits museum visitors and the users of museum services. It supports museum managers and governing bodies in planning and developing their services, and it provides a benchmark for grant-making organisations, sponsors and donors.

- 1.2** The Art Gallery & Museum's current Acquisitions & Disposal Policy is due to be revised (the Museum has an obligation, every five years, to review its existing A & D Policy), to ensure that it meets the current Standard (within the Accreditation Scheme). The revised document (policy) sets-out CAG&M's statement of purpose, details of the permanent collections that are held by the Museum, and the procedures for the acquisition and disposal of its collections in relation to its stated aims. The revised document is also based on an outline policy (provided by the MLA) and contains the minimum wording to meet the requirements of the Accreditation Standard. The MLA advises that any variation from the wording given in the outline must not conflict with the sense of the wording (museums may, of course, include more stringent conditions).

The outline policy (provided by the MLA) takes into account relevant parts of the Museums Association Code of Ethics (2002). In particular, the following sections of the code place on museums an obligation to:

- Acquire items honestly and responsibly
- Safeguard the long term public interest in the collections
- Recognise the interests of people who made, used, owned, collected or gave items in the collections.

- 1.3** Miss V Latham of Box (and Mr D Latham of Bath) gave Cheltenham Art Gallery & Museum a clock in 1963. This was recorded in the Accessions Register (the primary record for recording items that are donated to the Museum) as follows: *1963.204 Clock. Bracket alarm c.1750. Steel, brass and gun-metal. Made by Jos. Mason, Nailsworth. Brass face with ormolu escutcheons, single steel hand. Alarm is operated by a small dial in the centre, the hand striking a [...] causing a small lever to be thrown releasing the arm.* In August 2010 a member of the Latham family came to see the clock given to the AG&M. Following the visit they wrote to Cheltenham Art Gallery Museum expressing their disappointment on finding that parts of the clock were missing (a wooden case, pendulum and four weights), that there were no records of its display and

requesting that it be returned to the family. The AG&M's response provided information of the original acquisition entry and noted that there were no details of a wooden case, pendulum and four weights having been received with the original donation. The family member subsequently wrote back to AG&M saying that they were not satisfied and asked for details of whom he could formally appeal with regards to his request for the return of the clock. The matter has since been dealt with through the Council's (formal) customer complaints procedure.

2. Reasons for recommendations

The revised Acquisitions & Disposal Policy and the request for the return of the clock has come to Cabinet for the following reasons:-

- 2.1** With reference to the A & D Policy, a copy of the revised document (meeting the Accreditation Standard) must be provided to the MLA, together with evidence that the policy has been formally approved by the Museum's governing body, in the form of a dated committee minute (signed by a properly authorised person). The policy will next be reviewed in 2016.
- 2.2** With reference to the revised Disposals Procedure, Cabinet are being asked to make a decision on the inclusion of one of the following two paragraphs (a copy of the full revised A & D Policy is in Appendix 5):

12f Option 1:

In exceptional cases, the disposal may be motivated principally by financial reasons. The method of disposal will therefore be by sale and the procedures outlined below in paragraphs 12g-12m and 12o (please note: these are references within the main A & D Policy) will be followed. In cases where disposal is motivated by financial reasons, the governing body will not undertake disposal unless it can be demonstrated that all the following exceptional circumstances are met in full:

- **The disposal will significantly improve the long-term public benefit derived from the remaining collection,**
- **The disposal will not be undertaken to generate short-term revenue (for example to meet a budget deficit)**
- **The disposal will be undertaken as a last resort after other sources of funding have been thoroughly explored.**

OR

12f Option 2:

The museum will not undertake disposal motivated principally by financial reasons.

With regards to making a decision on either 12f Option 1 or Option 2, the governing body needs to be aware of the advice from the MLA (under 4.1.5 within the Accreditation Scheme Standards):

“Disposal of items from museum collections is not ruled out where there are sound curatorial reasons for pursuing this course, but unless each museum governing body accepts the principle of ‘strong presumption against disposal’, the whole purpose of the museum, and public trust in it, may be called into question”.

It is also worth mentioning that any museum currently contemplating disposal of collections for purely financial reasons have been heavily criticised within the media and have put at risk future grant-making opportunities through donations and sponsorship – as well as tarnishing the public's perception on museums having a long term purpose and holding collections in trust for society.

2.3 With reference to the specific request for the return of the clock this has been referred to Cabinet for a decision in relation to the following paragraph (section 12h. within the revised A & D Policy):

- 12h. A decision to dispose of a specimen or object, whether by gift, exchange, sale or destruction (in the case of an item too badly damaged or deteriorated to be of any use for the purpose of the collections or for reasons of health and safety), will be the responsibility of the governing body of the museum acting on the advice of professional curatorial staff, if any, and not the curator of the collection acting alone.

Options for and against the return of the clock are included under section 3 – and will depend not only on legal, but also ethical and emotional considerations.

3. Alternative options considered

The options for Cabinet to consider include:

Option 1	Case for not returning the clock
Reasons	<p>Legal/corporate issues:</p> <p>Local Authorities are entitled under s139 of the Local Government Act 1972 to accept, hold and administer—</p> <p>(a) for the purpose of discharging any of their functions, gifts of property, whether real or personal, made for that purpose; or</p> <p>(b) for the benefit of the inhabitants of their area or of some part of it, gifts made for that purpose.</p> <p>It is reasonable to assume that Mr & Mrs Latham’s would have known of the implications of donating the clock to the council and that in giving the clock to CAG&M they were giving it , effectively, ‘in perpetuity’ to the council.</p> <p>Acquisitions Policy:</p> <ul style="list-style-type: none"> - The acquisition fits with CAG&M’s current collecting policy Paragraph 2 in relation to Decorative art – Furniture. - The Accession Record and museum report for the year (1963) lists what the Museum now has: the clock face and mechanism. From this evidence, CAG&M can demonstrate that the museum has in its possession everything that was legally accounted for in the 1960s. - CAG&M is keen to display Gloucestershire makers in the Summerfield Galleries, and (as a Nailsworth maker), the clock fits well into this strategy. The Museum cannot confirm for certain whether the clock has been displayed before (as full records of this were not kept until 1972 - 1983), but CAG&M will display the item when the Museum re-opens in spring 2013. - There has been significant amount of research interest from the general public on Gloucestershire clocks (the maker is listed in a major book by Graham Dowler, <i>Gloucestershire Clock and Watch Makers</i>), and as the Museum continues to add records to their forthcoming online museum database – these enquiries are likely to increase.

	<p>Disposal Policy:</p> <p>- The clock is in good condition (a condition report was completed by CAG&M's Environment and Conservation officer on 19 August 2011) – and there is no case for returning on the basis that it is not complete. Clock faces (similar to this one) are collectable in their own right, and (within the trade) the term clock can often refer to a clock face (and this is possibly how the confusion about whether a clock with case, may have arisen).</p>
Risks	<p>Presumption:</p> <p>- Miss V Latham and Mr D Latham wished to give the clock to CAG&M in 1963. It is difficult to re-interpret their wishes.</p> <p>Reputation:</p> <p>- The Council needs to consider the reaction to all options from within the media, press and public perception.</p>
Implications	<p>- The Council will need to be able to justify the decision in policy terms (i.e. with reference to the revised Acquisitions & Disposal Policy).</p>
Option 2	Case for returning the clock
Reasons	<p>Museums Association Code of Ethics:</p> <p>- The clock could be returned on the basis of Clause 7 of the MA's Code of Ethics, which says museums should: 'Uphold and comply with conditions set by benefactors and accepted by the museum, unless changed circumstances mean that conditions need to be reconsidered in the light of what is generally held to be in the public interest.' The decision would need to be taken on the basis that CAG&M's return of the clock is in the public interest not merely that of an individual's. Changed circumstances would normally refer to the dispersal of a collection because, as a result of changed circumstances, retaining a collection was no longer viable (i.e. the closure of a museum).</p> <p>Disposal Policy:</p> <p>- If CAG&M investigates returning the item, clause 12 of the Museum's Acquisitions & Disposals Policy must be taken into account, particularly referencing clause 12g: 'Whether the disposal is motivated either by curatorial or financial reasons, the decision to dispose of material from the collections will be taken by the governing body only after full consideration of the reasons for disposal. Other factors including the public benefit, the implications for the museum's collections and collections held by museums and other organisations collecting the same material or in related fields will be considered. <i>External expert advice will be obtained and the views of stakeholders such as donors, researchers, local and source communities and others served by the museum will also be sought</i> (italics authors own).</p>
Risks	<p>Legal issues:</p> <p>-If a decision is taken to dispose of the clock then it is necessary for</p>

	the council to dispose of it in an open and transparent way that achieves best value.
Implications	<ul style="list-style-type: none"> - If the Council decide to return the clock, there will be a requirement to re-enforce (through all paperwork) the purpose of museums (including information about cultural heritage being available to future generations). Also, for research purposes, it will be important to retain information about the clock within the public domain – i.e. photographic evidence of the clock itself and details where it is being held / stored. This would need to be agreed prior to the clock being returned. - The Council would need to make quite clear the basis on which the clock is being returned (i.e. the return of an object being the subject of a customer complaint, would not be an adequate reason) - The Council needs to consider the reaction to all options from within the media, press and public perception.
Option 3	Case for a short/long term loan of the clock
Reasons	<p>Loan Proposal:</p> <ul style="list-style-type: none"> - The clock could be loaned to the family member for the duration of the AG&M closure or for a fixed period. CAG&M's normal procedure would be to offer a loan on a rolling five-year basis, with both parties able to withdraw from the loan with one months notice. It could be suggested that the initial loan would be for six months to ensure that all parties are happy with the arrangement. - The family member would be required to meet the Museum's regular loan conditions regarding security, insurance and environmental conditions, as well as ensuring the clock was kept in situ for the loan to proceed. The place where the clock would be kept would have to be checked by CAG&M's conservator, and the object would be checked by the conservator on a regular basis. These conditions would need to be agreed, as part of the loan agreement, and as part of the environmental monitoring conditions. - There are a number of potential issues that surround this proposal and these would need to be answered before a loan could proceed – these specific issues have been included within Risks and Implications.
Risks	<p>Reputational/Corporate issues:</p> <ul style="list-style-type: none"> - The family member requesting the return of the clock is not the original donor of the object. In some cases, it can be argued that a loan to an original donor can be agreed under special circumstances. Whilst the request has been made by a family member, it was a relative who donated the clock, and we cannot consult with them as to their opinion on this course of action. - CAG&M has on record other requests for loan return of objects - which have all been refused due to the implications being raised in Option 3. All these requests have been made by local people, and there could be a risk that donors / family relatives would be in touch to request to borrow the donated objects.

<p>Implications</p>	<ul style="list-style-type: none"> - The main issue is one of precedent. There is a possibility that this case would open the doors to other individuals coming forward and requesting to borrow objects for their private homes (and who are not the original donors of the object). CAG&M does not currently - and has not in the past - loaned to private individuals. - It could also set a precedent for other museums with similar circumstances. - It is very unusual for a museum to loan its items to private individuals. Museums often loan to other accredited museums, and to museums abroad, that meet their loans criteria, and occasionally to other public bodies and businesses. Some museums (e.g. Victoria Art Gallery, Bath) have run successful schemes where an item is loaned to a local business and in return the business donates money for conservation of the work. It is also worth noting – the Imperial War Museum states in its ‘Guide to Borrowing from the Imperial War Museum’: <i>Items may not be lent to private individuals or companies other than in exceptional circumstances.</i> In order for any collection to be loaned to a private individual the governing body would need to define what it considers to be exceptional circumstances on a case by case basis which would include making appropriate arrangements to ensure that all such items are available for public viewing. - As well as setting a precedent for loaning to other private individuals, this would remove the object from the opportunity of public view. All museum objects, whether on display or in store, should be available to be viewed by members of the public. Sometimes there are constraints relating to this i.e. the condition of the object, but every effort is made to ensure that objects are accessible at least by appointment. - To loan an item from a museum to another institution, the other institution must meet a series of criteria which would need to be met before a loan would be possible. A summary of a copy of CAG&M’s Loan Conditions has been included within the Appendices.
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4. Consultation and feedback

4.1 Consultation has been undertaken with the following organisations:

- MLA (with reference to the revised Acquisitions & Disposal Policy)
- Museums Association (with reference to the Code of Ethics)

CAG&M have also undertaken the following:

- Condition report of the clock (compiled by CAG&M’s Environment & Conservation Officer)
- Valuation of the clock (undertaken by Mallams Fine Art Auctioneers)

5. Performance management –monitoring and review

5.1 The revised Acquisitions and Disposal Policy links into CAG&M's business planning – and is part of the criteria to retain Accreditation status.

Report author	Contact officer: Jane Lillystone, Museum, Arts & Tourism Manager, jane.lillystone@cheltenham.gov.uk, 01242 775706
Appendices	<ol style="list-style-type: none">1. Risk Assessment2. CAG&M's Loan Conditions (summary)3. Valuation Report (to follow)4. Condition Report5. Copy of the revised Acquisitions & Disposal Policy
Background information	None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-4	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1.0	If the Council fails to revise and adopt the Acquisitions & Disposal Policy there is a risk that the Art Gallery & Museum will fail to retain the Accreditation Standard which is required for a Gallery with Designated status	JL	March 2011	4	2	8	Reduce	Approval of the revised Acquisitions & Disposal Policy by the Cabinet	September 2011	JL	No
2.0	If the Council does not return the clock as requested there is a risk that the Council receives negative publicity as request has been met.	SP	January 2011	3	4	12	Reduce	Ensure appropriate communication is in place clearly setting out the basis on which the decision not to return the clock has been made. Ensure that the clock is displayed when the AG&M re-opens in 2013.	September 2011	JL	No
3.0	If the Council returns the clock as requested it may reduce the number of future items being donated to the Art Gallery & Museum to be beheld in perpetuity.		January 2011	4	3	12	Reduce	Clearly document the exceptional reasons for returning such items ensuring decisions are made in line with the Acquisition and Disposal policy.	September 2011	JL	No

4.1	If the Council loans the clock on a short\ long term basis there is a risk that it will not be made available for public viewing	SP	January 2011	4	3	12	Reduce	Ensure that the Museum's loan conditions includes the requirement to enable public viewing at the Art Gallery Museum when requested by the Council	September 2011	JL	Yes transfer Divisional risk register
4.2	If the Council loans the clock on a short\long term basis there is a risk that this would set a precedent for to other requests of this nature.	SP	January 2011	4	3	12	Reduce	Ensure that all private loans requested are considered on an exceptional basis.	September 2011	JL	Yes transfer Divisional risk register

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-4 (4 being the greatest impact)

Likelihood – how likely is it that the risk will occur on a scale of 1-6 (6 being most likely)

Impact Description	Impact score	Probability	Likelihood Description	Likelihood Score
Negligible	1	0% - 5%	Almost impossible	1
Marginal	2	5% - 15%	Very low	2
Major	3	15% - 30%	Low	3
Critical	4	30% - 60%	Significant	4
		60% - 90%	High	5
		> 90%	Very high	6

Control - Either: Reduce / Accept / Transfer to 3rd party / Close