

**South Lanarkshire Leisure and Culture Trust Ltd**  
**Due Diligence and Intellectual Property Rights**  
**Policy**

**September 2011**

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# South Lanarkshire Leisure and Culture Trust Ltd Due Diligence and Intellectual Property Rights Policy

## 1. Introduction

South Lanarkshire Council's ("the Council") key strategic aims for its museums collections ("the Collections") managed on its behalf by South Lanarkshire Leisure and Culture Ltd ("SLLC") are;

1. To ensure everyone in South Lanarkshire has reasonable access to quality museum services.
2. To preserve the collections for future generations and create an effective knowledge management system.

This is achieved by undertaking the following key actions:

- developing the Collections we hold on behalf of everyone in South Lanarkshire, creating opportunities for acquisition or loan.
- managing the long term care and conservation of the Collections.
- increasing the understanding of and engagement with the Collections and its subjects by bringing more of the collections into use through research, displays, exhibitions, intellectual access, publishing, information, digital and IT programmes and a higher public profile.
- implementing a Collections Agreement between the Council and SLLC to manage and care for the Collections on the Council's behalf
- the grant by the Council to SLL Trading Ltd ("the Trading Company") (in so far as the Council has the right to do so in respect of each items forming part of the Collections) a royalty-free, worldwide, non-exclusive licence (or when appropriate, sub-licences) to use, copy, reproduce and exploit the Collections' intellectual property for education purposes, for the purpose of promoting SLLC, SLLC's premises and South Lanarkshire and for the purpose of generating income for the Trading Company.

This policy sets out our principles regarding provenance and provenance research when considering any acquisition or inward loan and complies with the principles set out in:

- Combating Illicit Trade: Due Diligence Guidelines for Museums, Libraries and Archives on Collecting and Borrowing Cultural Material (DCMS 2005).
- The MA Code of Ethics.
- Dealing in Cultural Objects (Offences) Act 2003.

and:

- South Lanarkshire Council Museums Service Acquisition Policy 2006 – 2011.
- South Lanarkshire Council Museums Service Disposal Policy 2005 – 2010.
- South Lanarkshire Council Museums Service Loans Policies.

## **2. Statement of Principles**

The Council will not accept as a loan, gift or bequest any object without confirmation that the donor, vendor or lender has valid and legal title to the object and full powers to transfer it.

SLLC responsible for managing the Collections on behalf of the Council and residents of South Lanarkshire. SLLC will exercise due diligence to establish the legal status of objects under consideration, making every reasonable effort to investigate and clarify its provenance. In practising due diligence, SLLC will apply high standards of research into acquisitions, long term loans and exhibition loans.

In practice some objects are not always accompanied by detailed histories. In these circumstances, having taken into account information gathered through our research, best judgement and our accessioning, rights research and data entry procedures must apply.

Using best judgement, when formally acquiring an object we will extend research beyond the information supplied by the vendor, donor or lender in an effort to clarify its history. Further guidance and advice, as judged appropriate by SLLC, (whose decision as to what is appropriate, after consultation with the Council, shall be final) may be sought from external curators in other museums and galleries, specialists, academic institutions and major auction houses.

Only those objects for which provenance has been established or, through presence in the public domain, are judged to have a history that is reasonably secure, will be acquired or borrowed.

Information obtained about the provenance of an object will be documented and preserved to ensure SLLC can respond to public requests and to avoid duplication.

## **3. Intellectual Property Rights**

The Council owns, generates and makes use of a range of items protected by IPR legislation. Diligent conduct in respect of these rights, as well as the protection, active use and careful development of the revenue-generating potential of the Collections, are essential to the functioning, good reputation, authority, sustainability and the achievement of our objectives.

Where materials have been created in connection with cultural content, e.g. an exhibition catalogue or text associated with the Collections, copyright in such materials created as part of employee duties shall vest in the Council.

Non-staff such as volunteers, research students, commissioned parties, freelancers and other contracted parties, by law automatically own the rights in works they have created. There will be clear statements in place regarding the ownership of such rights, and the necessary procedures required for assignments of rights, as well as training, will be followed where appropriate.

The Council reserves the right to negotiate shared ownership, permission to reuse content and explore royalty opportunities resulting from collaborative projects and initiatives.

In cases where the Council does not retain full rights, it will seek to ensure that it reserves the right to reuse the work for its own purposes and that its ability to commercially exploit the work is not unduly restricted.

## **4. Rights Management**

### **4.1 Responsibilities**

The Council is the legal entity which owns the intellectual property rights (“IPR”) of the Collections. Under a Collections Agreement, copyright licence has been granted to SLLC to act on the Council’s behalf regarding the Collections.

Individual members of staff are responsible for ensuring they act within the scope of the law, and are required to seek further advice firstly from their line managers who will seek advice from either SLLC’s solicitors or the Council’s Legal Services (as appropriate) if necessary. Responsibility for clearing rights rests with each individual project manager.

### **4.2 Definition**

The management and documentation of the rights associated with the objects and information for which an organisation is responsible for, in order to benefit the organisation and to respect the rights of others.

Rights management is required whenever an organisation creates, acquires, borrows, lends or wants to use the Collections and material associated with them. Use can be 'internal' (e.g. conserving an object or holding information on donors) or 'external' (e.g. public facing activities such as displaying material on a website or catalogue).

The right of ownership of an object is separate from any other rights that are associated with it. When these rights are held by others, an organisation will be legally constrained as to how it can use the object, without their prior permission.

To comply with those rights the Council and SLLC has created this *policy* and revised *documentation procedural manual* that refers to the management of rights.

These procedures cover steps taken to:

- research rights associated with works that become (or might become) the Council’s responsibility.
- ensure the protection of the rights of the Council and the rights of others.
- ensure the legal basis of any contractual negotiation for rights licences.

- respond to claims to breach of rights both against and on behalf of the Council.
- agree the Council's use of external contractors and volunteers, and arrangement for the intellectual property rights in the work they create, for example the use of appropriate clauses within contracts.

For the purposes of this policy Rights Management will be included in all of the following procedures:

- *pre-entry of objects or other material*
- *loans in and loans out*
- *acquisition*
- *cataloguing*
- *insurance and indemnity management*
- *use of Collections including research*

SLLC's procedure for managing and documenting rights associated with the Collections will:

- take account of relevant rights legislation, and monitor changes.
- ensure that fully documented research into all associated rights is carried out as soon as new material is acquired.
- record full details and monitor changes, of all associated rights.
- ensure that any contract negotiations, for the use of (IPR) is carried out, taking into account the issues of: legal entity, legal restrictions, funders' requirements and the tax situation.
- respect the rights of others and any other third party users.
- seek to ensure that others respect the rights of the Council.
- ensure that there is an awareness of material sensitive to publication right (and other rights) and that any publication rights remain the Council's property and are not accidentally lost.
- ensure that when it creates new material it records the associated rights.
- ensure that when commissioning works, all IPRs are assigned to the Council.

### **4.3 Rights Research**

SLLC's guidelines for rights research include:

- steps the research should contain.
- ways of contacting rights holders.
- methods of communication.
- any deadline with the request to a rights holder.
- the need to document all relevant communication whether by phone, fax, e-mail, letter or person to person meeting in accordance with due diligence.

## 4.4 Rights Protection

The purpose of rights protection is to:

- ensure that the rights held by others are respected by the organisation and by any other third party users.
- seek to ensure that the rights held by the organisation are respected by others.

## 5. Legal environment

The legal environment for rights is complex and dependent on national implementations of international conventions and European directives. Therefore only a brief summary will be given here. For more information please refer to this website: The [UK Copyright Service](#). Another useful resource for general advice is the Intellectual Property Office's website [www.ipo.gov.uk](http://www.ipo.gov.uk)

Since copyright usually extends beyond the lifetime of the original author, the rights that it confers will pass on to a nominated or entitled person upon the death of the original author (the author or nominated or entitled person hereinafter being referred to as "the rights holder"). This will continue until the period afforded copyright protection in law post the death of the author has elapsed. Subsequently, copyright would be deemed to have expired and permission will no longer need to be sought. However, despite the expiry of copyright, other rights may still subsist in the work (or its image) and these will require the consent of the rights holder before being the work or its image can be used.

If SLLC wishes to reproduce a work (e.g. photography, scanning) either these activities must be permitted by either (a) the terms agreed by a licence, (b) as copyright has expired, (c) the rights belong to the Council or (d) the activities are permitted under the fair dealing exceptions. If not, then permission from the copyright holder must be obtained before carrying out any reproduction. In situations where such consent cannot be obtained, (e.g. the rights holders can not be found), then SLLC in consultation with the Council may make an informed risk management decision.

There are exceptions to copyright restrictions that allow the 'limited' use of works, e.g. for non-commercial research, criticism and review ('fair dealing' exceptions). However these exceptions have limited use within the normal operations of collection-holding organisations, e.g. taking photographs for security, identification, publicity or conservation. Unless SLLC can satisfy the requirements under the exceptions that the use is also fair, then permission must always be sought.

If what is being created is so-called 'User-Generated Content', for example a string of e-mails from various people in a discussion thread, or material contributed by several individuals on a wiki, blog or social networking site, then complex legal issues may arise.

## **6. Review**

We will regularly review policies and guidelines, especially in light of changes of legislation or changes in the activities undertaken.

- *This policy © of South Lanarkshire Leisure and Culture Trust Ltd 2011 has been written with reference and regard to the guidelines produced by Graham Cornish under the name ©opyright Circle for the Museums Copyright Group and the Libraries and Archives Copyright Alliance, The National Portrait Gallery, The National Archives and the Royal Naval Museum.*

## **Annex 1**

### **South Lanarkshire Council Museum Service - Acquisition Policy 2005-2011**

#### **1.0 Introduction**

- 1.1 This is the Policy Statement regulating the acquisition of objects for the Collections of South Lanarkshire Council Museums. The adoption and implementation of such a policy by South Lanarkshire Council is a requirement of the Museums, Libraries and Archives Council ('MLA') Accreditation scheme for Museums in the UK.
- 1.2 This represents the aims and plans of South Lanarkshire Council at the time of its revision in November 2005, and as such will be subject to revision as the service develops. It is intended that this policy should be reconsidered at least once every five years and no later than November 2010, and a revised statement brought before the Community Resources Committee for its agreement. The Scottish Museums Council will be notified of any changes to the Acquisition and Disposal Policy and the implications of such changes for the future of existing collections.
- 1.3 This Policy Statement supersedes all previous and existing practices and policies, formal or informal, relating to the acquisition of objects for the collections of South Lanarkshire Council Museums.
- 1.4 The collections comprise just over 29,000 objects. These include 5,600 photographs, 3,800 coins, medals and tokens, 1,800 costume, textiles and accessories objects, 1,700 archival objects and 1,000 objects relating to domestic life. The collection of The Cameronians (The Scottish Rifles) was transferred to the ownership of South Lanarkshire Council by the Regimental Trustees in 2005.

#### **2.0 General Rules for Acquisition**

- 2.1 Objects should only be acquired for a specific reason.

The main reasons for collecting are:

- They have potential for display or education;
- They have particular significance to the South Lanarkshire area;

Secondary reasons for collecting are:

- They will aid research;
- They are significant in relation to their discipline;
- They fill gaps in specific areas of the collections;
- They will illuminate other areas of the collections.

- 2.2 The museum service recognises its responsibility, in making new acquisitions, to ensure that care, documentation and use of the collections will meet the Accreditation Standard. Accordingly, it will consider limitations on collecting imposed by factors such as inadequate staffing, storage and care of collections arrangements. Where the acquisition of any object would result in significant financial implications, the matter will be referred to the Community Resources Committee for decision.
- 2.3 The museum service will exercise due diligence and will make every effort not to acquire, whether by purchase, gift, bequest or exchange, any object or specimen unless the Community Resources Committee or responsible officer is satisfied that the museum can acquire valid title to the object in question.
- 2.4 In particular, the museum service will not acquire any object or specimen unless it is satisfied that the object or specimen has not been acquired in, or exported from, its country of origin (or any intermediate country in which it may have been legally owned) in violation of that country's laws. For the purposes of this paragraph 'country of origin' includes the United Kingdom.
- 2.5 In accordance with the provisions of the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the illicit Import, Export and Transfer of Ownership of Cultural Property, which the UK ratified with effect from 1st November 2002, the museum will reject any objects that have been illicitly traded. The Council will be guided by the UK national guidance on the responsible acquisition of cultural property issued by Department for Culture, Media and Sport in 2005.
- 2.6 So far as biological and geological material is concerned, the museum service will not acquire by any direct or indirect means any specimen that has been collected, sold or otherwise transferred in contravention of any national or international wildlife protection or natural history conservation law or treaty of the United Kingdom or any other country, except with the express consent of an appropriate outside authority.
- 2.7 Under the legal principles of Treasure Trove and *bona vacantia*, the discovery of antiquities in Scotland is a matter for report to the Crown. Scottish archaeological material will therefore not be acquired by any means other than allocation to South Lanarkshire Council Museums by the Crown, normally on the advice of the Treasure Trove Advisory Panel or the Historic Scotland Finds Disposal Panel, unless a curator, acting on the Council's behalf, is satisfied that valid title to the object in question can be acquired, such as by certificate of 'No Claim' from the Treasure Trove Advisory Panel Secretariat.
- 2.8 The only exceptions to the above Clauses – 2.3, 2.4, 2.5, 2.7 – will be in specific circumstances where the museum is either:
- acting as an externally approved repository of last resort for material in the UK; or
  - acquiring an object of minor importance that lacks secure ownership history but in the best judgement of experts in the field concerned has not been illicitly traded; or
  - acting with the permission of authorities with the requisite jurisdiction in the country of origin; or

- in possession of reliable documentary evidence that the object was exported from its country of origin before 1970.

In these cases the museum service will be open and transparent in the way it makes decisions and will act only with the permission of an appropriate outside authority.

- 2.9 The museum service will use the statement of principles ‘Spoliation of Works of Art during the Nazi, Holocaust and World War II period’ issued for non-national museums in 1999 by the Museums and Galleries Commission.

### **3.0 Collecting Procedures – including gifts and loans**

- 3.1 The Museums Service will normally have delegated authority and responsibility for the acceptance or rejection of potential gifts or bequests to the museum service, for soliciting gifts of material for the collections within the terms of this policy, and for making recommendations and taking action on the purchase of material in accordance with this Policy and within the Council’s normal standing orders.
- 3.2 Objects offered to the museum service as gifts or bequests will not normally be accepted if they are subject to any restrictive covenant or special conditions, such as that they be displayed in a particular way. In exceptional circumstances, if the Museum Service feels that the object(s) in question are of over-riding importance, the Council may be asked to approve the acquisition of a specific object to which conditions are attached. A general exception to this rule will be deemed to exist in respect of restrictive covenants or conditions intended only to assure the permanent protection of the object concerned in the museum service’s collections, such as restrictions placed upon any legal powers of disposal that the museum service may have; under such circumstances, the Museum Service may reasonably recommend that the Council accept the gift or bequest in question.
- 3.4 The acceptance of objects, on loan, normally for a finite period for display or specific study, may be authorised by the Museum Service acting on the Council’s behalf. In exceptional cases, a privately owned object of major importance that falls within the scope of this Policy may be accepted on a finite long loan, whether or not it is required for immediate display or study. No object will be received on “permanent loan”, a term which has no legal status. The period of all loans will normally be agreed in writing between the Museum Service and the owner of the object at the time of deposit. Where the term of a loan has expired, it may be renewed or extended for further finite periods, at the discretion of both the owner and the Museum Officer.

### **4.0 Collecting Area**

- 4.1 The Collecting Area for the museum service will be the Area under the local government administration of South Lanarkshire Council.

The Cameronian (Scottish Rifles) Regimental Collection has been acquired through direct association with the Regiment and therefore a specific geographic area does not apply. Future collecting will continue to be by association.

- 4.2 The period of time that the collection relates to will be prehistory to the present day.

- 4.3 The museum service will take account of the collecting policies of other museums and other organisations collecting in the same or related areas or subject fields. It will consult with these organisations where conflicts of interest may arise or to define areas of specialisms, in order to avoid unnecessary duplication and waste of resources.

The museum service acknowledges the overlap of its collecting area with several independent, Local Authority, National and Regimental museums. These include Biggar Museum Trust, Crawfordjohn Heritage Venture Trust, the David Livingstone Centre, Leadhills Heritage Trust, the Museum of Scottish Country Life (National Museums of Scotland), the Royal Burgh of Lanark Museum Trust, the Scottish United Services Museum.

- 4.4 Items made in, at some point used within, or otherwise provenanced to the museum service's collecting area, may be acquired, regardless of their location at the time of acquisition. Where this involves the collection of objects from a place within the geographical sphere of influence of another museum, a principle of open actions and good communications will apply.
- 4.5 In an emergency, and to ensure the preservation locally and in public ownership of important material, the Museum Service is authorised to collect material from outside the museum service's stated collecting area. Such material is acquired on the understanding that it may be transferred to other museums at a future time.
- 4.6 Where the museum service seeks to collect the work of "local" artists, or to acquire "local" views, the Area defined at 4.1 and 4.2 above will normally be used as the basis for decisions.
- 4.7 Acquisitions outside the current stated policy should be made in very exceptional circumstances, and then only after proper consideration by the Council itself, having regard to the interests of other museums.
- 4.8 The acquisition of Archival material will be guided by the Code of Practice on Archives for Museums in the United Kingdom. The museum service will aim to meet the standards outlined in the Royal Commission on Historical Manuscripts' Standards for Record Repositories. South Lanarkshire Council Archives and Information Management Service will be informed of any archival material offered to Museums.

## **Annex 2**

### **South Lanarkshire Council Museum Service - Disposal Policy 2005-10**

#### **1.0 Introduction**

- 1.1 This is the Policy Statement regulating the disposal of items from the collections of South Lanarkshire Council Museums. The adoption and implementation of such a policy by South Lanarkshire Council is a requirement of the MLA Accreditation Scheme for Museums in the UK.
- 1.2 One of the basic functions of museums is preservation; items acquired by a museum are generally considered to be inalienable once they have been incorporated into the collections. There is a strong presumption against the subsequent disposal of items from museum collections, other than in very specific circumstances. This Policy Statement covers the circumstances in which disposals may take place, and the procedures to be followed.
- 1.3 This Policy Statement supersedes all previous and existing practices and policies, formal or informal, relating to the disposal of items from the collections of the museum services.

#### **2.0 General Principle**

- 2.1 By definition, the museum service has a long-term purpose and should possess (or intend to acquire) permanent collections in relation to its stated objectives. The Council accepts the principle that, except for sound curatorial reasons, there is a strong presumption against the disposal of any items in the museum service's collection.

#### **3.0 Reasons for Disposal**

- 3.1 To remove from the collections any item which is too badly damaged or deteriorated to be of any further use for the purposes of the museum service.
- 3.2 To improve the curatorial care of the collections by the disposal of duplicate or unprovenanced material of low intrinsic relevance to the Acquisition Policy.
- 3.3 To transfer to the ownership of another Accredited museum any item which, by reasons of changes in public, social or educational need, administrative responsibility, development priorities, or the establishment of a new accredited museum, the Museum Officer advises the Council would be more appropriately placed elsewhere.

#### **4.0 Authority for Disposal**

- 4.1 No museum item may be disposed of without the specific authority of the Council. Such a decision will be the responsibility of the Council, acting on the advice of their Museum Officer and not of the Museum Officer or any person acting alone.
- 4.2 The museum service will establish that it is legally free to dispose of any item. Any decision to dispose of material from the collections will be taken only after due consideration.

- 4.3 Decisions to dispose of items will not be made with the principal aim of generating funds.
- 4.4 If the disposal of a quantity of similar material is proposed, the Council may, however, give the Museum Officer delegated authority to act in the specific, once a general principle has been approved.
- 4.5 Where recommendations concerning the disposal of museum items are to be made, it is understood that there will need to be certain preliminary investigations before a report can usefully be brought before the Council. This may include such matters as obtaining valuations, seeking the views of donors, and contacts with other accredited museums that may be interested in accepting transfers. Within the terms of this policy, it is understood that the Museum Officer, acting on the Council's behalf has authority to act in this way, without prejudice to the Council's eventual decision.

## **5.0 Disposal of Purchases, Gifts and Bequests**

- 5.1 When disposal of a museum object is being considered, the museum will establish if it was acquired with the aid of an external funding organisation. In such cases, any conditions attached to the original grant will be followed. This may include repayment of the original grant.
- 5.2 Items given or bequeathed will not normally be disposed of without prior consultation with the original donors or their families within the first generation, and wherever possible their approval should be obtained to the course of action proposed. This is, however, a matter of courtesy rather than a legal requirement. The Museum Officer shall be entitled to waive this requirement where all reasonable efforts to trace a donor have failed, and additionally where no details of the donor exist.
- 5.3 In appropriate circumstances, having taken account of the procedure set out in paragraphs 4.1 to 4.5 and 6.1 to 6.3 of this policy, the Museum Officer may recommend the return of an item to its original donor.

## **6.0 Disposal Procedure**

- 6.1 Once a decision to dispose of material in the collection has been taken, priority will be given to retaining it within the public domain, unless it is to be destroyed. It will therefore be offered in the first instance, by gift, exchange or sale, directly to other Accredited (or Registered) Museums likely to be interested in its acquisition.
- 6.2 If the material is not acquired by any Accredited (or Registered) Museums to which it was offered directly, then the museum community at large will be advised of the intention to dispose of the material, normally through an announcement in the Museums Association's Museums Journal, and in other professional journals where appropriate.
- 6.3 The announcement will indicate the number and nature of specimens or objects involved, and the basis on which the material will be transferred to another institution. Preference will be given to expressions of interest from other Accredited Museums. A period of at least two months will be allowed for an interest in acquiring the material to be expressed. At the end of this period, if no expressions of interest have been

received, the museum service may consider disposing of the material to other interested individuals and organisations.

## **7.0 Disposal by Destruction**

- 7.1 The destruction of a museum specimen will only be acceptable if it has been seriously damaged, or has deteriorated beyond the point of further usefulness to the collection. The decision to de-accession in this way must be authorised by the Council acting on the advice of the Museum Officer. The item will need to be formally de-accessioned and the destruction must be carried out in a discreet, confidential and permanent fashion.

## **8.0 Procedure Following Disposal**

- 8.1 Full records and photographs will be kept of all disposals from the museum service. Where items have been disposed of, this shall be recorded in the appropriate register (see South Lanarkshire Council Museums Exit Procedure).
- 8.2 Where a museum item is transferred to another Accredited museum, all the associated documentation must accompany the item or follow within a period of one month. Where appropriate, this will include any photographic records. The museum service will retain on file copies of key sections of the documentation, for future reference in accordance with the SPECTRUM Procedure on deaccession and disposal.
- 8.3 Any money received by the Council as the result of the sale of a museum item must be used for the benefit of the collection. Normally this will mean it is placed in the Purchase Fund and used for the acquisition of further items but in exceptional cases improvements relating to the care of collections may be justifiable. Advice on these cases will be sought from MLA.

## **9.0 Repatriation and Restitution**

- 9.1 The Council, acting on the advice of the museum service's professional staff, may take a decision to return human remains, objects or specimens to a country or people of origin. This is entirely a matter for individual museums to consider, taking into account the ethical implications and within their legal position.

## **10.0 Management of Archives**

- 10.1 As the museum service holds archives, including photographs and printed ephemera, its governing body will be guided by the Code of Practice on Archives for Museums and Galleries in the United Kingdom (3<sup>rd</sup> ed., 2002).

This is the Disposal Policy to be in force from 2005-2010.

**Annex 3**  
**South Lanarkshire Council Museum Service**  
**LOANS IN POLICY 2010**

**1.0 REASON FOR LOAN**

*Objects will be taken on loan for a specific purpose, such as exhibitions, research, or conservation. Loans will not normally be accepted without a clear reason, unless the object is considered to be of particularly great importance. It shall be at the Council's absolute discretion as to whether it borrows an object from any party.*

**2.0 CONDITIONS OF LOAN**

The museum service undertakes to take the same care of any object it borrows as those in its own collections.

Loans in will not normally be agreed with additional conditions specified by the lender.

**2.1 Authorisation of Loans In**

All loans in must be authorised by the Senior Museums Officer or a Museum Collections Officer.

**2.2 Minimum and Maximum Length of a Loan Period**

The length of the loan period must be agreed by both parties in advance of its commencement.

The minimum loan period is 1 month; the maximum is 5 years.

The loan may be renewed upon expiration of the loan period, subject to a review of the loan.

**2.3 Establishing Lenders' Title to Objects**

Reasonable steps must be taken to establish that a potential lender has the legal right to lend the item. They must be made aware of the text on the Entry Form requiring them to state that they are the owner of the object.

## **2.4 Insurance**

Additional insurance will be required if the total value of objects borrowed exceeds £25,000, or if the insurance value of any individual object exceeds £10,000.

## **3.0 LOANS FOR WHICH THE OWNER CANNOT BE TRACED**

Reasonable steps will be made to contact the lender or their relatives.

If there is an address, two letters by recorded delivery post where the address is in the United Kingdom will be sent reminding them to collect the item. If they cannot be traced and if after a period of **three months** they still have not come forward, then the object(s) will be considered 'bona vacantia' by South Lanarkshire Council, who will then treat the item as it deems appropriate.

## Annex 4

### South Lanarkshire Council Museum Service

#### LOANS OUT POLICY 2010

#### 1.0 REASON FOR LOAN

It is at the Council's absolute discretion as to whether:

- a) an object is loaned to any party.
- b) and on what terms and conditions.

The following reasons will **not** be considered:

- A loan for no specific reason.
- Any reason which could put the object at risk.
- Any reason which would contravene SLC policy.

#### 2.0 CONDITIONS OF LOAN

##### 2.1 Conditions for Display and Storage

- The borrower must provide in advance details of the conditions in which the object(s) will be kept.
- The object must be kept in a secure location.
- Environmental conditions should be suitable for the object.
- There should be no eating, drinking or smoking in the same room as the object.
- If not on display, the object should be made accessible for public viewing.
- The object should not be handled by visitors, including scholars, without permission first being obtained from the officer dealing with the loan.
- The borrowing institution's disaster response plan should be available on request.
- The loaned object(s) will be displayed with an acknowledgement: on loan from *South Lanarkshire Council*.
- South Lanarkshire Council reserves copyright and publication rights in all images issued. All material reproduced (by prior permission) must be acknowledged © *by permission of South Lanarkshire Council*.
- The object(s) must not be used for marketing or public relations purposes without the permission of South Lanarkshire Council.

##### 2.2 Categories of Objects Which May Not Normally be Loaned Out

- Particularly vulnerable objects.
- Objects for which the service may not be able to prove title.
- Objects that are integral to a permanent display.

## **2.3 Categories of Borrower Which Will Not Normally be Loaned to**

- Any individual or organisation who cannot produce a valid reason for borrowing the object.
- Any person or organisation who cannot meet the environmental and security requirements of the object.
- Anyone who does not undertake to provide insurance cover for the object.

## **2.4 Transport**

It is the borrower's responsibility to arrange transport for the loan.

## **2.5 Insurance**

Normally responsibility for insurance must lie with the borrower unless specifically stated to the contrary in the loan out agreement. Insurance should include cover for transport.

## **2.6 Commercial Borrowers**

Potential commercial borrowers should be charged a hire-fee, unless real benefits through reciprocal arrangements can be demonstrated. Staff should also ensure that commercial borrowers sign any copyright permissions forms before objects are loaned.

## **3.0 AUTHORISATION OF LOANS OUT**

All loans out must be authorised by South Lanarkshire Council Executive Committee.

## **4.0 MONITORING OF THE LOAN**

- Objects out on loan should be condition checked at least annually.
- Environmental and display conditions checked at least annually.
- Insurance and indemnity policies must be updated on or before renewal dates.

## **5.0 RENEWAL OF LOAN**

- Loans must be for a finite period, but an application for renewal may be considered provided adequate notice is received.
- Renewal of the loan is dependent on satisfactory monitoring and the written agreement of the lender and the borrower.
- A copy of any further agreement should be obtained and retained.

## **6.0 RETURN OF OBJECTS ON LOAN**

- Overdue loans should be pursued by the officer managing the loan, within 1 month of expiry of the loan period.

- When an object is returned, a condition check should be completed as soon as possible and this compared with the condition report completed before the item went out on loan.