

Appendix 1- Legislation and Policies - Museum and Archives

Museums- Legislation

In the United Kingdom local authority museums are undergoing significant change in terms of organization, function and status, largely in response to a changing external environment. Although little in the way of government policy has been directed specifically at museums, social, economic and cultural policies have had a significant impact on the way in which museums operate and interact with their local communities. The primacy of the market ideology during the 1980s and 1990s brought a shift in focus in museums towards income generation, customer orientation and increased 'efficiency'. Museums were told to adopt 'business-like' management techniques, and strategic planning and performance management became tools of the museum director's trade. Financial constraints and the need to adapt to a system of plural funding required museums to develop new strategies and new forms of management.

The local authority sector is the most significant provider of museums in the UK. Of 1,811 Registered museums, 40% (716) are operated by local councils. These include county wide services, major urban museums and galleries and a variety of smaller, district authority museums. Unlike the National Museums, which are administered by trustees and have charitable status, these museums are owned and directly run by local authorities.

Many local authorities also provide grant aid and other forms of support to smaller, independent museums in their areas. Local authority museums have a long history. Many have their origins in collections given to local communities by societies or individuals in the nineteenth century and housed in municipal museums built as an expression of civic pride under powers established by **Act of Parliament in 1845**. Subsequent legislation, particularly the **1964 Public Libraries and Museums Act** and the **1972 Local Government Act**, extended the powers of local authorities to provide museums. However, museums are not and never have been a statutory service.

Consequently, their provision is not reflected in the formula that determines the level of revenue support for local authorities from central government

Legislative framework for archives and records in local authority care

The rights and responsibilities of local authorities to look after and provide access to the records they hold are enshrined in a number of pieces of legislation.

Basically, they give local authorities responsibilities to provide access to their own records and the right to acquire and preserve archives created by other bodies.

The legislation falls into two categories:

- Legislation referring specifically to archives and records, including special categories of record such as Public Records
- Legislation relating to information management, where compliance relies on sound management of archives and records

The key pieces of legislation that refer specifically to archives are:

- [The Local Government Act, 1972](#). Section 224 requires local authorities to 'make proper' arrangements with respect to any documents that belong to or are in the custody of the council of any of their officers. In 1999 the Department for the Environment, Transport and the Regions (now the Department for Communities and Local Government) issued [guidance on 'proper arrangements'](#) including records with historical value and which should be kept by an established archives service.
- [The Local Government \(Access to Information\) Act, 1985](#) provides for minutes, agendas, reports and background papers of meetings of principal councils that are open to the public to be available for public inspection

- [The Local Government \(Records\) Act, 1962](#) enables all local authorities to promote adequate use of their own records and empowers county and county borough councils ('principal councils') to acquire other records by purchase, gift or deposit.

The following legal implications have to be taken into consideration if a Local Authority ever considers a reduction in service delivery or alternative service delivery models:

Section 224 of the **Local Government Act 1972** states:

Without prejudice to the powers of the custos rotulorum to give directions as to the documents of any county, a principal council shall make proper arrangements with respect to any documents that belong to or are in the custody of the council or any of their officers.

Guidance on what constitutes 'proper arrangements' was issued by the then DETR in 1999. In summary this includes:

For virtually all authorities which run or have run an archives service, or which have succeeded to the powers of an authority which has run such a service, "records" will normally comprise three broad groups:

- Records created by the authority and its predecessors in the course of its business
- 'Public records' (for example records of courts, coroners, hospitals and prisons) held on behalf of central government
- Records given to or purchased by the authority, or deposited with the authority normally on indefinite loan.

The definition in section 224 applies to all records irrespective of the medium on or in which the information is carried, including but not restricted to manuscript, typescript and printed records, photographs, sound recordings, film, videotape, computer disks and records held in electronic form.

Proper arrangements should encompass the preservation of the records, including storage and conservation; and the provision of access, including preparing finding aids and the means for enabling members of the public to consult the records (subject to any restrictions) under supervision.

Proper arrangements for the historical records of an authority can be made either directly or by arrangement with another authority - for the provision of a joint service or for provision of the service by one authority on behalf of another.

Proper arrangements should include provision for access by the public in a designated study area sufficient to satisfy normal demand, providing for the health and safety of the public and the special needs of disabled readers. The area should be under the constant supervision of a suitably trained member of staff. All records open to inspection by the public should be clearly described in publicly available finding aids; copies of finding aids should be supplied to the National Register of Archives. Finding aids may also be made remotely accessible by electronic means.

Authorities will need to consider what staffing is required in terms of number, qualifications and experience in order to keep the records safe and make them available for public inspection; to ensure that proper advice is made available to the authority and to other owners of records on their care; to prepare adequate finding aids; and to take necessary practical steps for the preservation and conservation of the records. Staffing should include suitably trained people which may include professionally qualified archivists and records managers, professionally qualified conservators (unless this work is carried out externally and non-professional archives or records assistants).

Local Government Act 1972

[The Local Government Act 1972](#), s 224 requires that 'a principal council shall make proper arrangements with respect to any documents that belong to or are in the custody of the council or any of their officers'.

Guidance on what constitutes 'proper arrangements' was issued by the then DETR in 1999 and was issued

to all councils running an archives service. The guidance was available on the CLG website and is now archived by The National Archives (TNA):

<http://webarchive.nationalarchives.gov.uk/+http://www.communities.gov.uk/localgovernment/360902/constitutionsandethics/constitutionalarrangements/guidanceproper/>

The guidance is essentially based on the provisions of [BS5454 Recommendations for the storage and exhibition of archival documents](#), [Beyond the PRO: Public records in places of deposit](#), and the [HMC standard for record repositories](#) (since updated as PD 5454). Since the guidance was issued the latter two documents have been superseded by The National Archives' [Standard for Record Repositories](#) and the accompanying [Framework of Standards](#). Would a reduction in service create a situation in which an authority was operating below the standard required by the guidance? Section 228 has also been used by many researchers and interest groups as a means by which they can secure access to documents in local record offices and make copies.

Public Records Act 1958 <http://www.legislation.gov.uk/ukpga/Eliz2/6-7/51>

An authority may have made a commitment to undertake the role of a place of deposit and acquire, preserve and make available public records for which the service is appointed. Appointment is based on the achievement and maintenance of a standard of care which broadly meets the requirements of TNA's Standard when the particular circumstances of each institution are taken into consideration. A place of deposit should provide suitable facilities for safe keeping, preservation and access and the requirements of the Standard are applied and interpreted proportionately and to some extent flexibly.

Nevertheless, should the standard of care and access fall below a level considered acceptable the public records can be removed and transferred to a neighbouring place of deposit or TNA in the last resort. TNA is reluctant to do this and TNA seeks to cooperate with the place of deposit to find ways in which records of local relevance can remain accessible in that locality and preserved alongside complimentary collections.

TNA's flexibility extends to recognition that there may be a need for a temporary reduction in standards of preservation and access as a result of preparation for removal to a new building. There might be other legitimate reasons; however, removal of public records from a local authority archives service has occurred when the standard of service declined significantly and the authority agreed that it could not meet TNA's requirements.

In the present circumstances it is recognised that financial pressures on local authorities may make reductions in expenditure inevitable. For example, the TNA would be willing to accept a reduction in opening hours to ensure that there are sufficient resources to maintain the whole range of a record office's core functions. This comes with a couple of caveats. The expectation is that any reduction in opening hours would be temporary with a resumption of normal hours once public finances had recovered, and the level of access remains reasonable. The definition of 'reasonable' will depend on the scale, nature and importance of the collections held. Complete cessation of public access would result in a review of place of deposit status.

Manorial and Tithe Documents/Diocesan records

Legislation relating to manorial and tithe records stemming from the [Law of Property Act 1922](#) s.144A and the [Tithe Act 1936](#) has implications for the care of manorial and tithe documents in the custody of local authority record offices. For example, there are powers to remove manorial documents and direct them to an appropriate repository should they be at risk of loss or damage. M&T approval no longer operates since this was rolled up with TNA approval of repositories against the Standard.

The Diocese may be a significant depositor under the [Parochial Registers and Records Measure 1978](#) (as amended) and changes in the service provided may lead to this being reviewed.

Information Management

As well as the s46 Code of Practice reference should be made to the guidance coming from the Local Government Association and the Audit Commission concerning information management and data security.

This may support a Record Office's role in records management and a link to a recent document is given below:

<http://www.lga.gov.uk/lga/core/page.do?pagelId=1587534>

A lower standard of management of an authority's own records may lead to poorer decision making, loss of vital information and increasing amounts of staff time spent locating information. These risks are highlighted in two documents based on central government experience which have relevance for the local authority sector: *Information Matters* and *Managing Information Risk*. These can be found on TNA's website at:

<http://www.nationalarchives.gov.uk/services/publications/default.htm>

The key pieces of legislation that relate to information management are:

[Freedom of Information Act \(FOI\)](#) and [Environmental Information Regulations \(EIR\)](#)

The provisions of the [Freedom of Information Act 2000](#) apply to any records held by the council, including all those given or bequeathed to the archive service or purchased by it, and deposited by those bodies subject to the Act. The status of records in private ownership which are deposited with the Record Office needs to be assessed on a case by case basis and there is guidance on the National Archives website about how to conduct such an assessment

.(http://www.nationalarchives.gov.uk/documents/guidance_private_archives.pdf).

A record office which was not open to the public on a regular basis would not be able to claim the exemption from answering enquiries under s.21 of the FOIA, and given the level of public demand for access to archives it must be likely that maintenance of reasonable access arrangements would be a cheaper option than dealing with FOI requests which would be received from members of the public and others wanting access to the records. It is also necessary to check whether there would be a breach of the publication scheme. As for uncatalogued collections the s. 22 exemption could not be claimed.

It is worth noting that the provisions of EIR are wide ranging, requests can be made verbally and for both EIR and FOI there is a duty to assist and advise enquirers. This could put severe pressure on a remote enquiry service. There is a considerable amount of information on EIR on the ICO and DEFRA websites:

http://www.ico.gov.uk/tools_and_resources/document_library/environmental_information_regulation.aspx

<http://archive.defra.gov.uk/corporate/policy/opengov/eir/>

As far as records management is concerned, the Code of Practice issued by the Lord Chancellor under s.46 of the FOIA should be considered. Although it is not mandatory for public bodies to follow the Code, if the Information Commissioner finds that poor records management practice has led to a breach of the Act he can take action. The recently revised Code has strengthened references to historical records and one might argue that a reduction in the level of service provided by a Record Office would prevent it from supporting the authority in complying with the Code. Of particular relevance are sections 8.1, 10.4, 10.5, 10.15, 12.3 and 12.4:

<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/code-of-practice>

The National Archives' evaluation workbook to assist authorities in assessing compliance with the Code is published on their website:

<http://www.nationalarchives.gov.uk/recordsmanagement/code/assessing.htm>

Data Protection Act

The [Data Protection Act 1998](#) was passed on 16 July 1998. Guidance on the general application of the act can be found on the [Information Commissioner's website](#).

A code of practice for archivists and records managers was produced jointly by The National Archives, the Society of Archivists, the Records Management Society and the National Association for Information Management. The Information Commissioner is satisfied that it provides clear authoritative advice that should promote good practice, and it was published on that basis in October 2007.

[Code of practice for archivists and records managers under Section 51\(4\) of the Data Protection Act](#)

Policies- National

Arts Council England (ACE) published '**Great art and culture for everyone**', a revised ten year strategic plan, in 2013. It brings together ACE's remits and plans for the arts, museums and libraries sectors in one cohesive document for the first time. It replaces two key strategic documents published in 2011, 'Achieving great art for everyone' and 'Culture, knowledge and understanding.'

<http://www.artscouncil.org.uk/advice-and-guidance/browse-advice-and-guidance/great-art-and-culture-everyone>

The Museum Accreditation Scheme sets nationally agreed standards for museums in the UK. There are currently just under 1,800 museums participating in the scheme, demonstrating their commitment to managing collections effectively for the enjoyment and benefit of users.

<http://www.artscouncil.org.uk/what-we-do/supporting-museums/accreditation-scheme/>

International Council of Museums (ICOM) Code of Ethics for Museums was adopted in 1986 and revised in 2004. It establishes the values and principles shared by ICOM and the international museum community. It is a reference tool translated into 36 languages and it sets minimum standards of professional practice and performance for museums and their staff.

<http://icom.museum/the-vision/code-of-ethics/>

Effective Collections Achievements and Legacy (April 2012)- Effective Collections launched in late 2006, emerging from the findings of the MA's 2005 report, Collections for the Future. The scheme was supported by the Esmée Fairbairn Foundation with a grant of just over £1m and one clear aim: to help museums make better use of stored collections. This report will examine change over the last five years, drawing on the original aims of Effective Collections, the plans and projects set in place by the MA and the work undertaken across the museum sector.

<http://www.museumsassociation.org/download?id=710820>

Diversify: reflections and recommendations – 2013- The Museums Association's (MA) Diversify scheme ran from 1998 to 2011. It set out to make museum careers more accessible to people from Black, Asian and Minority-Ethnic(BAME) backgrounds through targeted 'positive-action' training to prepare them to apply successfully for jobs in museums. The scheme was subsequently expanded to include disabled people and people from low income households. In all, 130 individuals and around 50 museums and galleries participated.

This report looks back on the scheme and what it achieved. It draws on the experiences of those involved, earlier research and a consultation exercise with MA members, and reflects on the impact of Diversify on the individuals involved, the museum workforce as a whole and on organisational culture.

<http://www.museumsassociation.org/download?id=955792>

The **Museums 2020** discussion paper sets out the possibilities for museums and seeks museum managers' views about how museums could change to better fulfil their potential to play a part in improving people's lives, building communities, strengthening society and protecting the environment.

<http://www.museumsassociation.org/download?id=806530>

Other relevant policies are available at <http://www.museumsassociation.org/policy/reports>

The Archives Service Accreditation scheme is a National Archives standard which defines good practice and supports development. It enables authorities to review their services by providing a framework to identify strengths and areas for improvement. The scheme is specific to the archive sector but aims to support the move towards integrated ways of working in the management of cultural collections.

<http://www.nationalarchives.gov.uk/archives-sector/accreditation.htm>

Cultural value of archives

The government policy on archives ([Archives for the 21st Century](#)) emphasises the value and relevance of archives service to the wider local priorities of councils:

Government policy on archives – Archives for the 21st Century

The government policy promotes the active development of archives services. The government wishes to see local services provided effectively and consistently throughout the local authority sector and the scaling back of established and recognised services would be contrary to the spirit of the policy. A link to the policy is given below:

<http://www.nationalarchives.gov.uk/policy/aft21c/>

Brent Council Strategy and Policies

The Borough Plan 2013-14 outlines the Council's vision for Brent. This plan provides a vision for a better future for the borough, to be achieved by all who live and work in Brent working together, to create opportunities, to use them well and to improve lives.

<http://www.brent.gov.uk/media/8440076/Brent-borough-plan-2014.pdf>

Regeneration Strategy-The Regeneration Strategy sets out a vision for Brent from 2010 to 2030 and centred on the three strategic priorities described in the [Corporate Strategy](#). The regeneration vision for 2030 blends this corporate ambition with our spatial plans as set out in the borough's Local Development Framework. "The vision is of a Brent fully integrated into the city – a single urban borough which makes a full and positive contribution to the London economy. "

<http://www.brent.gov.uk/your-council/about-brent-council/council-structure-and-how-we-work/strategies-and-plans/regeneration-strategy/>

Health and Well-Being Strategy 2008-2018- This strategy has been produced by the [Local Strategic Partnership for Brent](#) and it outlines our partnership priorities and ambitions for improving the health and wellbeing of our residents and their families over the next ten years. It establishes the Council's shared vision for reducing local inequalities in health and well-being and ensuring that everyone, irrespective of where they live, has the best possible chance to live a long, fulfilling and healthy life and will achieve this through the use of services like Museums:

<http://www.brent.gov.uk/your-council/about-brent-council/council-structure-and-how-we-work/strategies-and-plans/health-and-wellbeing-strategy/>

Cultural Strategy 2010-2015-The benefits of museums in promoting health, well-being and community cohesion are recognised and promoted in Brent's Cultural Strategy

<http://www.brent.gov.uk/your-council/about-brent-council/council-structure-and-how-we-work/strategies-and-plans/cultural-strategy-for-brent/>

Arts Development Strategy 2011-2015-The Arts Development strategy for 2011 to 2015 outlines our four year commitment to arts provision in the borough and centres around four key points:

- promoting the cultural and creative economy

- supporting the regeneration and infrastructure investments underway
- the London 2012 Olympic and Paralympic Games
- commissioning and promoting art.

It includes strong links with delivering arts projects with our Museum Service.

<http://www.brent.gov.uk/your-council/about-brent-council/council-structure-and-how-we-work/strategies-and-plans/arts-development-strategy/>

Cemeteries Strategy- There is opportunity for the Museum and Archives Service to work with the Cemeteries Service on heritage related projects.

<http://www.brent.gov.uk/media/2162472/Cemeteries%20Strategy%20April%202013.pdf>