

Goodison Review

Securing the Best for our Museums:
Private Giving and Government Support

Nicholas Goodison

January 2004

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Letter from Sir Nicholas Goodison to the Chief Secretary to the Treasury

Dear Chief Secretary,

I attach the review that you asked me to conduct. My recommendations, if adopted, will lead to more people giving works of art and other objects of cultural interest to national and regional public collections. They will lead to fewer important objects being lost abroad. I believe that they will particularly help to improve regional collections, and so enable them to offer people all over the country better opportunities for learning and enjoyment.

To judge from the many people whom I have met and heard from during the course of the review, my chief recommendations command wide support among those in charge of museums, galleries and libraries, owners of objects, their advisors and potential donors. I pin much hope for the future on potential donors.

The core funding of museums and galleries was not part of my brief. The subject arose again and again during discussion. It needs further study, looking for more imaginative solutions to museums' finances.

You asked me to identify which recommendations could be set in train quickly. I list these on the following pages. A complete list of my recommendations, which are individually highlighted in the text of the report, is given at the end.



Sir Nicholas Goodison

Recommendations which could be set in train quickly

- Recommendation 2** I recommend that the Treasury, the Department for Culture, Media and Sport, Local Authorities, the Arts and Humanities Research Board and other funding bodies should make it plain in any directions that they attach to their funding for museums, galleries and libraries that high standards of collections management are a key priority, and that acquisitions (by those allowed by their constitutions to make them) form part of collections management.
- Recommendation 3** I recommend that Resource should encourage regional museums to share plans for acquisitions and the cost of acquisitions with a view to displaying them in more than one museum. This should not wait for the implementation of the programme proposed by *Renaissance in the Regions*.
- Recommendation 5** I recommend that the Government should indemnify regional museums against the costs of conservation of *in situ* objects in the event of them ceasing to be shown in situ and returning to the museums.
- Recommendation 8** I recommend that Resource should make available to other local authorities and museums a summary of the means by which museum trusts were set up, their reasons for doing it, their agreements for continued local authority or other public funding, and their experience as independent entities since they were set up.
- Recommendation 10** I recommend that the Trustees of the National Heritage Memorial Fund take whatever steps they deem effective to re-establish the public identity of the Fund.
- Recommendation 11** I recommend that the Trustees of the Heritage Lottery Fund should consider how they can further speed up the process of agreeing grants towards objects coming up at auction.
- Recommendation 12** I recommend that the Trustees of the Heritage Lottery Fund should re-examine the practice of cancelling a grant if a museum believes that it will have to pay more than the originally agreed price and puts up a good case for agreeing a revised price immediately before the auction.
- Recommendation 13** I recommend that the Department for Culture, Media and Sport should make it clear that it has no intention, following the Lottery Review, of removing interest on the Heritage Lottery Fund's outstanding balances for the benefit of other Lottery distributors.
- Recommendation 15** I recommend that the administration of the Export Licensing Unit and the Export Licence Review system, of the evaluation of chattels in arrangements for conditional exemption, of negotiations for conditional exemption and subsequent surveillance, of the Acceptance In Lieu system, of *in situ* arrangements under the Acceptance In Lieu system, of the Government Indemnity Scheme and of any system of gifts in kind as recommended in this review should be undertaken by Resource.
- Recommendation 16** I recommend that, if my recommendations to move the administration of various programmes within the ambit of Resource are adopted, the Department for Culture, Media and Sport should, in conjunction with the Inland Revenue, ensure that it is properly funded.
- Recommendation 17** I recommend that whatever internal arrangements Resource makes for undertaking the work, it should ensure that it appoints panels of experts, on the lines of the Acceptance In Lieu Panel and the Reviewing Committee on the Export of Works of Art, for relevant functions, and that it uses the services of a wide range of expert advisers.

- Recommendation 18** I recommend that Resource should ensure that the advisers to each of the Panels include qualified representatives from across the UK.
- Recommendation 20** I recommend that in addition to its executive work Resource should aim to be a major source of advice and guidance to owners of pre-eminent objects and to museums and galleries and other Schedule 3 bodies.
- Recommendation 22** I recommend that all negotiations for conditionally exempt objects should be transferred to Resource, other than those handled by English Heritage.
- Recommendation 23** I recommend that the interpretation of the 1998 Finance Act's requirement for 'reasonable access' should permit a more flexible arrangement for public access to conditionally exempt objects. In assessing 'reasonable access', the condition and nature of the object and, where applicable, the existing opening arrangements of the house, should be taken into account. Long-term loans to museums should be encouraged as a way of discharging access responsibilities.
- Recommendation 24** I recommend that owners of future conditionally exempt objects should be obliged to give Resource three months notice of any intention to sell a conditionally exempt object and that the Reviewing Committee on the Export of Works of Art should let it be known that, in cases where the notification has not been given, it will normally recommend extending the initial period of deferral in the event of an application for an export licence by three months.
- Recommendation 25** I recommend that Resource should seek ways of staging and financing temporary exhibitions of conditionally exempt objects in order to help owners meet the requirements of public access.
- Recommendation 28** I recommend that responsibility for the negotiation and agreement of all *in situ* arrangements should lie with the recipient museums under the supervision of Resource, that the agreements should be based on a model agreement, and that the agreements should be signed off by Resource.
- Recommendation 29** I recommend that the arrangements for access to objects allocated *in situ* should be based on the same flexible arrangements recommended above for conditionally exempt objects (see Recommendation 23).
- Recommendation 30** I recommend that there should be a study of the Inland Revenue's rules for offers in lieu and private treaty sales, and of the Department for Culture's 'Model Agreement' for *in situ* arrangements, with a view to achieving consistency and reducing the risks of sales of objects on the open market. The study should be carried out by Resource, in consultation with the Inland Revenue, the Department for Culture, Media and Sport and representatives of owners following the implementation of the recommendation to combine within Resource the various programmes discussed in the report (see Recommendation 15).
- Recommendation 32** I recommend that the *douceur* should not be available to the owner of an export-deferred object who has not previously offered it for sale by private treaty to a Schedule 3 body, and that if the object is acquired after deferral the buying Schedule 3 body or registered museum should pay the net price after deducting the calculated tax liability.
- Recommendation 33** I recommend that the costs incurred on the sale of a pre-eminent object to a Schedule 3 body or registered museum by private treaty should in principle be taken into account in operating the *douceur* arrangement for such sales, and that Resource should develop detailed rules for this as part of a study as I have recommended they should undertake.
- Recommendation 39** I recommend that the Inland Revenue should issue a statement of practice making it clear that companies can include the care and conservation of business archives, and the costs of providing access to them and of any educational service based on them in their costs before the calculation of corporation tax.

Recommendations which could be set in train quickly

- Recommendation 40** I recommend that Resource considers further measures to increase the accessibility of collections, including major acquisitions, conditionally exempt objects and single object exhibitions, in museums and galleries across the regions.
- Recommendation 41** I recommend that if a public institution comes forward during the first deferral period (see Annex J) with serious intent to make a matching offer, then the applicant for a licence should be asked to make a binding offer to sell to that institution and should not be able to withdraw the offer during the period of the second stop.
- Recommendation 42** I recommend that the administration of the Export Licensing Unit and Export Licence Review systems should be transferred to Resource, that the Reviewing Committee on the Export of Works of Art should remain a Non-Departmental Public Body, and that consideration should be given to legislation to alter the role of the Secretary of State or Minister to an Appeal role rather than an executive role.
- Recommendation 43** I recommend that Resource should publish and distribute (to owners, potential advisers, museums, libraries, archive collections and other bodies, and on the internet) a guide to the methods of giving, bequeathing or selling pre-eminent objects to national or regional museums, galleries and libraries. This guide would include the tax inducements involved, and would publicise the means of finding informal disinterested advice. It would also explain other relevant programmes such as conditional exemption and Acceptance In Lieu.

1

Introduction

INTRODUCTION

1.1 The objective set for this study was ‘to review the effectiveness and efficiency of support to regional and national museums and galleries to help them acquire works of art and culture of distinction that might otherwise be sold abroad, and to make those items accessible to the public.’

1.2 The Chancellor of the Exchequer announced the review in his Budget statement in April 2003. The Chief Secretary to the Treasury launched it in July. At the launch it was stressed that the review was ‘not limited to acquisitions of cultural objects which, were they to be exported, would require export licences.’ The consultation document invited ideas and evidence that could help ‘to review the efficiency and effectiveness of current taxation and funding arrangements which affect the ability of museums and galleries to acquire, and make accessible, works of art and culture.’ Respondents were asked what the Government could do to ‘encourage donation, and loans, of works of art and culture by people during their lifetime’ and to ‘encourage philanthropy in this area.’

1.3 The Chief Secretary invited me to lead the review. He invited leading figures with an expertise in the subject to serve on an advisory panel, both to advise him and to contribute their views to the wider consultation exercise. The membership of this panel is listed in Annex A. I have worked with the help of a team of officials in the Treasury, the Department for Culture, Media and Sport, Resource: the Council for Museums, Archives and Libraries, and the Inland Revenue. I was asked to report by November, which has inevitably meant that the review could not go into some subjects in the depth that I would have liked.

1.4 We sent the consultation paper to 300 individuals and organisations. We have received 86 written responses. We have discussed the review and the many topics that it raises with more than 70 people, including private owners, collectors, and representatives of the many organisations to whom we sent the consultation paper.

1.5 I am grateful to all those, including the members of the Chief Secretary’s advisory panel, who have given us their ideas and their views. I am also grateful to the officials who have helped me for the work they have put into the organisation of the review and for the robust discussions that we enjoyed together.

DEFINITIONS

1.6 I have assumed throughout this report that the phrase ‘works of art and culture’, which is used in the review’s objective, includes all those objects of cultural interest that we would expect to find in our national and regional collections, libraries and record offices – works of art, books, manuscripts, archives, objects connected with the history of science and technology, with industrial, maritime and transport history, with natural history, and so on. I use the word ‘object’ deliberately to cover this wide range of cultural works and records. My recommendations for purchases and gifts centre on objects of pre-eminent quality, as defined and interpreted by Resource’s Acceptance in Lieu Panel (see Annex I). The test of pre-eminence is less stringent than that applied by the Reviewing Committee on the Export of Works of Art (see Annex J), and allows, for example, for pre-eminence in a local context or in the context of an established or accumulating collection.

1.7 I have often used the word ‘museum’ as an abbreviation for all the repositories – museums, galleries, libraries and record offices – in which objects are commonly displayed or stored. My recommendations for purchases and gifts are confined to the bodies listed in Schedule 3 of the Inheritance Tax Act 1984 (see Annex K) and museums registered under Resource’s Museums Registration Scheme for Museums and Galleries.

1.8 The review considers taxation arrangements that affect the whole of the United Kingdom. The funding arrangements discussed relate only to England and Wales.

2

The case for acquisitions and value for money

2.1 I welcome the opportunity to carry out this enquiry. I particularly welcome the Government's recognition, in launching it, of the importance of acquisitions to our national and regional collections.

2.2 Museums and galleries, and other publicly available collections, are of huge value to communities across the entire United Kingdom. They are places of inspiration; they can offer extraordinary learning opportunities to people of all ages and all cultural backgrounds; they can stimulate ideas for better design; they bring economic gains to the communities in which they are established; and they can be magnets for the attraction of tourists. Investment in them is not a luxury. It gives a desirable return. It is a means of providing opportunities for citizens to enrich their lives and to improve their economic well-being. It is a mark of an advanced civilised society.

2.3 Investment in museums is a major contributor to the national income from tourism. The Department for Culture, Media and Sport estimates that in 2001 there were nearly 22 million visitors to the UK. Recent surveys have suggested that nearly 30 per cent of all visitors are attracted by our heritage, in which museums and country houses play a large part. Tourism is one of the biggest earning services in the country. We need to invest in our museums and country houses in order to keep ahead or at least level with other countries competing for tourists' business.

2.4 Museums, galleries and libraries depend for their success on the quality of their collections. Without their collections they are meaningless. The object is at the centre of all that they do. The standard of collections management, including particularly the skill and scholarship of curators, is of supreme importance. The Government's priorities have seemed to some to dwell too much on 'access' and education and not enough on the care of the collections. I return to this theme later in this review. Suffice it to say here that the Government's aims to increase access and educational opportunities are entirely laudable, but that failure to invest in the proper care of collections will jeopardise the achievement of those aims. The objects and the public benefit that they can provide are a seamless whole.

2.5 Well-judged acquisitions are a key part of the successful and creative management of a collection. They are not, as some commentators make out, an optional extra. People who decry (often rather loudly) the purchase of an outstanding work of art, on the grounds that the money would be better spent elsewhere, have seldom thought about the value of art to a community. Acquisitions can stimulate the interest and enthusiasm of the visiting public. They can reflect pride in the cultural backgrounds of people in the community. They can cause new scholarly interpretations of cultural history. Collections are an expression of the collective memory of society and reflect, through acquisitions, changes in society, design and taste. In short, acquisitions can greatly enrich and refresh existing collections, benefiting the visitor, the learner and the local and wider communities.

2.6 In a narrower sense it is usually prudent for the nation to acquire outstanding objects at today's prices, because their increasing rarity causes their value to rise. There are countless cases of missed opportunities in the past when museums have not bought objects that would have enriched their collections at much lower prices than they would command today. Prices paid in the past, some of which caused outrage at the time, now look very low.

2.7 This review covers the threat or possibility of sales, and therefore of exports, of pre-eminent objects now in private collections or on loan to public collections in this country. But it also aims to help museums to acquire other objects that would enrich their collections. It would be bad policy to base a strategy for acquisitions on reacting only to the threat of export. Numerically most museum acquisitions come from the open market and not from the small pool of export-deferred objects. This is unlikely to change. The market (including the overseas market) is a constant source of objects of quality. It is the most likely source of works of art that are poorly represented in national and regional museums and of works that would strengthen existing collections. It is also the most likely source of acquisitions by regional collections that need to reflect the cultural changes in their local communities.

2.8 My proposals therefore aim to strengthen the chances of acquiring outstanding objects for our public collections, wherever they might come from, and to reduce the risk of the export of important objects now in this country. One of my principal aims is to encourage private donors. I also comment, and make some recommendations, on the ability of museums and galleries to care for and enrich their collections.

2.9 A full list of recommendations is given at the end of this report. The main recommendations are:

- New tax reliefs to tempt owners to donate works of pre-eminent importance to public collections during their lifetimes (Recommendations 34 to 36);
- Changes to the Acceptance in Lieu system that will (1) enable executors to offer objects of pre-eminent importance against not just inheritance tax but all forms of tax liability due on a deceased estate, and (2) enable owners of objects, during their lifetimes, to arrange offers in lieu of tax liabilities following their deaths (Recommendations 26 and 27);
- The creation within Resource: the Council for Museums, Archives and Libraries of an executive function to deal with most of the programmes concerned with the retention of works of art and other cultural objects. This will enable Resource to provide a professional advice and guidance service to owners and their representatives, and to strengthen its advice and guidance services to museums. It will also bring greater consistency into the present varied and (to owners) confusing programmes. The service would include a comprehensive and clear written guide to the many options available to the owner of an object, which would be distributed to owners, professional advisers and museums (Recommendations 15, 16 and 43);
- The raising of the annual grant to the National Heritage Memorial Fund to at least £20 million (Recommendation 9).

3

Sales and exports will not dry up

3.1 The sale and export of desirable objects – by desirable I mean objects that would fulfil the function of enriching a national or regional collection – deprive people in this country of opportunity on the doorstep. In some cases, for example when an object is already on loan to a public collection or is an integral part of an existing collection in one of the many historic houses open to the public, the sale can damage the quality of the experience of visiting the collection.

3.2 Again and again in recent years exports of outstanding works of art have hit the headlines. The export of a work of art or other cultural object requires a licence if its value exceeds certain limits. If the Reviewing Committee on the Export of Works of Art considers that an object is of importance it recommends a deferral of the licence to export to enable a British collection to match the price. The Export Review system is explained in Annex J. Table J1 in the same annex shows that numerically many of the objects that the Committee has recommended for deferral have stayed in this country, but that 78 per cent by value (which inevitably includes objects of the highest quality) have been exported. In the five years to June 2002 the value of deferred objects totalled £94.3 million. The objects that stayed in the UK were worth only £25.5 million. This means that we have suffered severe losses to the potential quality of our public collections. The addition of many, or at least some, of the exported objects to our public collections would have had all the benefits mentioned in the previous section.

3.3 There is nothing new in this drain of outstanding works of art. It has been going on for over a century. England was the most successful trading nation in the world in the eighteenth century and maintained its prosperity for most of the nineteenth century. The result was the accumulation of remarkable collections in the hands of rich private citizens, who both commissioned works of art for their houses and bought them at home and abroad. Some of these great collections survive today – for example the Royal Collections and the collections at houses such as Boughton, Chatsworth, Harewood, Holkham, and Wilton.

3.4 Other great collections have been sold, dispersed or sadly depleted. Owners have sold for a number of reasons. Estate duty (now Inheritance Tax) had to be paid - it was introduced in 1894 and reached a top rate of 80 per cent in 1949-69 and 85 per cent in 1969-72. The cost of the upkeep of great houses had to be financed. Works of art were a means too of financing deficits on farming and other activities. Family arrangements after a death led to the splitting of collections and sales. Many houses were sold or demolished and their contents dispersed. Some great collections of works of art have vanished. Others have suffered severe losses. Yet others have steadily diminished as sales have continued. Recent sales have included works from such great historic houses as Alnwick, Castle Howard, Firle, and Newby.

3.5 The chief buyers have been overseas. Britain was a treasure house to be raided. UK collections have been particularly vulnerable because other countries have imposed much stricter export regulations. The National Art Collections Fund, the leading private charity that provides money to museums in the UK to help them to buy works of art, was founded in 1903 as a direct response to the aggressive buying of works of art from British collections by German and American collectors. The National Heritage Memorial Fund was founded in 1980 following the sale of the contents of Mentmore, many of which went to overseas buyers. The US has a host of very rich collectors and well-endowed museums. Other nations, not least Japan, have joined in the raids on the riches of Britain. The flow has been constant.

3.6 The response of successive British governments to this fact of economic life has often been described as tardy and inadequate. But it is not entirely so. The system of Export Review has been a success in identifying objects at risk and giving time for British institutions to try to match the prices of deferred objects. Successive governments have done a good job in devising and maintaining these arrangements. The criticism of the system is really a criticism of the lack of funding to back it.

3.7 Other measures have reduced the risk of objects coming on to the market in the first place. Some of them originate from measures introduced over a hundred years ago with the specific aims of preventing the dispersal of our cultural heritage and of encouraging the transfer of important objects to public collections. The most effective of these measures has been the deferment of inheritance tax on objects of museum quality (changed in 1998 to pre-eminent objects) on the death of the owner until the object is sold. This measure, known as conditional exemption, was introduced as long ago as 1896. It permits owners to keep the objects in their homes subject to allowing access to the public. It is described in Annex G. Some people think it is a benefit for the rich, but it has been very much in the public interest. It has prevented the immediate sale of very large numbers of works of art, enabled their retention in collections open to the public and been of great advantage to local communities all over the country. If it had not been enacted there is no doubt that sales of works of art abroad would have been very much higher. It has achieved much of its original purpose.

3.8 Other measures that have helped to keep outstanding objects in this country have included:

- The so-called *douceur*, a tax concession granted to owners who sell to public collections in this country. The concession amounts usually to a quarter of the liability to inheritance tax and capital gains tax due on the sale. It is described in Annex H;
- The Acceptance in Lieu procedures, whereby liability to inheritance tax can be settled by ceding outstanding objects to museums or other recognised public collections. The *douceur* also applies to this arrangement. The Acceptance in Lieu procedures are described in Annex I;
- The ability to keep objects that are integral to a house or a collection, including archives, in the house after an Acceptance in Lieu arrangement. This arrangement is known as an *in situ* arrangement (see Annex I), and is subject to legal agreement between the museum that owns the object and the owner of the house, including requirements on public access. It is a parallel of the *in situ* arrangements for conditionally exempt objects mentioned above;
- Tax concessions for funds to maintain historic properties and grants towards their upkeep and repair. Although not specifically aimed at the retention of works of art, these concessions have relieved some of the pressure to sell easily saleable assets to finance the expenditure. The Historic Houses Association, which represents privately owned historic houses, believes that about a quarter of the costs of maintaining and conserving the fabric of historic houses is financed by the sale of works of art. There are few other ready sources of capital. The Association has recommended further measures to assist the upkeep of historic houses, notably income tax reliefs for costs of repair and maintenance. Measures such as these go beyond the scope of this review, but if one of their side effects was to reduce the risks of sales of objects it would be a supporting argument in their favour; and

- The exemption of farmland from inheritance tax, which has eliminated another obligation to raise cash.

3.9 These measures have undoubtedly reduced the number of sales of objects from noteworthy collections. None of them, however, will completely stem the flow of sales. They have not done this in the past, and there is no prospect of their doing so. All the evidence is that the financial pressures on the owners of historic houses will remain, and problems caused by death and family divisions will continue to occur.

3.10 Greater economic prosperity in Britain has led to more national private buyers of works of art, but there are not many significant British collectors and only very few who are in the market for the most expensive works. Private buyers and museums in the US will remain the dominant competition.

CAN WE FIND SOLUTIONS?

3.11 To start with exports, it would of course be possible to place a ban on the export of certain objects judged to be of pre-eminent importance, or to decree that the state should have some sort of pre-emption right when an outstanding work comes up for sale. Other countries have introduced measures on these lines. But such measures would infringe the rights of the owners of property, because they would reduce the value of their assets. It is the overwhelming view of the respondents to this review that the present arrangements for reviewing potential exports from this country are fair to buyers and sellers, and are capable of achieving the best results in the national interest.

3.12 Without a ban on exports we cannot stop the flow of exports, but can we reduce it?

3.13 We must not fall into the trap of wanting to buy everything that is threatened with export. There are some works which, even after the imposition of an export deferral, would not be a disastrous loss (for example because there are other comparable works already in national and regional collections) or might even be more advantageously shown abroad (for example works by Turner or Constable or a number of other British artists whose work is well shown here but inadequately shown overseas). Some museums would often do better, as I have argued above, to devote their resources to acquisitions from the market in the UK and overseas rather than automatically reacting to the offer of objects threatened with export. But we have been losing too many good things.

3.14 If we want to keep some of the desirable objects that will inevitably be sold and to buy desirable objects in the market we need to make sure that there is the finance to buy them. The nearly universal view of the respondents to this review is that our national and regional museums are financially stretched, do not have enough funds for expensive acquisitions, and are increasingly short of curatorial expertise. The evidence supports this view. We need to find ways of enabling national and regional museums to compete in the market-place.

3.15 There will continue to be very expensive objects that will escape overseas simply because no museum can raise sufficient money to buy them. Prices for exceptional works of art are now so high that there are no measures that I can recommend that will prevent this from happening. The only ultimate source of funds for such purchases would be special Exchequer grants, which a number of respondents have recommended. The case for special Exchequer grants rests on the inability of any of the present funding mechanisms to finance an exceptional work of the greatest national importance and the uncertainty in the timing of any such sale. The Scottish Executive has made exceptional grants towards expensive purchases of works of art since devolution, enabling the National Galleries of Scotland to acquire Botticelli's *Virgin Adoring the Sleeping Christ* and Titian's *Venus Anadyomene (The Birth of Venus)*. These remarkable paintings had both been in Scottish

private collections. Titian's *Venus* had been on loan to the National Gallery from the Sutherland collection for many years. The other Sutherland pictures, were they to be offered for sale, are far beyond the financial capacity of any museum, any existing funding mechanism, or any measure that I can recommend. There are other great national treasures in private collections of which the same could be said. I believe that the case for an Exchequer grant in such extraordinary circumstances is a strong one, but I was asked to rule out such grants when considering my recommendations because the Treasury now considers that the establishment of the National Heritage Memorial Fund has replaced the need for them (which was not the case when the Memorial Fund was set up).

3.16 Without Exchequer grants in exceptional circumstances there is at present no convincing means of securing the most desirable objects for national and regional collections except for grants from the Heritage Lottery Fund. It is large, but cannot hope to fund every very expensive object. It has competing priorities, and may well decline in size if current forecasts come to pass. There is therefore no complete solution to the flow of objects overseas or to the purchase of the most desirable objects that come on to the market. That being so, I have concentrated on means of increasing the funds available to museums from various sources, and on reducing the risk of the sale of works of art and other objects of cultural distinction in the first place. My aim has been to promote means of acquiring not just expensive objects that might be at risk, but also those less expensive works that can do so much to enrich our public collections and increase their appeal to all kinds of visitor. Specifically I have set out to find:

- ways of contributing to the securing of at least some of the most expensive works, either permanently or temporarily;
- ways of tempting more owners not to sell in the first place, or of alleviating the pressures on them to do so;
- ways of tempting owners to prefer to sell to public collections in the UK rather than selling on the open market;
- ways of tempting owners to give or pass works to public collections in the UK;
- ways of shifting attitudes in government towards the value of collections and acquisitions; and
- ways of making it more attractive to museums to accept gifts and to display them both in their own galleries and *in situ*.

3.17 I have borne very much in mind that one of the practical outcomes of any changes should be to encourage a culture of philanthropy. It would be of enormous benefit to our public collections if the scale of personal giving to the arts in this country got anywhere near the scale of private giving in the US. That may be too ambitious, but it would be a positive step to make some progress towards it.

3.18 The rest of this report is concerned with my recommendations. These are highlighted in the text and listed at the end of this report.

4

What can be done? Public collections and funding

4.1 I deal in this section with the potential sources of public funding for acquisitions, and with some of the problems that museums have in nurturing their collections.

CORE FUNDING AND ACQUISITIONS

4.2 Most of the museums that have responded to our consultation have made it clear that they do not have enough money for acquisitions. The squeeze in recent years on their core funding has led them to reduce the money that they allocate to acquisitions in order to maintain other services. National museums have sharply reduced their acquisition funds. Some regional museums have told us of the pitifully small amounts allowed to them for acquisitions by their local authorities: others have told us that they have nothing to invest at all. As a result very few of them trouble to look for acquisitions or to keep in touch with the market. They find that even inexpensive objects are beyond them. Their chances of buying objects of distinction, which should surely be a desirable aim in order to lift the excitement of a regional collection, are negligible.

4.3 The enthusiasm of regional museums for acquisitions has unquestionably declined. I attribute this not only to the squeeze on their funding. I have been told by several of them that:

- it has been difficult to maintain the standard, the enthusiasm and the number of curatorial staff, owing partly to inadequate funding, and partly to the lack of a countrywide career structure and adequate training;
- the priorities that they are told to address by their funding bodies are slanted more towards education and access than towards the management and development of their collections;
- they find it hard if not impossible to raise enough money to fund the balance of the sum required when they contemplate asking for help from the Heritage Lottery Fund; and
- they are reluctant to start money-raising when curators are already over-loaded with their existing work and the chances of success look slender.

Resource has partly addressed these issues in its study entitled *Renaissance in the Regions*. I return to them later and make a few suggestions.

4.4 The problem is acute. Museums, with very few exceptions, simply do not have enough resources to make acquisitions on the scale they need to refresh and enrich their collections. When they do make an acquisition, they have to find most of the money from outside sources and usually contribute only a small percentage of the cost themselves. I do not believe that the problem will be solved until the core funding of museums and galleries is realistic.

4.5 The public providers of core funding (see Annex D) – for example the Department for Culture, Media and Sport (national museums and the British Library), local authorities (libraries and many regional museums) and the Arts and Humanities Research Board (university museums) – do not specify that any part of their grants should be used for acquisitions. Until April 1993 part of the grant-in-aid to national museums was ring-fenced for acquisitions, part for building maintenance, and part for running costs. The Department for National Heritage (the fore-runner of the Department for Culture, Media and Sport) said in its 1993 report that the objective of removing the ring-fencing was to give national museums ‘a new flexibility to help them manage better and secure improved value for money.’ Some leading figures in the museum world are keen to return to separate acquisition grants, on the grounds that:

- they would publicly demonstrate the Government’s commitment to acquisitions as a core function of a national museum;
- the money put aside in budgets for acquisitions is a soft target when a museum has to find funds for current expenditure on other core services; and
- some museums are obliged by their very nature to collect every year; for example the Victoria and Albert Museum and the Science Museum, which have to keep abreast of contemporary design and technology in order to fulfil their functions.

I am not persuaded that the restoration of designated acquisition funds would help. It could have the advantage of demonstrating government support for acquisitions, but it would also be likely to lead to continuous criticism about the inadequacy of the grants, which was a constant complaint when the grants existed. I also believe that the trustees and managers of museums should be as free as possible to make their own decisions on their budgets. What they need, rather than separate acquisition grants, is adequate core funding in the first place.

4.6 The National Heritage Memorial Fund and the Heritage Lottery Fund have been a major help towards solving the problem of funding acquisitions, and significant help has come from the private and very effective National Art Collections Fund. There are also modest acquisition funds designed to help regional museums, libraries and archives and administered by Resource and the Victoria and Albert Museum (see Annex D). Annex J sets out the record of the purchases that were the subject of export deferrals and were bought by British museums in the seven years to 2001–02, showing the major sources of finance. This shows what has been achieved with the help of the Heritage Lottery Fund, the National Heritage Memorial Fund and the National Art Collections Fund, without whose collective help practically no acquisitions would have happened. It is impressive, but it does not show the works that were not bought.

4.7 Contemporary art poses a particular problem. Museums should be accumulating good examples of contemporary art. It was a tragic missed opportunity for this country that no museums were active buyers of the works of Matisse and Picasso when they were available at prices far below today’s prices. Very few museums have been able to invest in the works of the most admired contemporary British painters today, including Auerbach, Freud and Hockney. But this is not just a matter of museum funds. It is also to do with the uncertainty of backing particular living artists before it is widely recognised that they are the most significant artists of their day. It is not for nothing that the Heritage Lottery Fund will not normally help with a work of art less than ten years old, a reasonable restriction for a public fund but one that underlines the problems faced by museums that want to enrich their contemporary collections. The Contemporary Art Society, a private charity founded in 1910, has done sterling work in buying contemporary works and presenting them to museums, and the National Art Collections Fund has markedly increased its support for contemporary art in the last 20 years. But they cannot be expected to provide all the necessary funds.

4.8 It is not my task to make proposals on changes to core funding, and during the short time at my disposal I would not have been able to do the necessary research to enable me to do so. I do however have some views and recommendations which, if adopted, may help to bolster museums' confidence and their ability to make acquisitions.

4.9 In the case of the national museums, which are funded directly by the Department for Culture, Media and Sport, there has never, as far as I am aware, been a rigorous assessment of the necessary core funding to enable each of them to carry out their core duties. Grants have tended to be assessed on the basis of past grants. The Department also reviews museums' costs on a case by case basis and in 2002 raised the grant to the National Portrait Gallery following such a review. But to judge from the comments made to me, there is a case for a study of the true core funding that each of the national museums needs in order to carry out its full core function. It could show that in some cases there is room for cost savings, especially if there was scope for sharing costs, but it is likely to show that in most cases there is a shortfall in funding that needs to be made good. I doubt if the cost to the Exchequer would be significant.

4.10 Some of this ground, but only some, is likely to be covered in the Government's current 'Efficiency Review', and the Department for Culture, Media and Sport has a Public Service Agreement target to improve the value for money of its sponsored bodies, including the national museums and galleries.

4.11 In the case of regional museums, there has recently been an extensive report under the *aegis* of Resource (*Renaissance in the Regions*, 2002). The report's comments on the inadequate and unreliable funding of the major regional museums and galleries were, to say the least, disturbing. Visits to some museums show the inadequacy all too clearly. The report argued for extra funding through nine regional 'hubs', based on leading museums in each region and including in their cluster university and independent museums, which would invest in the improvement of services and include the sharing of costs. It is not possible for me to go over all the ground covered by this report, but:

- its arguments for extra funding are compelling;
- the proposal to base collaborative improvements in each of the nine regions on a lead 'hub' museum makes eminent sense; and
- I have a concern that the thrust of the report is towards education and access (both laudable aims) without paying sufficient attention to the urgent need to improve the standards of curatorial care of the collections or to the need for regular acquisitions.

There is little point in encouraging education and access if the collections are not well enough looked after or displayed. Collections management should be the first priority. As for acquisitions, no museum will achieve anything in the market-place unless it has a skilled and dynamic team of well-trained curators. In the words of one respondent, curators in the regions should be the equals of curators in the national museums and have opportunities for training and for the structure of their careers that match the best. The programme proposed in *Renaissance in the Regions* has only been partially adopted, the finance provided so far being only sufficient to fund the programmes of three of the 'hubs'.

Recommendation 1

I recommend that the programme proposed in *Renaissance in the Regions* should be fully implemented as soon as possible, and that Resource and the Department for Culture, Media and Sport should, in implementing it, give a high priority to collections management, curatorial staffing needs and curatorial standards.

4.12 The lack of emphasis on collections management and curatorial standards has been a frequent theme of the responses to our consultation. It does not seem to be recognised in the Department for Culture, Media and Sport's strategic plans that the management of a collection should be the core responsibility of a museum. It is significant that the Department's *Strategic Framework* makes no mention of the quality and care of the assets in the care of its sponsored bodies. I find it a startling omission.

Recommendation 2

I recommend that the Treasury, the Department for Culture, Media and Sport, local authorities, the Arts and Humanities Research Board and other funding bodies should make it plain in any directions that they attach to their funding for museums, galleries and libraries that high standards of collections management are a key priority, and that acquisitions (by those allowed by their constitutions to make them) form part of collections management.

4.13 Several respondents have raised the advantages of shared acquisitions. There is scope for discussion between the museums in a locality on acquisition policy and priorities, and scope for sharing acquisitions and the display of objects acquired between museums. These seem to me to be sensible ideas. I return to acquisitions shared by national and regional museums later (see 'Accessibility').

Recommendation 3

I recommend that Resource should encourage regional museums to share plans for acquisitions and the cost of acquisitions with a view to displaying them in more than one museum. This should not wait for the implementation of the programme proposed by *Renaissance in the Regions*.

4.14 Some regional museums have expressed concerns about the responsibility for curating an object accepted in lieu of inheritance tax and kept *in situ* in the original house (see Annex I), even though the acquisition has cost them nothing, because they do not have the funds to deal with the extra expense. *In situ* arrangements are beneficial to the visiting public, especially in the regions. They also benefit the museums, because they give curators privileged access to historic house collections, add a new dimension to their own collections, and provide opportunities for educational programmes. It is unfortunate that some museums are reluctant to assume responsibility for objects accepted under the *in situ* arrangements. The costs incurred should be part of the core costs of the museum and adequately funded. Respondents have also commented that a regional museum administering an object *in situ* bears a contingent risk of expense on conservation if and when the object ceases, for one reason or another, to be shown *in situ* and returns to the museum. They have suggested that this is an expense against which they should be indemnified.

Recommendation 4

I recommend that the funding bodies should recognise the costs of administering *in situ* arrangements in their core funding grants.

Recommendation 5

I recommend that the Government should indemnify regional museums against the costs of conservation of *in situ* objects in the event of them ceasing to be shown *in situ* and returning to the museums.

4.15 It seems odd, and respondents have commented on it, that local authorities have no statutory duty to maintain the museums and galleries in their care. They have a statutory duty to maintain their libraries. The lack of a statutory duty for museums may have been a partial cause of some cases of neglect of collections and even of proposals to close museums. The confidence of museum curators in their funding arrangements is an important contributor to effective collections management. It may be difficult to find an early legislative opportunity to give local authorities a statutory duty towards their museums and collections. Meanwhile they could include this duty of care within their local Public Service Agreements.

Recommendation 6

I recommend that consideration should be given to the amendment of the appropriate legislation to ensure that local authorities have a statutory duty to maintain museums and galleries in their care, as they do for libraries. Meanwhile, local authorities should reflect the need to support and develop their museums in their local Public Service Agreements.

4.16 University museums that do not charge for entry have no means of reclaiming Value Added Tax (VAT) incurred on their expenditure because they have no income subject to VAT against which to offset it. The funds required to meet the resulting irrecoverable VAT liability are thus not available for their collections management or acquisitions. There have been some startling examples of museums incurring high charges to VAT on acquisitions, which their foreign competition would not have to pay. In the 2001 Finance Act the Government introduced a scheme to refund 'irrecoverable' VAT to the main national museums and galleries, in order to achieve the Government's aim of free entry. Museums run by local authorities are able to recover VAT under general refund provisions for local government. I have been told that because university museums are not run by local government and were not covered by the Government's original commitment to free access it has not been possible to achieve similar arrangements for university museums. But they are now a glaring anomaly, and those that do not charge for entry are impeccably following the policy set by Government for free entry to national museums. There has to be a solution to bring them into line with other museums.

Recommendation 7

I recommend that a means be found, by clearly identifying the museums concerned (either by virtue of their funding through the Arts and Humanities Research Board or by their holding designated collections), to enable university museums that do not charge for entry to recover VAT in line with the arrangements adopted for the main national museums and galleries.

4.17 Some museums financed by local authorities have set themselves up as charitable trusts or companies limited by guarantee. There are three advantages, it seems to me, of doing this. First, it can transform the leadership of a museum because experienced and well-connected trustees can extend the museum's contacts, bring management and strategic skills, and give guidance and advice to the director and staff. Second, it can release energy and enthusiasm, because the director and staff are no longer part of the local authority's hierarchy but answerable to the trustees. Third, it can improve money-raising prospects, because it is more likely that private and charitable donors will give to a charitable trust than to a local authority. I hope that other local authorities and museums, including university museums, will be inclined to study the examples set by Sheffield, York and the Bowes Museum and consider whether it could be advantageous for them to follow suit.

Recommendation 8

I recommend that Resource should make available to other local authorities and museums a summary of the means by which museum trusts were set up, their reasons for doing it, their agreements for continued local authority or other public funding, and their experience as independent entities since they were set up.

NATIONAL HERITAGE MEMORIAL FUND

4.18 The National Heritage Memorial Fund is the fund of last resort for securing items of outstanding importance to the national heritage and under threat of loss to the nation. It is a key source of emergency funding for historic buildings, land, works of fine and decorative art, museum collections, archives, manuscripts and items of industrial, transport and technological history. It receives its funding from the Government. Its origins and record in relation to the acquisition of works of art and other objects are set out in Annex F. Since its foundation in 1980 it has performed a major role in securing objects for the nation that would or might otherwise have gone overseas. Annex J lists its contributions to objects bought by museums after the deferral of an export licence. It is an important potential source of funds for objects that come unpredictably on to the market. Its trustees can take decisions at short notice.

4.19 The Memorial Fund is the ideal vehicle for securing exceptional and expensive objects for the nation. The Heritage Lottery Fund is the biggest potential provider of funds (see below), but it cannot act as quickly or as flexibly as the National Heritage Memorial Fund because, unlike the Memorial Fund, it has social priorities which have to be met.

4.20 The Memorial Fund was originally given the proceeds of the National Land Fund and, from that point onwards, received grant in aid. In 1993 the annual grant was £12 million but this was cut in 1994 and cut further in the three succeeding years. In 1998 it was reduced to £2 million. The reductions were inexplicable at the time. If the government of the day made the cuts because they thought that the new Heritage Lottery Fund should take up the slack they were undermining the purpose of the Memorial Fund, which was to record in gratitude the memory of those who have died for their country. The grant stands now at £5 million. This level of funding is not enough to meet the needs that will arise, many of them at short notice. That is highly undesirable. It negates the original purpose of the fund, and cannot be in the nation's interest.

4.21 The Memorial Fund needs to be able to build a substantial reserve to enable it to help towards sudden large purchases, the most recent of which was the nineteenth-century house Tyntesfield near Bristol, which came on to the market in 2002 complete with its contents and could not have been bought by the National Trust for the benefit of the public without National Heritage Memorial Fund money.

4.22 It is the universal view of respondents that the funds available to the National Heritage Memorial Fund should be restored and increased.

4.23 One solution put to me is that the National Heritage Memorial Fund should be topped up with funds from the Heritage Lottery Fund. There are practical, and in my view insurmountable, objections to this. These are set out in Annex F. In summary, it would breach the principle of 'additionality', because it would be substituting lottery money for government expenditure, it would infringe the terms of the National Lottery Act, and it would be impossible for the flexible Memorial Fund to meet the tight criteria demanded by the Heritage Lottery Fund. The Memorial Fund furthermore was set up by the Government with taxpayers' money to be a memorial to those who died for their country. Funds from the Lottery would not be a proper way of discharging our collective responsibility to their memory.

4.24 Another solution recommended by some respondents is that the Government should allocate funds from the so-called '*bona vacantia*' funds, namely the funds from intestate estates that have accrued to the Exchequer. I am not convinced by this suggestion for three reasons. First, there could be any number of justifiable charitable calls on these funds. Second, the amount available would vary greatly from year to year. Third, I believe that the Government has a serious obligation to fund the Memorial Fund adequately from general taxpayers' funds.

4.25 Several respondents have said that the National Heritage Memorial Fund has lost much of its identity since the Trustees assumed responsibility for the Heritage Lottery Fund in 1993. The sheer size of the latter swamps the Memorial Fund and tends to divert attention from its excellent work. Some respondents regret the joint administration of the two funds and believe they should be separately established. It is not clear to me that separating the direction and administration of the two Funds would improve the flow of support into works of art and other objects, but it may be so. The counter-argument is that the two funds can work in tandem, to the great advantage of museums and galleries. They have distinct and complementary roles. Thus the National Heritage Memorial Fund can help to fund an acquisition and the Heritage Lottery Fund can help to improve the museum or gallery's services, such as environmental controls or educational services, which would enhance the value of the acquisition to the local community.

4.26 An increase in the amount available to the National Heritage Memorial Fund would ensure that more outstanding objects, some of them appearing on the market unexpectedly and at short notice, would be bought for public collections without the sense of crisis that so often accompanies such purchases. It would be positive in another way. It would enable its trustees to re-establish the public identity and esteem of the Fund.

Recommendation 9

I recommend that the grant to the National Heritage Memorial Fund should be increased to at least £20 million per annum.

Recommendation 10

I recommend that the Trustees of the National Heritage Memorial Fund take whatever steps they deem effective to re-establish the public identity of the Fund.

HERITAGE LOTTERY FUND

4.27 The Heritage Lottery Fund has a wide remit across the whole heritage. It has been the major source of external money for the renewal and development of museums and galleries, the scale of which in recent years has been extraordinary. It plays a big role in acquisitions of works of art, objects of cultural distinction, archives etc. Its origin and record in relation to the acquisition of works of art and other objects are summarised in Annex E. Annex J lists its contributions to objects bought by museums after the deferral of an export licence. The fund is administered by the Trustees of the National Heritage Memorial Fund, who have coped admirably with the demands put upon them.

4.28 All of the Fund's grants under its general awards programmes must meet the priorities of conserving and enhancing our diverse heritage, or encourage more people to be involved in their heritage, or both, and all grants must ensure that everyone can learn about, have access to and enjoy their heritage. The Fund's aims are thus very different from the aims of the National Heritage Memorial Fund.

4.29 There is a strong impression among respondents that the Heritage Lottery Fund has become less interested in acquisitions by museums and galleries, and particularly in works of art. This is not borne out by the record.

4.30 Worries about the future persist. They arise from (1) the decline in the proceeds of the National Lottery; (2) the reduction of the funds available to the Heritage Lottery Fund as a result of the Government's decision to set up other Lottery distributors, notably the New Opportunities Fund in 1998 which reduced the funds available to the Heritage Lottery Fund from one-fifth to one-sixth of all lottery revenues; (3) a fear that if a museum applies for a grant towards an acquisition it might prejudice its chances of receiving a grant towards a capital project; (4) a fear that the Government will divert yet more Lottery money towards the financing of the Olympic Games; (5) the proposal in the Government's recent Lottery Review to share interest on outstanding Lottery balances with other Lottery distributors in the same proportion as income is shared (this would reduce the income of the Heritage Lottery Fund, which has relatively large capital balances owing to the long-term nature of most of its commitments); and (6) the concentration in directions given to the Trustees of the Heritage Lottery Fund by the Department for Culture, Media and Sport on social objectives. The threat to deplete the Heritage Lottery Fund's interest income appears to be real, and could, if implemented, quite seriously dent the Fund's ability to provide future funding for acquisitions.

4.31 Some respondents have commented on the complex nature of the Fund's application forms and processes and the time taken to reach a decision on an application – usually from three to six months. These constraints are particularly pertinent if an object comes up at auction. The museum does not usually have much warning of an auction, and many desirable objects appear in the sale-rooms. Largely because of the criteria by which it has to judge applications, the Heritage Lottery Fund finds it difficult to take decisions on grants quickly enough to meet the short time-scales presented by auctions. It has, however, tried to resolve this issue, and has devised a fast-track process. It is working on simplifying its procedures and application forms and on improving its expertise in the arts, which some respondents say needs to be strengthened.

4.32 Respondents have expressed concern at the Heritage Lottery Fund’s withdrawal of a grant towards an object offered at auction if the buying museum exceeds the price agreed with the Fund during the process of the grant application. The estimated price of an object at auction frequently rises as the auction approaches, and it is well-nigh impossible to predict the final price or, in the case of outstanding and rare objects, to say what a fair price is. Respondents have said that the Fund’s policy has led directly to the loss abroad of important objects, including an important pair of English silver tankards from Belton House and a portrait by Beechey of the eighteenth-century engineer James Watt. The policy arises from the Fund’s wish to ensure value for money and to refrain from inflating market prices. These are worthwhile aims, but estimates of the prices of outstanding and rare objects before an auction cannot be wholly relied on. Respondents have said that the policy should be interpreted with more flexibility.

4.33 The Heritage Lottery Fund is a considerable force for good in the field of acquisitions. Its role has not only been the direct funding of purchases. It has also played a big role in improving the performance of museums and other public collections. Its work is critical to the restoration of regional museums. The Fund cannot undertake core funding, but can and does fund once-for-all improvements to regional museums that enable them to take advantage of acquisition and lending opportunities, for example by helping them to meet environmental and security standards. It is also a direct funder of education, and exhibitions including touring exhibitions in partnership with other museums. It can insist as a condition of a purchase grant that an object acquired by say a national museum should be exhibited now and then in the regions, and can encourage museums to share acquisitions. It has done both of these.

Recommendation 11

I recommend that the Trustees of the Heritage Lottery Fund should consider how they can further speed up the process of agreeing grants towards objects coming up at auction.

Recommendation 12

I recommend that the Trustees of the Heritage Lottery Fund should re-examine the practice of cancelling a grant if a museum believes that it will have to pay more than the originally agreed price and puts up a good case for agreeing a revised price immediately before the auction.

Recommendation 13

I recommend that the Department for Culture, Media and Sport should make it clear that it has no intention, following the Lottery Review, of removing interest on the Heritage Lottery Fund’s outstanding balances for the benefit of other Lottery distributors.

OTHER ACQUISITION FUNDS

4.34 There are two publicly financed acquisition funds that help regional museums in England and Wales. These are the fund for objects relating to the arts, culture, history and literature, administered by the Victoria and Albert Museum on behalf of Resource, and the PRISM fund for a similar range of objects relating to the history of science and technology, administered by Resource itself. These funds are described in Annex D. They are modest in size but have been helpful, particularly because funds available from Local Authorities for acquisitions have been exiguous. They demand a degree of matched local funding. The amount available to the V&A fund was cut from £1.5 million to £1 million in 1995-1996. The PRISM fund receives £250,000, which has been static since 1992. The funds are inadequate to meet the demands that are placed upon them. Since they play a useful role in helping modest acquisitions across the regions, they should be restored in real terms.

Recommendation 14

I recommend that the V&A fund for helping non-national museums with acquisitions should have its funding restored in real terms to its previous level of £1.5million in 1994-1995, and that the PRISM fund should have its funding adjusted for inflation since 1992.

5

What can be done? Private owners and donors

5.1 I come now to the kernel of this report. Since there are always pressures on public finances we need to consider measures to encourage private support. It is often said that we lag far behind the US in the encouragement of private giving to public causes. It is true. We also lag behind the US in the relative amounts given to the arts. It is perhaps no consolation that we in turn are ahead of the custom in many other countries. There has been an encouraging trend in recent years towards private donations, helped by tax concessions such as Gift Aid and the deduction from personal taxable income of the gross value of gifts of land, buildings and shares to charities. Further encouragement is likely to lead to further advances towards a culture of personal giving.

5.2 I also deal in this section with measures to encourage owners to keep their present collections, since, if we can reduce the risk of sales, fewer outstanding objects will be lost to the nation.

5.3 There is a long history of tax inducements to reduce the risk of sales of important objects by private owners. Conditional exemption from inheritance tax goes back more than a hundred years. Acceptance of objects in lieu of inheritance tax was introduced more than ninety years ago. Governmental concern that we might lose treasures from this country because of the tax system is not new.

5.4 A large number of respondents have endorsed the need for tax inducements to stimulate gifts of objects and the transfer of objects to museums.

5.5 I have looked at the various devices available for transferring objects into public ownership and the incentives for doing so, and at the devices for deferring potential sales by private owners. I have also examined various forms of tax inducement, including inducements in use in other countries (notably Australia, Canada, France, Ireland and the US), to encourage private owners to give objects to museums and to sell them to museums rather than on the open market. Tax inducements are the obvious means of encouraging philanthropy.

5.6 Before I come on to tax inducements, however, I shall make some recommendations on the administration of the several programmes that exist to deter sales, to control exports, and to steer important objects to public collections. I do this because I have found a great deal of confusion and ignorance about the options available among owners and within museums. There are also inconsistencies between the various programmes themselves, which add to the confusion. Above all, there is a need for a skilled and experienced source of advice both to owners and to museums. At present they have to go to a number of different sources for advice on keeping, giving and selling, or, in the case of museums, on generating gifts and sales. If the administration of the programmes discussed in this report could be brought together, it would reduce confusion, improve knowledge and provide an impartial and free source of authoritative advice and guidance. This would I believe be of huge public benefit, because it would increase the likelihood of retaining works in this country.

ADVICE, GUIDANCE AND EXECUTIVE RESPONSIBILITY

5.7 Most owners of pre-eminent objects who are contemplating a sale go for advice to auctioneers, dealers or art consultants. The advice does not necessarily steer the objects away from museums and galleries in this country. The sale-rooms in particular have a record of negotiating a number of notable museum acquisitions. But they and other consultants and dealers have a financial interest in maximising the proceeds and therefore must be tempted at times (quite legitimately) by the prospect of high-profile sales on the open market.

5.8 It would be highly desirable, in the interests of national and regional public collections, if owners had a means of discussing the implications of the sale of pre-eminent objects, including the potential tax implications of alternative courses, informally with experts without a financial interest in the potential deal. Some owners have mentioned this because they still have a reluctance to be seen to be selling works of national importance on the open market.

5.9 The National Art Collections Fund provides an efficient service to owners who want to give or bequeath works of art to public collections, and is well qualified to recommend appropriate public collections to owners who do not themselves have a preference. It also handles the distribution of works of art on behalf of executors. It provides this admirable service free.

5.10 An informal committee, 'Treasures for Our Future', under the chairmanship of Sir Martin Jacomb, is discussing with the Church Commissioners the likely sale of a series of twelve important pictures by the Spanish artist Zurbaran. The intention is to place the pictures in a public collection. The committee intends to extend this service to any other owners who wish to consult it. It too will provide its advisory services free, and it will be serviced by the Acceptance in Lieu staff in Resource. I welcome the formation of this committee, which was announced under the aegis of the Chief Secretary to the Treasury in October 2003.

5.11 Other bodies could provide a similar service to owners contemplating sales. The Trustees of the National Heritage Memorial Fund for example are well placed to act as a broker between owners and museums. So too, perhaps supremely, is the staff of the Acceptance in Lieu Panel in Resource.

5.12 I believe it would encourage more owners to consider public collections as a destination for their objects if Resource was able to offer them a free advice and guidance service.

5.13 There could be big advantages in pooling the work of the various programmes that affect both museums and private owners. At present they are split between Resource, the Department for Culture, Media and Sport (which I believe should be a strategic rather than an executive body), and the Inland Revenue, which seems an inappropriate body to handle sensitive negotiations that affect the well-being of works of art. The programmes that I have in mind are (1) Acceptance in Lieu (now in Resource), as enlarged by my recommendations below (see pp.29-31 below); (2) the evaluation of chattels of pre-eminent importance in negotiations for conditional exemption (now in Resource); (3) the negotiations for conditional exemption and subsequent surveillance (now done by the Inland Revenue); (4) the negotiations, with the relevant museums, of *in situ* arrangements (now done by the Department for Culture, Media and Sport) (see p.30 below); (5) the work of the Export Licensing Unit and the Export Licence Review system (now done by the Department for Culture, Media and Sport (see pp.37-38 below); (6) the Government Indemnity Scheme, which makes it possible for museums to borrow works for exhibition without the cost of commercial insurance (now done by the Department for Culture, Media and Sport, and Resource); and (7) the administration of the scheme that I propose below for tax inducements on gifts of pre-eminent objects (see pp.33-34 below).

5.14 Resource seems to me to be the logical agency to do the work involved in most of these programmes. Many private collections, namely those on regular view to the public, are closely akin to museums. The distinction between registered museums and publicly displayed privately owned collections is not one that leaps to the mind of the visitor.

5.15 The combination of all these roles in a single unit would create a powerfully experienced body capable of giving trustworthy and disinterested advice. It would lead to greater consistency in the application of the various concessions, especially in the application of discretionary powers, and make life much less confusing for owners. It would put Resource into a much stronger position to advise museums on the ways of seeking, achieving and handling acquisitions.

5.16 It will of course be for Resource to decide how it would organise these various programmes and to find an appropriate name for the combined roles, a name that would attract owners to come and consult. It will be for the Department for Culture, Media and Sport, in conjunction with the Inland Revenue, to ensure that Resource is properly funded to carry out the work.

Recommendation 15

I recommend that the administration of the Export Licensing Unit and the Export Licence Review system (see pp.37-38), of the evaluation of chattels in arrangements for conditional exemption, of negotiations for conditional exemption and subsequent surveillance, of the Acceptance in Lieu system, of *in situ* arrangements under the Acceptance in Lieu system, of the Government Indemnity Scheme and of any system of gifts in kind as recommended in this review (see Recommendations 27-30) should be undertaken by Resource.

Recommendation 16

I recommend that, if my recommendations to move the administration of various programmes within the ambit of Resource are adopted, the Department for Culture, Media and Sport should, in conjunction with the Inland Revenue, ensure that it is properly funded.

Recommendation 17

I recommend that whatever internal arrangements Resource makes for undertaking the work, it should ensure that it appoints panels of experts, on the lines of the Acceptance in Lieu Panel and the Reviewing Committee on the Export of Works of Art, for relevant functions, and that it uses the services of a wide range of expert advisers.

Recommendation 18

I recommend that Resource should ensure that the advisers to each of the Panels include qualified representatives from across the UK.

Recommendation 19

I recommend that Resource should carry out a periodic audit of all objects subject to conditional exemption, in order to satisfy the Inland Revenue that the objects are in proper condition and properly accessible in accordance with agreed conditions, and should carry out similar audits of objects shown *in situ*.

Recommendation 19

I recommend that Resource should carry out a periodic audit of all objects subject to conditional exemption, in order to satisfy the Inland Revenue that the objects are in proper condition and properly accessible in accordance with agreed conditions, and should carry out similar audits of objects shown *in situ*.

Recommendation 20

I recommend that in addition to its executive work Resource should aim to be a major source of advice and guidance to owners of pre-eminent objects and to museums and galleries and other Schedule 3 bodies.

SCHEMES FOR RETAINING OBJECTS IN THIS COUNTRY, AND FOR ENCOURAGING GIFTS AND SALES TO PUBLIC COLLECTIONS

5.17 I shall begin with the two success stories that form the basis of historical efforts to prevent important private collections from being broken up, especially those that are open to the public, and to steer important objects to museums in this country. These are conditional exemption from inheritance tax and the arrangements for accepting objects in lieu of inheritance tax. I shall then comment on sales to museums by private treaty and make recommendations for encouraging private gifts to museums.

CONDITIONAL EXEMPTION

5.18 As I have said earlier, the conditional exemption from inheritance tax of certain pre-eminent objects on the death of the owner (see Annex G) has been a major reason, probably the most important reason, for the retention of many pre-eminent objects in this country. It will continue to perform this function.

5.19 Many people see conditional exemption as a means of allowing the rich to have their cake and eat it. They continue to enjoy the objects and escape the tax. But it is tax deferred, not tax escaped. And the effects of the exemption in reducing the risks of sale of pre-eminent objects have been wholly beneficial to communities in this country. There are many great collections open to the public that would have been denuded if objects in them had had to be sold to pay inheritance taxes. This is particularly true in the regions.

5.20 Respondents have recognised the value of conditional exemption. Their main criticism has centred on the provisions of the 1998 Finance Act, which stiffened the criteria for exemption from 'museum quality' to 'pre-eminence' and laid down a requirement to make objects accessible to the visiting public without prior appointment. The period of access was not laid down in the Act, but it had to be 'reasonable'. In practice the Inland Revenue has interpreted this as meaning up to 100 days a year. Respondents have also criticised the Inland Revenue, who they believe are not the most suitable people to assess works of art or the suitability of the houses for open access. We have not received any comments on the parallel work of English Heritage in negotiating arrangements for objects associated with a building of outstanding historical or architectural interest.

5.21 The effect of raising the criteria for exemption is in some ways beneficial. It will mean that future exemptions are of pre-eminent objects or of pre-eminent collections. That seems a desirable way of applying the tax benefit, although it might increase the risk of sales from an estate to pay for inheritance tax, since by definition more objects will not be exempted. I hope that my recommendation below on making it possible for owners to plan their estates better through lifetime Acceptance in Lieu arrangements will mitigate that risk.

5.22 It was however a mistake to apply the new criteria to objects already exempted under the previous standard of 'museum quality.' Inheritance tax will be payable on the next death on those presently exempt objects (of 'museum quality') which are deemed not to be pre-eminent. The most likely way of financing this tax will be to sell pre-eminent objects – or at least there is a serious risk of this. This point has been made by a number of owners and advisers during the period of consultation. My recommendation below deals with the problem.

5.23 There are many complaints about the Inland Revenue's interpretation of the 'reasonable access' provisions of the 1998 Finance Act. On the one hand owners who agreed to arrangements for public access under previous legislation believe that the rules should not have been changed retrospectively and tell tales of tortuous negotiations with the Inland Revenue to modify the earlier agreements. On the other hand some owners threaten to sell their exempted objects because their houses are not equipped or suitable for public access and they are worried about the security risk, let alone the costs of the arrangements for opening. Respondents have pointed out that recently applications for conditional exemption have diminished. They attribute this to (1) fears of the effect of the new access provisions, and (2) objections to having to sign up to future changes in the legislation, as if signing a blank cheque. In their view the provisions of the 1998 Act have defeated the original purpose of the scheme.

5.24 This is a tricky issue. The owner has received a benefit of tax deferral and cannot expect to give nothing in return. But it seems to me to be unreasonable to try to impose the same conditions of access to all conditionally exempt objects, irrespective of their condition or nature, the circumstances of the property in which they are housed, the owner's ability to provide the service, or the risks to which the owner would be exposed. English Heritage, which dispenses grants to private properties all over the country, imposes no such straitjacket. For some properties, the access arrangements recognise 'the vulnerability of the building' and opening is by appointment on an agreed number of days each year. If the aim is to reduce the risk of sales of conditionally exempt objects, I believe that the rules on access should revert to something closer to English Heritage's requirements. This would mean (1) an accepted norm of so many days a year of open access (English Heritage's norm is a minimum of 28 days a year), but (2) returning to individual arrangements for access suitable to the nature and condition of the conditionally exempt object and to its location, and (3) transferring the responsibility for judging the merits of each case to an office that has considerable experience of the problems of houses and of works of art and no perceived interest in maximising tax revenue. As I have argued above, Resource is the obvious choice. The staff of the Acceptance in Lieu Panel already carries out the work of evaluating pre-eminent chattels under the conditional exemption scheme. Resource could be the custodian of the records of objects that are conditionally exempt on behalf of the Inland Revenue, and could bring firm but sympathetic administration to the scheme.

5.25 Owners can lend conditionally exempt objects to museums and galleries for periods equivalent to the required number of days of access each year, or lend them for longer periods at less frequent intervals. There have been difficulties in finding museums willing to take on short-term loans, but some museums have expressed a willingness to provide exhibition space if a solution can be found to the cost of transport.

5.26 A number of respondents have made the point that it is strange that owners have no obligation to offer conditionally exempt objects to public collections if they ever sell them. There are attractions in this idea. On the other hand it could further deter owners from applying for conditional exemption. On balance I am not inclined to recommend it. When it was last recommended in 1981 the Government instead introduced an obligation on owners to give the then Museums and Galleries Commission (now Resource) three months' notice of their intention to sell a conditionally exempt object. The wording of this obligation was softly expressed ('Owners will be expected...') and sanctions for not complying were unclear. The obligation was considered to be unenforceable. It fell away with the 1998 Finance Act, so that now the obligation only covers objects exempted between September 1982 and July 1998. Early notice of sale offers a breathing space during which a fair value can be agreed and potential museum funding for a private treaty sale can be harnessed. It would therefore be helpful if such an obligation was re-introduced. It is difficult to think of a sanction for failure to notify an intended sale, but the Reviewing Committee on the Export of Works of Art could let it be known that, if the requested notice has not been given, it would normally recommend extending the initial period of deferral in the event of an application for an export licence by three months, i.e. the period of notice that should have been given prior to the sale.

5.27 There is a particular concern about archives. Many archives are still in private hands, and are not at present conditionally exempt because it is only recently that their value has risen. Some archives are of enormous historical importance. Many are deposited in local record offices. The advantages of conditional exemption as a means of keeping them intact and in this country should be publicised to owners and their advisers (see 'Publicity').

Recommendation 21

I recommend that the 1998 Finance Act should be amended to permit objects that are already conditionally exempt to remain exempt when they are inherited.

Recommendation 22

I recommend that all negotiations for conditionally exempt objects should be transferred to Resource, other than those handled by English Heritage.

Recommendation 23

I recommend that the interpretation of the 1998 Finance Act's requirement for 'reasonable access' should permit a more flexible arrangement for public access to conditionally exempt objects. In assessing 'reasonable access', the condition and nature of the object and, where applicable, the existing opening arrangements of the house, should be taken into account. Long-term loans to museums should be encouraged as a way of discharging access responsibilities.

Recommendation 24

I recommend that owners of future conditionally exempt objects should be obliged to give Resource three months notice of any intention to sell a conditionally exempt object and that the Reviewing Committee on the Export of Works of Art should let it be known that, in cases where the notification has not been given, it will normally recommend extending the initial period of deferral in the event of an application for an export licence by three months.

Recommendation 25

I recommend that Resource should seek ways of staging and financing temporary exhibitions of conditionally exempt objects in order to help owners meet the requirements of public access.

ACCEPTANCE OF OBJECTS IN LIEU OF TAXES: EXTENDING THE CONCESSION TO ALL FORMS OF TAX

5.28 The Acceptance in Lieu arrangements (see Annex I) have kept pre-eminent objects in this country and have made them accessible to large numbers of visitors. The *in situ* arrangements, whereby objects can remain in their houses of origin although owned by an administering museum, have made objects available to visitors in the regions. The arrangements are good value, both for the visiting public and for the owning museum, and should be retained.

5.29 Some respondents have argued for extending the right to submit an outstanding object for Acceptance in Lieu not just of inheritance tax liabilities but of all types of tax liability during an owner's lifetime. This proposal has many attractions. It would almost certainly lead to the offer of many outstanding objects to national and regional collections, which is the main aim of this review. There is one principal objection to it. It does little to encourage philanthropy. The gift would effectively cost the giver nothing. There would also be considerable knock-on effects, because it would be far and away the most generous tax concession to any form of charity. Other charities would quickly claim similar treatment. These objections make it difficult for me to recommend it.

5.30 There is a strong case for extending the provisions of Acceptance in Lieu to other tax liabilities of a deceased estate, including capital gains tax and income tax. There seems little logic in confining the provisions only to inheritance tax. Extending it to other taxes due could be beneficial to museums in that it might reduce the number of 'hybrid' deals, i.e. those deals in which the museum has to provide funds because the value of the object exceeds the liability to inheritance tax (see Annex I). Extending Acceptance in Lieu is likely to attract the executors and beneficiaries of people who own pre-eminent objects, the chief target of this review.

5.31 Since objects cannot be subdivided executors should be permitted to carry forward into future tax years any excess tax liability not written off in the year of acceptance. This provision will only suit those estates that take some time to wind up.

5.32 This measure to extend Acceptance in Lieu has other advantages. It is simple to understand. It requires no new administration because the administration already exists in Resource. It builds on existing practice and existing respected valuation procedures. This is an important point, because tax breaks in other countries have led to abuses based on less robust valuation procedures.

Recommendation 26

I recommend that the Acceptance in Lieu provisions should be extended to all types of tax liabilities due on a deceased estate, however long it takes to wind the estate up.

ACCEPTANCE OF OBJECTS IN LIEU OF TAXES: OTHER CHANGES TO ACCEPTANCE IN LIEU ARRANGEMENTS

5.33 Several respondents have suggested increasing the *douceur* on Acceptance in Lieu deals, largely on the grounds that the lower rate of inheritance tax (now 40 per cent, reduced from a maximum of 60 per cent in 1988) makes the *douceur* less of an inducement to forego the temptations of the saleroom. But 25 per cent of the inheritance tax and capital gains tax is still an inducement, and no-one has been able to assure me that, say, doubling it would have a substantial effect on the number of offers. The value of the arrangement is the settling of tax liabilities without dispensing cash. Increasing the *douceur* would also have the effect, in the case of 'hybrid' deals (in which, because the value of the offered object exceeds the tax liability, the museum has to finance part of the cost, see Annex I), of increasing the cost to the museum (see Recommendation 30).

5.34 There is a further change to the Acceptance in Lieu system that would, I believe, reduce the risk of sales of outstanding objects after the owner's death. I have been told that some owners are anxious to settle their affairs before they die, and that the destination of their chattels, especially works of art, concerns them deeply. As things are at present there is never a guarantee, unless it is a condition of the owner's will, that the best objects in a collection will not go to auction and be lost abroad. If an owner was able to settle potential inheritance tax liabilities before death, it would reduce the risk of sale. It would enable the owner to offer an object, at current value, in exchange for promised tax relief on his or her estate after death, during the owner's lifetime. The ownership of the object would be passed, often in accordance with the owner's wishes but in any case after negotiation with the owner, to a museum or gallery. The tax relief would be available to the executors of the owner's estate to surrender in lieu of inheritance tax and other taxes if my earlier recommendation is accepted.

5.35 I see no reason why, if the owning museum is agreeable, the object should not remain in the ex-owner's home or other premises if the circumstances are appropriate.

5.36 The negotiations for *in situ* arrangements need to be simplified. Many respondents have complained that they are unnecessarily complicated and that they take much too long to agree. There are particular criticisms of the involvement in the negotiating process of the Department for Culture, Media and Sport and the delays that this appears to cause. Some have said that the processes positively put them off making offers. There are I believe two reforms that would help. The first would be an acceptable model agreement that would serve as the norm in any *in situ* arrangement. The Department for Culture, Media and Sport's current model has not met with total acclamation either from owners or from lawyers representing them. There is no reason why a model agreement should not be suitable for most cases. Work should continue to establish a workable model agreement, while accepting in certain rare cases that there could be acceptable arguments for varying it.

5.37 The second reform concerns the processes of negotiation. I have argued above (see p.24) for the transfer of the negotiations and administration of *in situ* arrangements to Resource. Apart from the advantages argued earlier, this will have the advantage of simplifying negotiations. At present the Department for Culture, Media and Sport involves itself, and the services of Treasury Solicitors, in Acceptance in Lieu *in situ* negotiations on the grounds that the interests of taxpayers should be protected. Each agreement is signed off by the Secretary of State. The result of this is that each negotiation becomes a tripartite affair, with resultant legal arguments, correspondence, and delays. I cannot see why the Department needs to be involved at all. The agreement should be

between the museum that will own the object and the owner of the house. Checking that it conforms with the standard requirements of the model agreement could be the task of Resource as the administrator of the scheme. The involvement of the Secretary of State seems an unnecessary burden. Ministers do not sign off individual grants from English Heritage, which are also derived from taxpayers.

5.38 Respondents have drawn attention to a number of other procedural difficulties that act to deter owners from offering objects under the Acceptance in Lieu scheme. These comments centre on the role of the Inland Revenue in ruling how these arrangements should be applied. There has not been time during this review to grapple with all these detailed comments, some of which could be of great importance in helping to reduce the risk of sales of pre-eminent objects on the open market. The formation of a single body to handle the negotiations under all the schemes (see Recommendation 15) is likely to solve some of these difficulties and iron out some of the inconsistencies. It should be one of the first tasks of the proposed single body. The Department for Culture, Media and Sport's model agreement for *in situ* arrangements could be part of the same study.

Recommendation 27

I recommend that owners of pre-eminent objects should be able to submit them (with the benefit of the *douceur*) during their lifetimes for Acceptance in Lieu against tax on their future estate, the objects passing immediately to a Schedule 3 body or a registered museum and the tax relief being available to the owners' executors for the settlement of inheritance tax and other taxes due on the estate. The objects could remain with their ex-owners by agreement with the owning Schedule 3 body or museum.

Recommendation 28

I recommend that responsibility for the negotiation and agreement of all *in situ* arrangements should lie with the recipient museums under the supervision of Resource, that the agreements should be based on a model agreement, and that the agreements should be signed off by Resource.

Recommendation 29

I recommend that the arrangements for access to objects allocated *in situ* should be based on the same flexible arrangements recommended above for conditionally exempt objects (see Recommendation 23).

Recommendation 30

I recommend that there should be a study of the Inland Revenue's rules for offers in lieu and private treaty sales, and of the Department for Culture, Media and Sport's model agreement for *in situ* arrangements, with a view to achieving consistency and reducing the risks of sales of objects on the open market. The study should be carried out by Resource, in consultation with the Inland Revenue, the Department for Culture, Media and Sport and representatives of owners following the implementation of the recommendation to combine within Resource the various programmes discussed in the report (see Recommendation 15).

PRIVATE TREATY SALES

5.39 Sales of pre-eminent objects to museums and galleries by private treaty are encouraged by the application of the *douceur* (see Annex H). The buying museum gains the advantage of paying only the net price after the calculation of the seller's tax liability, plus 25 per cent of the buyer's tax liability. The seller gains the advantage of receiving a price that includes this uplift of 25 per cent of the tax liability. No tax is paid. There have been some substantial sales to museums by private treaty and respondents have praised the system

5.40 The value of the *douceur* has fallen in line with inheritance tax rates and the indexing and tapering of capital gains tax. Since we want to encourage sales to museums rather than sales on the open market, there is a case for increasing the *douceur* for these transactions so that the seller receives a higher price. But if the *douceur* were to be increased the buying museum would have to pay more. That defeats the case for raising the *douceur*.

5.41 Corporations own a quantity of historic material, some of which could well be judged to be of pre-eminent importance, not least archives. It would be logical to extend the *douceur* arrangements to corporations

5.42 There is one anomaly concerning the *douceur* that I find curious. The *douceur* was introduced as a means of tempting owners to sell to British museums and galleries by private treaty rather than sell on the open market. It seems wholly illogical that a seller should receive the benefit of the *douceur* when he has already agreed to sell elsewhere and then later, following an export deferral, sells to a British institution.

5.43 Respondents have mentioned that whereas the seller of an object to a private buyer can deduct the costs of sale from the gross price received when calculating liability to capital gains tax, this is not done for the notional capital gains tax calculation which forms part of the *douceur* arrangement. It is not clear why not. I can see that the costs may need to be scrutinised to ensure that they do not exceed those that would have been spent on a taxable sale, but this is not an insoluble problem. The present rule could put some owners off private treaty sales.

Recommendation 31

I recommend that the *douceur* arrangements should be extended to private treaty sales by corporations.

Recommendation 32

I recommend that the *douceur* should not be available to the owner of an export-deferred object who has not previously offered it for sale by private treaty to a Schedule 3 body, and that if the object is acquired after deferral the buying Schedule 3 body or registered museum should pay the net price after deducting the calculated tax liability.

Recommendation 33

I recommend that the costs incurred on the sale of a pre-eminent object to a Schedule 3 body or registered museum by private treaty should in principle be taken into account in operating the *douceur* arrangement for such sales, and that Resource should develop detailed rules for this as part of a study I have recommended they should undertake.

GIFTS OF PRE-EMINENT OBJECTS

5.44 The extension of the Acceptance in Lieu arrangements to other tax liabilities stands a good chance of tempting executors to offer objects to museums rather than risking the uncertainties of the market. It does not offer any inducement to people who might want to give or promise objects to museums during their lifetimes. There is evidence to suggest that there are potential donors who would make gifts if there were tax inducements. Some would like to keep the objects in their homes, subject to certain conditions, until death or some other forward date.

5.45 It is a matter of fine judgement (which in this case probably means guesswork) to determine the degree of inducement likely to lead to success. Potential donors are diverse. There are very rich people whose affairs are so organised that they probably do not pay UK tax. Their tax domicile is overseas. There are owners who possess fine houses, land and outstanding collections but tend to be short of cash. There are owners who own the collections but not the houses in which the collections are housed. There are less prosperous, but still well off, people with high salaries or substantial investments, some of whom collect objects. There are less well off people who might donate lesser sums but may be unlikely to have pre-eminent objects to give. Collectively these are all potential donors, but their tax circumstances are widely different. It is not easy to devise a single tax inducement that will attract them all, bearing in mind that any inducement needs to be simple and understandable.

5.46 Our studies, and discussions with respondents including potential donors, have led me to believe that the most likely inducement to attract donors would be the ability to offset the gross value of a gift against income before the assessment of tax. Any liability to capital gains tax and inheritance tax would be cancelled. In essence this proposal parallels the inducements offered to givers of stocks and shares to registered charities. But works of art are different from shares. They cannot be cut in pieces to enable the tax benefit to accrue in successive years. The scheme therefore should make provision for the value of the object to be set against taxable income in instalments, but always (for the sake of simplicity) on the basis of the value at the outset and not, as in the US on the basis of revaluations each year.

5.47 In theory the arrangement could also be applied to a gift of cash to a Schedule 3 body or registered museum for the explicit purpose of buying a particular object or objects. But a donor can already give cash under Gift Aid. The Gift Aid arrangements have greatly benefited museums and galleries. In the view of some respondents it is unfortunate that the taxpayer does not receive the full benefit of payments under gift-aid, because at the top rate of tax 22 per cent goes to the charity and only 18 per cent to the taxpayer. They believe that donors under Gift Aid would be more generous if they received the full benefit of the tax concession. But it would be impossible to introduce a special form of cash Gift Aid for one class of charitable giving without changing Gift Aid generally. That would be beyond the scope of this review and would need research into the attitudes of donors.

5.48 Meanwhile, under the scheme that I am proposing, it will be possible for donors, acting singly or together, to buy works of art that meet the criteria of pre-eminence, and donate them to museums and to receive the tax reliefs involved in making the gifts.

5.49 The scheme for gifts of objects should be modelled on the quality criteria and valuation arrangements for acceptance of objects in lieu of inheritance tax and administered by Resource.

Recommendation 34

I recommend that donors, acting singly or together, of pre-eminent objects to Schedule 3 bodies and registered museums should be able to offset the gross value of the gift against income before liability to income tax, eliminating any liability to inheritance tax and capital gains tax on disposal of the objects, and should be able to allocate the value in instalments against gross income over successive tax years.

Recommendation 35

I recommend that the system for these gifts should be based on the criteria of quality applied in the present Acceptance in Lieu system.

Recommendation 36

I recommend that the evaluation and eligibility of gifts under this scheme should be administered by Resource.

TRUSTS AND CORPORATIONS

5.50 Many great collections are held in trusts. I have wondered whether special arrangements should be considered for trusts, but I am against introducing complicated provisions. I have been assured by leading lawyers during the process of consultation that the proposals for extending Acceptance in Lieu to other taxes and for gifts will be effective for trusts, most of which have income and other tax liabilities, and that there is no advantage in considering something different for them.

5.51 Similar arguments apply to corporations. Tax relief should be available to corporations gifting pre-eminent objects or archives to the nation.

5.52 The risks to important business archives are particularly acute. Many companies conserve their archives professionally and make them available to public access on request. Other companies are more careless about these important historical records. There is a case for corporation tax relief for the care and conservation of business archives, or at least for the costs of providing access to them and of any educational service based on them.

Recommendation 37

I recommend that corporations should be permitted to offset the gross value of gifts of pre-eminent objects against income before liability to Corporation Tax.

Recommendation 38

I recommend that this scheme should be administered by Resource.

Recommendation 39

I recommend that the Inland Revenue should issue a statement of practice making it clear that companies can include the care and conservation of business archives, and the costs of providing access to them and of any educational service based on them in their costs before the calculation of corporation tax.

6

Accessibility

6.1 We asked respondents for comments on improving the accessibility of acquisitions, especially in the regions. It is an important subject, because there is no value for money in an acquisition unless it is shown to a wide range of visitors.

6.2 Discussions with respondents lead me to make the following observations:

- The ability of museums and galleries to make objects reasonably accessible to the visiting public depends on adequate funding. I have dealt with this subject earlier, and it is a theme of *Renaissance in the Regions*. I use the words ‘reasonably accessible’ because some works of art, such as drawings and watercolours, cannot be shown publicly all the time without risking their condition. In such cases they should be available for inspection on request. This again is a matter of resources.
- The remarks that I have made above about collections management and the care of the object are pertinent. If the funding bodies do not see the object and its care as the key priority there is a temptation not to conserve it or to find other excuses for not displaying it. Although I repeat myself, there is no point in giving priority to visitor numbers or education if the objects are in store or in poor condition or not properly interpreted.
- Some regional museums have voiced concerns about the costs of curating objects that remain *in situ*. This is not a universal concern, but it may be a pointer to the future unless funding is secure. *In situ* deals are important because they enhance the experience of public visitors. This too is a funding issue (see Recommendation 4).
- Some notable acquisitions in recent years – for example Canova’s *Three Graces*, Poussin’s *Finding of Moses*, Stanley Spencer’s *Zacharias and Elizabeth*, and most recently William Parry’s *Portrait of Omai*, *Sir Joseph Banks and Dr Daniel Solander* – have been shared by museums. This seems to me to be a wholly welcome development since, subject to ensuring that too much travel does not damage the work, it can be shared between metropolitan and regional audiences on a regular basis.
- National museums in London, for example the British Museum, the National Maritime Museum, the National Portrait Gallery, the Tate and the Victoria and Albert Museum, have taken welcome steps to arrange exhibitions outside London, to establish galleries outside London, to lend objects to regional museums, galleries and houses, and to promote exhibitions with regional museums.
- There have been welcome partnerships between museums in different parts of the country, encouraging joint exhibitions, joint scholarship and publications, and joint educational programmes – for example between the Bowes Museum and the Wallace Collection. The basis of *Renaissance in the Regions* is greater cooperation between local museums throughout the country. The National Maritime Museum has formed a coalition of maritime museums throughout the country with the idea of greater cooperation across many activities, including sharing collections.

- The Heritage Lottery Fund has made it a condition of certain grants that the work of art will be shown in the regions.
- I have thought for many years that exhibitions of single objects have great educational value and potential. The presentation need not be elaborate but it must be informative. Done well, it is a means of involving visitors in an image in a way that they are unlikely to forget. The National Gallery has been adept at this form of presentation. I hope that ways can be found to mount such exhibitions in galleries all over the country, either showing objects already in each gallery or objects lent from one museum to another, and especially from national to regional museums, and *vice versa*.
- I have mentioned on p.29 the possibility of staging regular exhibitions of conditionally exempt objects, to make them more accessible and to enable owners to meet minimum access requirements. The museums providing the space would not be able to fund the costs (principally transport) from their own resources. It may be that owners will be willing to contribute.
- There have been some imaginative schemes for helping regional museums, notably the Esmée Fairbairn Foundation's Regional Museums Initiative, which has provided finance to six museums to support appealing and important exhibitions across the country.
- Many museums are using the internet as a means of publicising their collections.
- In the case of archives and manuscripts there have been welcome developments in what is called 'virtual' access. The British Library has an ingenious system that gives the reader the impression that he or she is turning the pages of a priceless folio. They and other collections of manuscripts and archives have made extensive material available on the internet. The Higher Education Funding Council for England has made funding available in recent years for retrospective on-line cataloguing of historical collections, including archives, in the major research libraries.

6.3 Funding remains a barrier to achieving more. I have made comments on the funding of museums earlier. It could be that further thought within Resource and the Heritage Lottery Fund would lead to an acceleration of the encouraging programmes mentioned above.

Recommendation 40

I recommend that Resource considers further measures to increase the accessibility of collections, including major acquisitions, conditionally exempt objects and single object exhibitions, in museums and galleries across the regions.

7

Export review

7.1 I come last to the system of export review. It may seem odd that I have left it to last, but I said earlier that it works well and that I would not want to change it. The system has recently been the subject of a quinquennial review by the Department for Culture, Media and Sport. I endorse most of its findings. I particularly endorse the inclusion of ‘objects of cultural interest’ in the Committee’s terms of reference.

7.2 There are two modifications of the procedures that I recommend. The first is mooted in the quinquennial review. This proposed that if a public institution came forward during the first deferral period (see Annex J) with serious intent to make a matching offer, then the applicant for a licence ‘would be asked to make a binding offer to sell to that institution’ and that ‘the offer could not be withdrawn during the period of the second stop’ (*Quinquennial Review of the Reviewing Committee on the Export of Works of Art*, Department for Culture, Media and Sport 2003). This amendment aims to make it impossible for a potential exporter to change his or her mind when a potential buying institution has already gone to much trouble and expense in arranging its matching offer. It seems to me a thoroughly sensible proposal, but the commitment to sell should be only to the named potential buying institution so that the exporter is totally clear about the nature of his commitment. I believe that with this proviso Ministers should adopt it.

7.3 The second reform concerns the role of the Department for Culture, Media and Sport. At present it administers the Export Review system, and the Minister for the Arts authorises the export licence deferrals recommended by the Reviewing Committee. I have argued earlier that the administration of the Export Review system should be transferred to Resource (see pp.24-25). The involvement of the Minister harks back, I believe, to war-time restrictions on the export of sensitive goods. This is not a straightforward issue. The export system is enshrined in legislation, which gives the Secretary of State certain powers. The Reviewing Committee for the Export of Works of Art is a non-statutory advisory Non-Departmental Public Body. The Department for Culture, Media and Sport’s Quinquennial Review considered whether its work should be transferred to Resource and concluded against this option. I believe that there would be advantages in the transfer of the administration of both the Export Licensing and the Export Licence Review systems, but that the Reviewing Committee should keep its independent status as a Non-Departmental Public Body. The authorisation procedure seems another burden that Ministers could delegate with advantage. If Ministers must remain involved it seems to me that they should act as an appeal mechanism rather than in an executive role. There is at present no appeal mechanism in the system. I am conscious that this change would mean unaccustomed delegation and legislative changes.

7.4 I have argued earlier that museums stand little chance, given their present funding arrangements, of acquiring the most expensive objects that are deferred. Nor will the recommendations in this report make it possible to acquire more than a few of them. To my mind there would be advantage to museums and galleries if they considered in some cases negotiating an agreement with the overseas buyer to lend the object back to this country for agreed periods for public display, or even considered joint ownership with the overseas buyer. Such agreements would, I believe, be readily accepted by some buyers.

7.5 A number of respondents have observed that the Export Review system does not cover contemporary art or contemporary archives. Any object created in the last 50 years, and any archives less than 50 years old, can be exported without a licence. This fifty-year rule has led to the loss of important works of art and of important archives relating to artists, authors and other culturally important figures, particularly to the USA. There are difficulties in shortening the period, ranging from European Union regulations to potentially serious damage to the art market. It is a problem therefore that is probably best solved by ensuring adequate funding for acquisitions. I hope that my proposals on tax relief will help.

Recommendation 41

I recommend that if a public institution comes forward during the first deferral period (see Annex J) with serious intent to make a matching offer, then the applicant for a licence should be asked to make a binding offer to sell to that institution and should not be able to withdraw the offer during the period of the second stop.

Recommendation 42

I recommend that the administration of the Export Licensing Unit and Export Licence Review systems should be transferred to Resource, that the Reviewing Committee on the Export of Works of Art should remain a Non-Departmental Public Body, and that consideration should be given to legislation to alter the role of the Secretary of State or Minister to an appeal role rather than an executive role (see recommendation 15).

8

Publicity

8.1 I have made a number of recommendations that will, I hope, lead owners to give, bequeath or sell pre-eminent objects to museums and galleries. They will not be effective unless they are publicised. The following recommendations are a beginning of this process:

Recommendation 43

I recommend that Resource should publish and distribute (to owners, potential advisers, museums, libraries, archive collections and other bodies, and on the internet) a guide to the methods of giving, bequeathing or selling pre-eminent objects to national or regional museums, galleries, and libraries. This guide would include the tax inducements involved, and would publicise the means of finding informal disinterested advice. It would also explain other relevant programmes such as conditional exemption and Acceptance in Lieu.

Recommendation 44

I recommend that there should be regular public exhibitions in the regions of objects recently acquired by means of private gift, including those acquired as a result of the tax concessions recommended above. The finance for these exhibitions should be provided by public funds.

8.2 It would help to publicise and extend the culture of giving if donors could be given greater public recognition. The Honours system does not aim to be methodical in the recognition of philanthropy. Acknowledgement in a museum's literature or on its walls is excellent but not public enough nationally. Some other automatic form of public recognition would encourage gifts.

Recommendation 45

I recommend that Government should devise a scheme for the automatic public recognition of major donors to museums, galleries, libraries etc., and that a special recognition should be awarded to donors from their own resources of sums, including the value of gifts in kind, totalling over time in excess of say £500,000. Donors should be able to decline the recognition if they wish to.

8.3 Finally I would be severely disappointed if organisations with an interest in steering objects of distinction into our public collections, such as the National Art Collections Fund, the National Heritage Memorial Fund, and above all the museums, galleries and libraries themselves, did not want to publicise the possibilities for private giving widely. I believe that they will.

9

Conclusion

9.1 I said earlier in this report that I have sought to find:

- ways of contributing to the securing of at least some of the most expensive works, either permanently or temporarily;
- ways of tempting more owners not to sell in the first place, or of alleviating the pressures on them to do so;
- ways of tempting owners to prefer to sell to public collections in the UK rather than selling on the open market;
- ways of tempting owners to give or pass works to public collections in the UK;
- ways of shifting attitudes in Government towards the value of collections and acquisitions; and
- ways of making it more attractive to museums to accept gifts and to display them both in their own galleries and *in situ*.

9.2 The measures that I have recommended in this report, taken together, stand a good chance of achieving these aims. My recommendations will also encourage closer relationships between museums and private donors, which will be all to the good in future years. Private patronage and giving are keys to the future of our museums. I hope that more people, with a little encouragement from tax reliefs, will discover the pleasure of giving.

Nicholas Goodison

Recommendations

Core Funding and Acquisitions

- 1 I recommend that the programme proposed in *Renaissance in the Regions* (Resource: The Council for Museums, Libraries and Archives 2002) should be fully implemented as soon as possible, and that Resource and the Department for Culture, Media and Sport should, in implementing it, give a high priority to collections management, curatorial staffing needs and curatorial standards.
- 2 I recommend that the Treasury, the Department for Culture, Media and Sport, Local Authorities, the Arts and Humanities Research Board and other funding bodies should make it plain in any directions that they attach to their funding for museums, galleries and libraries that high standards of collections management are a key priority, and that acquisitions (by those allowed by their constitutions to make them) form part of collections management.
- 3 I recommend that Resource should encourage regional museums to share plans for acquisitions and the cost of acquisitions with a view to displaying them in more than one museum. This should not wait for the implementation of the programme proposed by *Renaissance in the Regions*.
- 4 I recommend that the funding bodies should recognise the costs of administering *in situ* arrangements in their core funding grants.
- 5 I recommend that the Government should indemnify regional museums against the costs of conservation of *in situ* objects in the event of them ceasing to be shown *in situ* and returning to the museums.
- 6 I recommend that consideration should be given to the amendment of the appropriate legislation to ensure that local authorities have a statutory duty to maintain museums and galleries in their care, as they do for libraries. Meanwhile, local authorities should reflect the need to support and develop their museums in their local Public Service Agreements.
- 7 I recommend that a means be found, by clearly identifying the museums concerned (either by virtue of their funding through the Arts and Humanities Research Board or by their holding designated collections), to enable university museums that do not charge for entry to recover VAT in line with the arrangements adopted for the main national museums and galleries.
- 8 I recommend that Resource should make available to other local authorities and museums a summary of the means by which museum trusts were set up, their reasons for doing it, their agreements for continued local authority or other public funding, and their experience as independent entities since they were set up.

National Heritage Memorial Fund

- 9 I recommend that the grant to the National Heritage Memorial Fund should be increased to at least £20 million per annum.
- 10 I recommend that the Trustees of the National Heritage Memorial Fund take whatever steps they deem effective to re-establish the public identity of the Fund.

Heritage Lottery Fund

- 11 I recommend that the Trustees of the Heritage Lottery Fund should consider how they can further speed up the process of agreeing grants towards objects coming up at auction.

- 12 I recommend that the Trustees of the Heritage Lottery Fund should re-examine the practice of cancelling a grant if a museum believes that it will have to pay more than the originally agreed price and puts up a good case for agreeing a revised price immediately before the auction.
- 13 I recommend that the Department for Culture, Media and Sport should make it clear that it has no intention, following the Lottery Review, of removing interest on the Heritage Lottery Fund's outstanding balances for the benefit of other Lottery distributors.

Other Acquisition Funds

- 14 I recommend that the V&A fund for helping non-national museums with acquisitions should have its funding restored in real terms to its previous level of £1.5 million in 1994-1995, and that the PRISM fund should have its funding adjusted for inflation since 1992.

Advice, Guidance and Executive Responsibility

- 15 I recommend that the administration of the Export Licensing Unit and the Export Licence Review system, of the evaluation of chattels in arrangements for conditional exemption, of negotiations for conditional exemption and subsequent surveillance, of the Acceptance in Lieu system, of *in situ* arrangements under the Acceptance in Lieu system, of the Government Indemnity Scheme and of any system of gifts in kind as recommended in this review should be undertaken by Resource.
- 16 I recommend that, if my recommendations to move the administration of various programmes within the ambit of Resource are adopted, the Department for Culture, Media and Sport should, in conjunction with the Inland Revenue, ensure that it is properly funded.
- 17 I recommend that whatever internal arrangements Resource makes for undertaking the work, it should ensure that it appoints panels of experts, on the lines of the Acceptance in Lieu Panel and the Reviewing Committee on the Export of Works of Art, for relevant functions, and that it uses the services of a wide range of expert advisers.
- 18 I recommend that Resource should ensure that the advisers to each of the Panels include qualified representatives from across the UK.
- 19 I recommend that Resource should carry out a periodic audit of all objects subject to conditional exemption, in order to satisfy the Inland Revenue that the objects are in proper condition and properly accessible in accordance with agreed conditions, and should carry out similar audits of objects shown *in situ*.
- 20 I recommend that in addition to its executive work Resource should aim to be a major source of advice and guidance to owners of pre-eminent objects and to museums and galleries and other Schedule 3 bodies.

Conditional Exemption

- 21 I recommend that the 1998 Finance Act should be amended to permit objects that are already conditionally exempt to remain exempt when they are inherited.
- 22 I recommend that all negotiations for conditionally exempt objects should be transferred to Resource, other than those handled by English Heritage.
- 23 I recommend that the interpretation of the 1998 Finance Act's requirement for 'reasonable access' should permit a more flexible arrangement for public access to conditionally exempt objects. In assessing 'reasonable access', the condition and nature of the object and, where applicable, the existing opening arrangements of the house, should be taken into account. Long-term loans to museums should be encouraged as a way of discharging access responsibilities.

- 24 I recommend that owners of future conditionally exempt objects should be obliged to give Resource three months notice of any intention to sell a conditionally exempt object and that the Reviewing Committee on the Export of Works of Art should let it be known that, in cases where the notification has not been given, it will normally recommend extending the initial period of deferral in the event of an application for an export licence by three months.
- 25 I recommend that Resource should seek ways of staging and financing temporary exhibitions of conditionally exempt objects in order to help owners meet the requirements of public access.

Acceptance in Lieu

- 26 I recommend that the Acceptance in Lieu provisions should be extended to cover to all types of tax liabilities due on a deceased estate, however long it takes to wind the estate up.
- 27 I recommend that owners of pre-eminent objects should be able to submit them (with the benefit of the *douceur*) during their lifetimes for Acceptance in Lieu against tax on their future estate, the objects passing immediately to a Schedule 3 body or a registered museum and the tax relief being available to the owners' executors for the settlement of inheritance tax and other taxes due on the estate. The objects could remain with their ex-owners by agreement with the owning Schedule 3 body or museum.
- 28 I recommend that responsibility for the negotiation and agreement of all *in situ* arrangements should lie with the recipient museums under the supervision of Resource, that the agreements should be based on a model agreement, and that the agreements should be signed off by Resource.
- 29 I recommend that the arrangements for access to objects allocated *in situ* should be based on the same flexible arrangements recommended above for conditionally exempt objects (see Recommendation 23).
- 30 I recommend that there should be a study of the Inland Revenue's rules for offers in lieu and private treaty sales, and of the Department for Culture, Media and Sport's 'Model Agreement' for *in situ* arrangements, with a view to achieving consistency and reducing the risks of sales of objects on the open market. The study should be carried out by Resource, in consultation with the Inland Revenue, the Department for Culture, Media and Sport and representatives of owners following the implementation of the recommendation to combine within Resource the various programmes discussed in the report (see Recommendation 15).

Private Treaty Sales

- 31 I recommend that the *douceur* arrangements should be extended to private treaty sales by corporations.
- 32 I recommend that the *douceur* should not be available to the owner of an export-deferred object who has not previously offered it for sale by private treaty to a Schedule 3 body, and that if the object is acquired after deferral the buying Schedule 3 body or registered museum should pay the net price after deducting the calculated tax liability.
- 33 I recommend that the costs incurred on the sale of a pre-eminent object to a Schedule 3 body or registered museum by private treaty should in principle be taken into account in operating the *douceur* arrangement for such sales, and that Resource should develop detailed rules for this as part of a study as I have recommended they should undertake.

Gifts of Pre-eminent Objects

- 34 I recommend that donors, acting singly or together, of pre-eminent objects to Schedule 3 bodies and registered museums should be able to offset the gross value of the gift against income before liability to income tax, eliminating any liability to inheritance tax and capital gains tax on disposal of the objects, and should be able to allocate the value in instalments against gross income over successive tax years.

Recommendations

- 35 I recommend that the system for these gifts should be based on the criteria of quality applied in the present Acceptance in Lieu system.
- 36 I recommend that the evaluation and eligibility of gifts under this scheme should be administered by Resource.

Corporations

- 37 I recommend that corporations should be permitted to offset the gross value of gifts of pre-eminent objects against income before liability to Corporation Tax.
- 38 I recommend that this scheme should be administered by Resource.
- 39 I recommend that the Inland Revenue should issue a statement of practice making it clear that companies can include the care and conservation of business archives, and the costs of providing access to them and of any educational service based on them in their costs before the calculation of corporation tax.

Accessibility

- 40 I recommend that Resource considers further measures to increase the accessibility of collections, including major acquisitions, conditionally exempt objects and single object exhibitions, in museums and galleries across the regions.

Export Review

- 41 I recommend that if a public institution comes forward during the first deferral period (see Annex J) with serious intent to make a matching offer, then the applicant for a licence should be asked to make a binding offer to sell to that institution and should not be able to withdraw the offer during the period of the second stop.
- 42 I recommend that the administration of the Export Licensing Unit and Export Licence Review systems should be transferred to Resource, that the Reviewing Committee on the Export of Works of Art should remain a Non-Departmental Public Body, and that consideration should be given to legislation to alter the role of the Secretary of State or Minister to an Appeal role rather than an executive role.

Publicity

- 43 I recommend that Resource should publish and distribute (to owners, potential advisers, museums, libraries, archive collections and other bodies, and on the internet) a guide to the methods of giving, bequeathing or selling pre-eminent objects to national or regional museums, galleries and libraries. This guide would include the tax inducements involved, and would publicise the means of finding informal disinterested advice. It would also explain other relevant programmes such as conditional exemption and Acceptance in Lieu.
- 44 I recommend that there should be regular public exhibitions in the regions of objects recently acquired by means of private gift, including those acquired as a result of the tax concessions recommended above. The finance for these exhibitions should be provided by public funds.
- 45 I recommend that Government should devise a scheme for the automatic public recognition of major donors to museums, galleries, libraries etc., and that a special recognition should be awarded to donors from their own resources of sums, including the value of gifts in kind, totalling over time in excess of say £500,000. Donors should be able to decline the recognition if they wish to.



Annex A: Chief secretary's advisory panel

MEMBERSHIP OF THE CHIEF SECRETARY'S ADVISORY PANEL

Sir Jack Baer

Anthony Browne

Sir Timothy Clifford

Sir Martin Harris

Professor Jack Lohman

Neil MacGregor

Lord Puttnam of Queensgate

Sir Christopher Ondaatje

Sir Nicholas Serota

Edmund Southworth

Sue Underwood

Merlin Waterson

Richard Wilkin

The panel met three times during the review, under the chairmanship of the Chief Secretary to the Treasury, the Rt Hon Paul Boateng MP and with Estelle Morris MP, Minister for the Arts.

DISCLAIMER

The panel met in an advisory capacity. Its members are not responsible for this report or the recommendations, which are the responsibility of Sir Nicholas Goodison alone.

B

Annex B: List of written consultation responses

The Treasury published a consultation document *Goodison Review: Saving Art for the Nation* on 7 July 2003. This document was sent to over 300 individuals and organisations, with a deadline for response of 1 October 2003. Written responses were received from 86 individuals and organisations, listed below. In addition to these written responses other organisations and individuals gave evidence at meetings. A summary of the written responses is in Annex C.

Allen and Overy
Antiquities Dealers Association
Archives Council Wales
Arts and Business
Sir Jack Baer
Nicholas Barker
Birmingham Museum and Art Gallery
H. Blairman & Sons
Bodleian Library
Bonhams
Robert Breckman
British Library
British Mercantile Marine Memorial Collection
Anthony Browne (personal capacity, Chair of British Art Market Federation)
Business Archives Council of Scotland
Anthea Case
Lord Camoys
Confidential response (owner)
Contemporary Art Society
English Heritage
Farrer & Co
Sir Matthew Farrer
Fitzwilliam Museum
Sir John Guinness (personal capacity, former Chair, Reviewing Committee on the Export of Works of Art)
Historic Houses Association
Rt Hon Alan Howarth CBE MP
Hunterian Museum and Art Gallery
Imperial War Museum
S. Jackson
Lancashire County Museums Service
Lawrence Graham
Sir Hugh Leggatt
D. Lewis
Library and Museum of Freemasonry
Manchester City Galleries
Manchester Museum
Edward Manisty (Christies)

Christopher McCall QC
Henry Moore Institute
Museum of London
Museums Association
National Archives
National Army Museum
National Art Collections Fund
National Endowment for Science, Technology and the Arts
National Gallery
National Heritage Memorial Fund and Heritage Lottery Fund
National Library of Scotland
National Library of Wales
National Maritime Museum
National Museum Directors Conference
National Museums and Galleries of Northern Ireland
National Museums and Galleries of Wales
National Portrait Gallery
National Trust
Natural History Museum
North East Museums, Libraries and Archives Council
Sir Christopher Ondaatje
Perth and Kinross Council
Philanthropy UK
Pump Court Chambers
Bernard Quaritch Ltd
Rare Books Group, Chartered Institute of Library and Information Professionals
Resource
Lord Rothermere
Royal Air Force Museum
Royal Institute of Chartered Surveyors
Royal Marines Museum
Royal Society of Literature
Saffery Champness
Science Museum
Jonathan Scott (personal capacity, Chairman of Acceptance in Lieu panel)
Scottish Records Association
Society of London Art Dealers
South East Museums, Library and Archive Council
Stephenson Harwood
Sir Hugh Sykes
Tyne and Wear Museums
University of Northumberland
University of Oxford
Victoria and Albert Museum
Visual Arts and Galleries Association
Wallace Collection
Walker Art Gallery
Whitworth Art Gallery
York Museums Trust

C

Annex C: Summary of written consultation responses

The Treasury published a consultation document *Goodison Review: Saving Art for the Nation* on 7 July 2003. This document was sent to over 300 individuals and organisations, with a deadline for response of 1 October 2003. Written responses were received from 86 individuals and organisations, listed in Annex B. A summary of these responses is below.

In this summary, the following abbreviations are used:

AIL	Acceptance in Lieu
D	Institutions in Scotland, Wales and Northern Ireland
DCMS	Department of Culture, Media and Sport
HLF	Heritage Lottery Fund
IM	Independent Museums
MoD	Armed Forces Museums
NHMF	National Heritage Memorial Fund
NM	National Museums, Galleries, Archive and Libraries
RM	English Regional Museums
UM	University Museums

SCOPE OF REVIEW

C1 One funding body and many museums said the reliefs and support available should have equal application to the full range of important cultural objects collected by galleries, museums, libraries and archives. The scope should not be restricted to fine and decorative arts, but should include objects of scientific, technological, industrial and historic significance, as well as collections, manuscripts, rare books, archives, images and records. (NM, MOD, D, IM). One museum respondent commented that the scope should take account of the significance of the object to a specific region or location (RM). One museum respondent suggested that regional hubs could have a role in assessing the regional significance of proposed acquisitions (RM).

C2 Reliefs should also be available for institutions taking part in a hybrid AIL offer. One funding body said all registered museums should be included within the scope of Schedule 3 of the National Heritage Act 1980; and one professional heritage advisor wanted registered museums to be able to benefit from the *douceur*. Two museum respondents called for any new support measure or tax concession to be available not just to national and regional museums and galleries, but to all registered museums, including independent museums (IM).

C3 Two museum respondents suggested that the Waverley criteria as applied in export cases and in relation to AIL, should also be broadened (RM, MOD).

TAXATION

Acceptance in Lieu

C4 Two art market practitioners and one other respondent praised the record of the Acceptance in Lieu panel and the AIL tax relief. One respondent thought expert advisors to the AiL panel should be paid. One donor thought the panel should include members of the public.

C5 One professional heritage advisor said the Treasury should increase its ceiling on the annual tax written off under the Acceptance in Lieu scheme.

C6 To avoid hybrid deals, one art market practitioner, two professional heritage advisors, two funding bodies and two representative bodies proposed extending AIL to all types of tax liability. One respondent proposed extending AIL to corporation tax.

C7 One art market practitioner, two professional heritage advisors and one representative body proposed that AIL relief should be deductible over more than one tax year. One professional heritage advisor recommended an indexed linked, interest-bearing art bond or tax certificate could be issued to owners and institutions involved in AIL deals. This bond could be redeemed against future tax liabilities, would be transferable by inheritance or gift and would be free of capital taxation. A reduced value of certificate could be offered where the donors wished to retain rights of enjoyment to the object in their own lifetimes.

C8 One professional heritage advisor proposed three other changes to the Acceptance in Lieu procedures relating to: indexation and capital gains tax taper relief; the calculation of the interest holiday on the tax credit generated; and the time limit on making an offer in lieu. One respondent thought the *douceur* should be increased for AIL *in situ* deals.

C9 Whereas AIL is available once an owner has died, one philanthropy expert proposed a tax relief available to owners planning their future tax affairs.

C10 One respondent thought that if the impact and benefits an object could bring to a regional museum were discussed with those putting forward objects for Acceptance in Lieu, this might increase the flow of objects to local and regional institutions (D). One museum respondent suggested that the AIL should be more recipient led (RM). Four respondents suggested allocation to regional museums could be encouraged through preferential rates of relief (NM, UM, D). One respondent thought AIL allocations could be made jointly to regional and national museums, with funding from the Department of Culture, Media and Sport (DMCS) for the costs of the sharing arrangement. One art market practitioner thought that the pre-eminence of archives could be determined in advance of a proposal to sell, thus avoiding delays in fund raising for archives when they came onto the market.

C11 One donor thought an owner who offered a work under the AIL scheme should retain a right to view the work privately in the future.

C12 Three museum respondents commented that AIL should be available for a wider range of objects (MOD, RM, D). One professional heritage advisor thought AIL should be available for museum quality, rather than pre-eminent items. One curator said AIL should be available for historic collections held *in situ*. One respondent commented that the fact that the importance of the work can relate to the individual museum, rather than a national level, is not currently clear enough and may deter applications (RM).

C13 One museum respondent and one funding body suggested that tax relief or the *douceur* could be increased where owners give the AIL panel a choice of which object should be offered and accepted. Another museum respondent recommended that the scheme be extended to cover objects not in the estate of the deceased, but owned by beneficiaries (UM). One professional heritage advisor proposed that one individual, not the heir, should be able to offer a work of art in lieu of the death estate of another.

C14 One respondent commented on the level of access to *in situ* objects, pointing out that there are cultural, transport and price factors that act as barriers to access to many groups in the community (RM). One professional heritage advisor, one funding body and one other respondent thought that the access to AIL *in situ* objects should be reduced from a maximum of 100 days. One professional heritage advisor said there should be flexibility about the access given to AIL *in situ* objects.

C15 Four respondents commented that *in situ* cases can be problematic as they burden institutions with costs of care that are outside the museum's control (NM, D, RM, NM). Museums and borrowers should be able to negotiate how these costs should be shared. National and hub museums could help smaller museums build the expertise necessary to take on *in situ* objects. One funding body and one professional heritage advisor said there should be central funds to cover the conservation costs of *in situ* objects.

Conditional exemption

C16 The 1998 Finance Act changed the conditions attaching to exemption of objects from inheritance and capital gains tax. The Act raised the qualifying standard from museum quality to pre-eminent. The Act also requires open public access to the object.

C17 One art market practitioner supported the principle of open public access. Two art market practitioners commented that these changes were discouraging new exemptions, principally because of owners' concerns about security, another recommended the repeal of all the 1998 provisions, three professional heritage advisors proposed reverting to public access 'by appointment only'. One professional heritage advisor proposed reverting to by appointment access for remote properties or single objects. Two art market practitioners proposed giving increased tax relief in return for increased access; one proposed this where an owner had a single exempt object. One representative body and one curator considered conditional exemption did not provide meaningful access and that tax relief might be better directed elsewhere. Two museum respondents questioned whether access conditions were really being met (NM, RM). Another museum respondent commented that the 1998 changes appear to have succeeded in increasing access without a significant increase in disposals (D). One museum respondent considered some owners would be deterred from using the system by the need to make details of their collections publicly available (NM). One museum respondent voiced concern that the introduction of stricter access requirements might lead to increased sales (NM). Two examples were given of negotiations regarding the access requirements with Inland Revenue. These indicate problems with the standard requirements in some cases, but also demonstrated flexibility on the part of the Inland Revenue (NM). One curator thought the database of conditionally exempt objects was poor in places. One professional heritage advisor proposed that a committee should examine policy on exemption of objects from capital tax, where public access was given.

C18 Several museum respondents recommended that, where appropriate, more owners claiming conditional exemption should be encouraged to place works in galleries (UM, RM). One museum respondent suggested that Resource could organise exhibitions every few years to satisfy access requirements (UM). However, one curator did not think exhibitions and loans of conditionally exempt items to museums were an appropriate means of satisfying the access conditions, as many objects were inappropriate in the context of museum collections. One museum respondent commented that museums do not have the resources to display all conditionally exempt items (NM). One museum respondent observed that the public sector is not in a position to look after all pre-eminent archive material, and recommended that grants, rather than tax breaks, could be used to assist private owners to preserve and maintain their archives in the wider national interest (NM).

C19 Four professional heritage advisors proposed repealing or amending the Finance Act 1998 provisions on quality.

C20 Two professional heritage advisors wanted to repeal the 1998 provision for the government to renegotiate pre-existing conditional exemption agreements.

C21 For objects with conditional exemption from estate duty charges at 80 per cent, two professional heritage advisors and one curator suggested this liability be written off and replaced with a liability at the current inheritance tax rate of 40 per cent.

C22 Two museum respondents and one funding body suggested that the requirement for notice to be given of the intention to sell conditionally exempt items should be reinstated (NM, UM). The period of notice should vary according to the value of the object. One professional heritage advisor said an owner selling a conditionally exempt object should have a choice between paying tax on the sale value of the object or on the value at exemption, plus interest. Another museum respondent recommended that, in return for increased flexibility regarding access, owners should have to offer their objects for sale to museums before putting them on the open market. (UM).

C23 One art market practitioner and one curator proposed that the tax proceeds of the sales of conditionally exempt objects should be hypothecated to fund acquisitions.

Private treaty sales and *douceur*

C24 One art market practitioner supported the use of private treaty sales and the discretion available in offering a *douceur*. One funding body said institutions should apply the *douceur* flexibly. One art market practitioner proposed that the *douceur* should be on a statutory basis. One professional heritage advisor said an expert panel should agree a commercial price for objects sold by private treaty.

C25 One art market practitioner, one representative body, four professional heritage advisors, one funding body and one other respondent proposed that the *douceur* should be raised above 25 per cent, citing the current lower tax rate environment. In addition, two museum respondents recommended that the *douceur* should be increased (NM, RM), while others suggested that it should be used flexibly, or that ways to increase the incentive to the vendor should be considered, while recognising that increasing the *douceur* increases the cost to the purchasing institution (UM, D). Two museum respondents thought that the *douceur* was not sufficient to deter auction or overseas sale (NM, D). One professional heritage advisor supported the current level of the *douceur*. Two professional heritage advisors said the Treasury should fund the *douceur* directly, rather than the acquiring institution using its funds; one said up to half of this funding could be through a tax certificate.

C26 Two professional heritage advisors and one other respondent proposed commissions should be allowed as a deductible expense before the *douceur* is calculated. One professional heritage advisor proposed to include existing capital losses in the calculations. Another proposed to include capital gains tax reliefs in the calculation of the price in negotiated sales.

C27 A number of other alterations were recommended including allowing corporations to benefit, extending *douceur* beyond pre-eminent items (NM). One museum respondent called for the tax benefits of private treaty sale to be made available to vendors who are non-UK nationals (NM).

C28 Two professional heritage advisors and one other respondent proposed the *douceur* should not be available in private treaty sales of export-stopped works, where the vendor has previously contracted to sell abroad. One representative body and one professional heritage advisor said the *douceur* should be available at auction. One professional heritage advisor said the *douceur* should be available for sales of museum quality objects.

C29 One funding body said the Reviewing Committee on the Export of Works of Art should be invited to decide whether a work offered for sale by private treaty is of Waverley standard and then tax relief for the retention of works of art in the UK should apply to that sale.

Value Added Tax (VAT)

C30 Three art market practitioners and one museum respondent commented that the VAT regime provides an incentive to sell archives and works of art abroad. If archives and objects are sold in the UK, purchasers must pay VAT but not if they are sold to a purchaser in the US, for example (UM).

C31 One funding body, one representative body, one museum respondent and one donor recommended VAT relief for repair of listed buildings (NM).

C32 When a business sponsors a purchase or exhibition, one professional heritage advisor proposed the gallery should not have to pay VAT on the use of the business logo.

C33 Seven museum respondents, including all those from university museums, galleries and libraries, and one other respondent called for the S33a VAT relief available to national museums to be extended to university museums. Some suggested it should be extended to the sixteen free entry university museums which hold designated collections (NM, UM, D).

C34 One donor said lottery funds should be used to pay input VAT for museums and galleries.

Corporation tax

C35 Two museum respondents called for the corporate sponsorship tax rules to be simplified (NM, MoD). One museum respondent commented that corporate sponsorship should be treated as a donation (NM). One funding body and one professional heritage advisor recommended an increase in the level of benefits in kind enjoyable by businesses offering sponsorship. One philanthropy expert said the tax system should offer equally generous reliefs for corporate donation as for business sponsorship.

C36 Several museum respondents and three professional heritage advisors called for corporation tax relief for donations and for cash donations towards acquisitions. One museum respondent said corporate donations should receive the same incentives as donations by individuals (RM). One professional heritage advisor proposed a tax relief for businesses acquiring works of art and offering access. One museum respondent suggested tax breaks might be more effective if geared to business employee involvement, bringing additional skills to museums and galleries (RM).

C37 Two museum respondents recommended a corporate tax relief for sums spent on outreach, public access, and education services to encourage businesses to care for their archives in the national interest (NM, D). One professional heritage advisor wanted the Inland Revenue to confirm that the cost of conservation, care and access to business archives and works of art could be tax deductible. Another proposed a tax relief for businesses giving access to corporate art collections.

C38 One funding body proposed that AIL should be extended to permit the payment of income tax, capital gains tax and corporation tax by important heritage items. One professional heritage advisor said the *douceur* should be available for companies.

C39 One museum respondent recommended that incentives should be linked to profits from sales of interests in businesses, including sole-traders (RM). One museum respondent suggested there could be a tax benefit for legal practices that help local museums and galleries with gifts and bequests on a no-fee basis.

Income tax

C40 A large proportion of the responses to consultation, from all interests, recommended a new income tax relief to encourage donations of works of art to museums and galleries in an owner's lifetime. Of these, a significant number also thought this relief should be deductible over more than one tax year and many thought that it should be extended to cover other tax liabilities. One professional heritage advisor said the relief should be against income tax liability rather than taxable income. Some museum respondents thought the relief should be modelled on the AIL arrangement.

C41 Two professional heritage advisors thought such a relief should apply to gifts to Schedule 3 bodies. Two others thought it should apply to all museums and galleries, and have a lower quality threshold than the AIL criteria. Another thought there should be a lower quality threshold for gifts to regional museums. Three museum respondents recommended better tax incentives for gifts to regional museums.

C42 A matching relief for cash gifts towards acquisitions was also suggested, as was setting donations against more than one tax year (NM, RM, UM, D).

C43 One art market practitioner and one funding body thought that this relief, including case by case judgements about quality and valuation, should be administered by the AIL panel, situated in Resource, provided extra resources were available for this work. One museum respondent called for greater involvement by specialist curators in regional museums in the mechanics and conditions of granting relief, and suggested that regional hub museums could coordinate this involvement (RM).

C44 One funding body suggested that any new tax relief might be introduced for a trial period to determine take-up.

C45 One donor said that the Gift Aid scheme for cash donations was highly successful. One donor and one other respondent said that Gift Aid should be simplified. One funding body said that Gift Aid should be available to all institutions within Schedule 3 of the Inheritance Tax Act 1984. Two museum respondents called for Gift Aid to be extended to museums that are not charities (RM).

C46 One funding body said that the rate of Gift Aid should be increased to 60 per cent. One professional heritage advisor proposed that Gift Aid should be available for gifts of cash made conditional on purchasing a work of art. This relief should also be available for other taxes, not just income tax, and for regionally important, not just nationally important objects.

C47 One museum respondent suggested tax benefits for a loan prior to donation (RM), while another suggested tax relief while retaining partial ownership (UM). One philanthropy expert proposed a tax relief for those giving collections to museums. One donor proposed a tax relief for loaning art for public display.

C48 One funding body proposed extending current tax reliefs to cover gifts of intellectual property.

C49 Three museums respondents recommended incentives for acquisitions of works by living artists (UM, D). One recommended incentives for museums to acquire the works of British artists, particularly early in their career. Another said that there was a lack of incentives for artists and designers, most of whom do not have large tax liabilities, to donate their works. One museum respondent recommended negotiations about gifts should be conducted between the receiving museum and artist, with an upper limit on the value of tax concessions. One art market practitioner recommended a new tax relief for self-employed writers selling their papers, so that rather than being taxed on the sale as income, the proceeds could contribute towards a pension fund.

Taxation and export-stopped works of art

C50 One art market practitioner and one funding body proposed a new tax relief to encourage private individuals and companies to buy or help buy export-stopped works for the nation. One funding body said that this relief should also apply to purchases of works from abroad and which may have been previously exported.

C51 One funding body said that the tax collected on an object sold at auction and then export-stopped should be made available to the institution making a matching offer. In addition, where a private treaty sale is being negotiated following an export licence deferral and the sale could potentially take advantage of the *douceur*, then the tax remission should be in favour of the public purchaser and not the vendor.

Taxation and historic properties

C52 One art market practitioner, three professional heritage advisors, one funding body, one representative body, one owner and two other respondents proposed a relief for historic properties maintenance, to avoid the need for owners to sell works of art to fund repairs. Some thought this could be in the form of greater tax relief for maintenance funds. One owner thought there should be a capital gains tax exemption on sales of works of art if the proceeds were to be used for repairs.

Publicity

C53 Two funding bodies and one other respondent said that there should be greater publicity of existing tax reliefs. Two museum respondents said AIL and conditional exemption should be more widely publicised (RM). One museum respondent and one funding body recommended that the benefits of selling by private treaty sale should be publicised and a simple guide to the system be produced (NM). One professional heritage advisor proposed an annual seminar for curators to explain the practical aspects of private treaty sales and fundraising.

C54 One funding body said that regional institutions would need access to expertise about new tax reliefs and donors would need published information.

C55 One art market practitioner highlighted a perception that the threshold for capital gains tax exemption provided an incentive for owners to break up archives when they are sold. This should be clarified.

International comparisons

C56 Two art market practitioners, one professional heritage advisor, one owner and two other respondents recommended the US system of tax relief for donation of works of art. Two professional heritage advisors commented that the UK should adopt the US laws on charitable remainder trusts and charitable lead trusts. One professional heritage advisor recommended the US system of gifts by instalment. Also, many museum respondents called for the US model of tax reliefs for donations of objects and cash to be investigated, with a view to encouraging a culture of philanthropy, and building closer relationships between museums and collectors (NM,MOD,UM,RM). One museum had received significant corporate sponsorship from multinational companies making donations through the American tax relief system, and had been told by an expatriate that they would only support in their lifetime through the American system. (MOD).

C57 One museum respondent recommended that the Government should consider a scheme similar to that in France in which a proportion of revenue from intestate and heirless estates goes to a Heritage Foundation (RM). One museum respondent thought the French example of state pre-emption at auction should be considered (RM). Two funding bodies, one professional heritage advisor and two other respondents also recommended the French tax reliefs for corporate donations of works of art.

C58 One museum respondent, one professional heritage advisor and one other respondent called for the Irish example, in which heritage items can be given in lieu of a wider range of taxes than in the UK, to be examined (RM). Another museum respondent referred to the Irish example where works on display in public places become exempt from the Irish equivalents of inheritance and capital gains tax after 7 years, and where 1½ per cent of the cost of new public buildings must be spent on art works (D).

C59 One professional heritage advisor and one art market practitioner recommended the Canadian system of reliefs for donation.

C60 One professional heritage advisor and one other respondent commented that there should be a higher quality threshold than for the Australian system or that objects should be properly valued and of interest to an institution. One art market practitioner recommended the Australian system.

C61 One curator proposed the tighter Italian export regulatory framework.

C62 One museum respondent recommended a tax relief for donations to less populated and economically disadvantaged areas, similar to a scheme in Taiwan.

FUNDING

Core funding

C63 Many museum respondents, four art market practitioners and one donor said that core funding has reduced and museums were now under-funded (NM, RM, MOD, UM, D).

C64 One owner said that there should more financial support for regional and university museums. One museum respondent recommended a central system of funding for regional museums, so that museum funding would not be dependent upon local government decisions (RM).

C65 One curator said that higher core funding would allow better access to existing collections.

C66 One professional heritage advisor said that public institutions should be exempted from capital charges on their assets.

Acquisitions funds and budgets

C67 For those museums that had acquisition budgets, these had not kept pace with rising art market prices (NM, RM, MOD, UM, D). Two museum respondents called for a return to ring fenced acquisition funds for national museums and galleries and another thought the issue should be discussed (NM, RM). Another respondent commented on the lack of museums' acquisition funds. One art market practitioner recommended that greater acquisition funding for libraries. The importance of "seed-corn" funding, which allows museums to make a financial contribution to an acquisition, thereby unlocking external funds, was emphasised (NM, RM). The lack of seed funding was identified as a reason why some regional and university museums are unable to embark on fund raising campaigns. One museum respondent commented that while some larger institutions have a cash "comfort zone", and can pay for acquisitions before grants are received, for smaller institutions any delay in the receipt of funding cause considerable problems (RM).

C68 One professional heritage advisor said acquisition funding should be classified as capital not resource in the government's resource budgets and accounts. One museum respondent commented that capital charging is a disincentive to build up cash reserves which could be used to make acquisitions (NM).

C69 One museum respondent advised that the Government should make a clear statement about the importance of acquisitions, and reflect this in the directions to funding bodies (NM). Another respondent said that a less fragmented structure of acquisitions funding would enable institutions to plan their acquisitions policy, and plan better access and education. One museum respondent commented that 3-year funding programmes would allow galleries to plan acquisitions strategically (RM). Another respondent said that regional hub museums should develop acquisitions strategies. Two museum respondents called for regional acquisition funds, one suggested these could be linked to regional acquisition policy, the other that they could be used to develop designated collections (UM). One museum respondent said that the costs of securing a major work of art for a national museum should be weighed against the benefits of more modest, but significant, purchases for regional museums (UM).

C70 One professional heritage advisor said that there was a lack of funds to purchase export-stopped items. One museum respondent warned against an excessive focus on export stopped objects (NM). One funding body said that more funding should be directed to the purchase of smaller works and collections. One respondent commented that there should be more funds to purchase archives. One museum respondent suggested that there should be special support for galleries with designated collections (RM).

C71 Several museum respondents asked for funding for the PRISM and Resource/V&A Purchase fund to be increased (NM, UM, RM, D). Several museum respondents cited a requirement for a local contribution of 25 per cent to access the Resource/V&A Purchase Fund. This requirement posed a problem for many museums (NM, D). Three museum respondents called for a new fund for non-art acquisitions of regional or national significance, such as purchases of scientific objects and archives (NM, UM).

C72 One art market practitioner and two professional heritage advisors proposed that museums and galleries should be able to de-accession objects in their collections in order to fund acquisitions.

C73 One funding body proposed that acquisition funding should cover access and display costs. One art market practitioner recommended that County Records Offices should be compensated for the cost of their care of archives. One response highlighted the need for investment in, for example, security and air-conditioning, in many local institutions to allow them to keep pace with rising standards (RM). Three museum respondents commended the Contemporary Art Society Scheme as a model of good practice, enabling staff to undertake research travel, strengthening curatorial expertise and developing collecting skills (RM, D).

Exchequer grants

C74 One professional heritage advisor, two museum respondents and two other respondents said that the Government should offer special Exchequer grants to purchase export-stopped works, or set up a new fund of last resort (RM, NM). One professional heritage advisor proposed a fast-track purchase fund, funded from the Community Fund.

National Heritage Memorial Fund

C75 Many museum respondents, three funding bodies, two art market practitioners, three professional heritage advisors and four other respondents recommended at least a restoration in the level of funding for the National Heritage Memorial Fund (NM, RM, D, UM). Three funding bodies, one professional heritage advisor and two other respondents recommended Bona Vacantia income should be used to fund the NHMF. One other respondent said the NHMF endowment should be increased. One museum respondent said the NHMF should be increased from lottery revenues (UM).

C76 Two museum respondents and one other respondent said the NHMF Fund should be directed to fund the purchase of export-stopped works (UM, D). One museum respondent commented that the role of the NHMF in allocating funds for acquisitions could be increased (NM). One museum respondent commented that the NHMF's focus on aesthetic excellence excluded many acquisitions that museums would wish to make (MOD).

C77 The NHMF was commended for being quick to respond and having a more user-friendly application procedure than that of the Heritage Lottery Fund (NM, UM).

Heritage Lottery Fund

C78 Seven museum respondents said the Heritage Lottery Fund was 'vitaly important', 'invaluable' or 'essential' (NM, MoD, RM, D). One art market practitioner and two museum respondents proposed a greater share of the National Lottery proceeds for the HLF (NM, D). One funding body wanted to protect the current share of proceeds. One museum body wanted the government to compensate for the decline in National Lottery revenues.

C79 One funding body and one museum recommended splitting the National Heritage Memorial Fund from the HLF (NM). Another funding body recommended keeping them distinct. One museum respondent thought the respective roles of HLF and NHMF need to be clarified (D).

C80 One funding body saw scope for the NHMF and the HLF to act together, with the former providing acquisition funding and the latter providing money for care of and access to the object. Two museum respondents and one professional heritage advisor said the HLF should be directed to fund acquisitions (NM, UM). One museum respondent recommended that the HLF should give priority to export-stopped items (UM). One representative body said Heritage Lottery funds should be used to cover the cost of loans to regional museums. One respondent said the HLF should fund touring exhibitions and joint acquisitions. One representative body said the HLF should fund private owners to purchase items for *in situ* arrangements. One respondent said there should be a joint scheme for regional acquisitions funded by the V&A purchase fund and the HLF.

C81 Although three museum respondents praised the staff at funding bodies for responding to tight deadlines, and one of these observed that their regional HLF office had provided a quick and effective response for an auction purchase (RM), another two museum respondents had found it difficult to get grants approved in time for auctions (MOD, UM). One museum respondent commented that the HLF application process can be slower for larger sums (RM). Five museum respondents and one funding body thought the HLF application procedures should be streamlined (NM, UM). Suggestions included: administering applications for acquisition funds through the NHMF or a separate process for acquisitions; institutions registering their details once, and then just updating the specifics for each case, avoiding the need to reproduce the same background information for each application; differing application forms for different types of grant; and fast tracked decision making for auctions. One funding body saw scope for decisions to be explained more clearly.

Government Indemnity Scheme

C82 Two funding bodies, one representative body and two professional heritage advisors proposed to extend the Government Indemnity Scheme (GIS) to cover loans to regional museums, loans from private sources and objects displayed *in situ*. One professional heritage advisor and one representative body said more AIL allocations should be to regional museums, with insurance cover offered by the Government Indemnity Scheme. One funding body said items which have been accepted in lieu should be given Government Indemnity on the same basis as any other item. One museum respondent recommended that central government funding should be made available for regional museums to meet the GIS environment and security conditions (D). One museum respondent commented that the lack of a guarantee of compensation from the Government to a national museum or gallery, should an object on loan from that institution be lost or damaged, deterred those museums from giving regional access to their collections (MOD). One museum respondent recommended that the rules of the GIS should be relaxed to allow museums to borrow for any reason (D).

C83 One professional heritage advisor proposed a review of the operation of the Government Indemnity Scheme, overseen by a stakeholder group.

C84 One museum respondent called for the restrictions on the purchase of commercial insurance by Exchequer-funded museums to be relaxed (NM).

Export review

C85 Three art market practitioners supported the current regulation of exports of works of art and praised the record of the Reviewing Committee on the Export of Works of Art.

C86 Five museum respondents suggested that deferral periods could be extended, one suggesting that where the vendor and potential UK purchaser were amicably pursuing discussions, that extension should be possible without the need for ministerial approval (NM, MoD, RM).

C87 One museum respondent recommended that the Government could provide the funds to purchase an export-stopped item, and then negotiate with the receiving institution how the institution could repay part of the cost (NM). One representative body proposed bridging finance to purchase an object at auction, while fundraising continued.

C88 Two museum respondents voiced their opposition to the idea of a list of objects which could not be exported under any circumstances (NM). One museum respondent suggested that the introduction of a list of permanently export-stopped items, with financial compensation for owners if necessary, should be considered (RM).

C89 One museum respondent recommended that the 50 year rule should be applied flexibly, to prevent the export of significant objects less than 50 years old (NM).

C90 One art market practitioner said it should be possible to examine a contract for sale abroad in order to determine the size of a matching offer.

C91 Two museum respondents recommended that government provide more guidance about the operation of the export system, and the role of the Reviewing Committee, as well as how institutions can access funds to purchase export-stopped items (NM). One museum respondent said that the operation of the export system (process, timescale, who advises, and how experts are chosen) should be more transparent (RM). One museum respondent called for greater regional representation on the Reviewing Committee (D) and one funding body thought the Committee should draw on a wider selection of expert advisers. Three museum respondents recommended that museums should be given earlier warning about what objects are about to come before the Reviewing Committee (UM, RM).

Market distortion

C92 One museum respondent suggested that AIL distorted the market, and that it is used by some to bolster prices and reputations by letting works out at controlled intervals. Institutions want to purchase the works, even at inflated prices (RM). One museum respondent suggested that beneficiaries of tax reliefs will extract the maximum benefit from the relief, which may cause price inflation or local objects to be excluded (RM).

C93 One museum respondent argued against incentives for short-term loans, because they would tend to increase the value of the object, leading to potential financial gain for the owner, sometimes raising the price beyond the reach of the borrowing museum (D).

Access

C94 Four museum respondents suggested that touring of objects could be a condition of acquisition funding unless objects were unwieldy or fragile (RM, D). Two museum respondents called for more long-term loans from nationals to regional institutions, especially for objects of great cultural significance to a particular region. (UM). Several museum respondents recommended that there should be funding to cover the costs associated with touring exhibitions, such as transport, conservation and display costs (NM, MOD, RM). One museum respondent suggested that Resource could act as a UK wide clearing house for loans and gifts (D).

C95 Three museum respondents suggested that regional hubs could facilitate the development of regional collection policies, loans between museums and more even distribution of cultural objects (UM, RM). Two museum respondents suggested that hubs could administer regional acquisition funds (RM).

C96 Six museum respondents referred to increasing access via on-line catalogues and digitisation (NM, RM, D) The digitisation of collections and internet access could allow the public to view images of collections and manuscripts, but this would require time, money and copyright. For archives, loans or donations of good quality reproductions could also be useful (D).

Philanthropy

C97 Many museum respondents recommended that philanthropy should be celebrated (MOD, NM, RM, D) and that the tax benefits of philanthropy should be marketed (MOD, RM, D). Resource, museums, and the Inland Revenue could have a role. Suggestions included: plaques by acquired objects recognising those who had contributed to the purchase; published lists of major cultural donors; annual awards ceremonies; and using exhibitions and television to raise awareness of the value of donations for museum collections. One donor also said there should be a form of public recognition as a reward for donations.

C98 Several museum respondents commented on the difficulties they faced in encouraging donations, and questioned the value for money of devoting staff time to the laborious fund raising process (NM). Other museum respondents commented that corporate support tended to be directed towards high profile objects and institutions (RM, D). One museum respondent noted the difficulty of raising money through public appeals in deprived areas (RM).

C99 One owner said more museums should adopt trust status to encourage a partnership between municipal bodies and the community and hence encourage philanthropy, because of tax breaks, fund raising and donation by owners.

Administration

C100 Two art market practitioners and one professional heritage advisor thought there should be stronger communication between the art market and museums and galleries about works and objects for sale. One professional heritage advisor said the current administration was haphazard for owners seeking tax reliefs and for museums seeking funding.

C101 There were many comments about the negotiation of AIL deals. Three professional heritage advisors, three representative bodies and one funding body commented that AIL *in situ* negotiations were too bureaucratic. One professional heritage advisory said that the discretions vested in the Inland Revenue and DCMS should be exercised so as to facilitate the flow of negotiated sales to the nation and that a stakeholder group should monitor this and give policy advice. Two professional heritage advisors, one funding body and one other respondent said the AIL model agreement should be refined and agreed. One professional heritage advisor said that Resource should conduct all AIL negotiations, including hybrid deals. One professional heritage advisor said that the Inland Revenue Capital Taxes Office should give advice on a without prejudice basis.

C102 Several respondents proposed a single specialised public body to administer reliefs and give advice. Two funding bodies proposed a single body should deal with acquisitions, give advice and negotiate with owners and museums and galleries, including finding matching owners and institutions for private treaty sales of major assets. One respondent said that its work should be expert and well-publicised. One philanthropy expert said that such a body could give advice to corporate donors. One art market practitioner said that an owner could offer a work to an eminent panel of experts, of equivalent standing to the AIL panel, before sending it to auction or applying for an export license. One professional heritage adviser said that this body should also organise loans to regional museums. One donor said gifts of works of art should be shown regionally. One other respondent called for greater lending of works from national to regional museums.

C103 Two professional heritage advisors said that an independent body should conduct AIL *in situ* negotiations. One professional heritage advisor said that Resource, rather than DCMS, should handle AIL *in situ* negotiations, produce a definitive AIL *in situ* model agreement (with changes to the provisions on access and loans), and issue announcements on the completion of AIL deals. Resource should also identify a recipient institution and involve them in negotiations. One professional heritage advisor said the activity of the Inland Revenue and DCMS should be dovetailed better to allow for fund-raising in hybrid deals. One respondent recommended that the system be simplified and improved by increasing the speed of processing at the Capital Taxes Office (RM). One museum respondent suggested that Resource could require objects to be withdrawn from sale if a museum or gallery lodges an expression of interest with a professional body, or require companies to offer items bought as investments to museums at cost before going to the open market (RM).

C104 One professional heritage advisor said conditional exemption should be negotiated independently, perhaps by Resource. One curator thought there should be greater clarity of roles and relationships in the operation of conditional exemption.

C105 One funding body proposed that the National Heritage Memorial Fund could act as a single central body for administering acquisitions.

C106 Many museums respondents made comments about applying for acquisitions funding. Two museum respondents commented on the inconsistent criteria and approach of different funding bodies, and their lack of flexibility to cope with auctions (RM) while two others commended the Resource/V&A fund for its efficiency (NM). Three museum respondents commented that application processes should be quick and un-intimidating (D). Two museum respondents called for the creation of a database of funds, accessible via the internet, with fund details such as the length of the application process, eligibility and contact details (D). One museum respondent commented that the process of seeking funds would be improved if it were possible to apply by electronically using a standard, simple and concise format, with guidance on content (MOD). One museum respondent suggested that individual officers could make decisions about small applications (D). One museum respondent suggested that existing funding bodies could contribute to a “fast access” central fund with flexible administration to cope with urgent cases (MOD). One museum respondent commented that it would be helpful to have leeway to increase bids, as it is difficult to accurately predict auction price (D). One museum respondent said that a central expert panel to serve all the funding bodies would improve efficiency (RM). One museum respondent suggested that the communication mechanisms developed within the regional hubs could be used to inform museums of opportunities for acquisitions (RM). One museum respondent said that there was a need to increase understanding of collection policies & identify overlaps. The completion of inventories, as proposed by the Registration Standards, would help and should be supported by grant givers (RM). Another museum respondent recommended that there should be a website register of museums’ areas of interest (RM).

D

Annex D: Museum funding

PUBLIC SECTOR FUNDING

D1 Public sector funding towards acquisitions by museums and galleries in England and Wales is distributed in a number of ways.

Central government funding

- Grant in aid from the Department for Culture, Media and Sport distributed en bloc to its sponsored bodies including the main national museums and galleries, the British Library and English Heritage. The sponsored bodies can choose how much of this they wish to allocate to acquisitions.
- Grant in aid from Department for Culture, Media and Sport to Resource, the Council for Museums, Archives and Libraries, from which Resource allocates part towards the PRISM and V&A purchase grant funds.
- Grant in aid from the Ministry of Defence to Armed Service museums.

Local government funding

- Local authorities receive central government funding for local authority delivery of all cultural and sporting services, including museums and libraries, through the Environmental, Protective and Cultural Services grant, administered by the Office of the Deputy Prime Minister. The amounts to be spent on cultural services are not ring fenced within this grant.

Other Public Sector Funding

- Grants from the National Heritage Memorial Fund (Annex F).
- Grants from the Heritage Lottery Fund (Annex E) which, in 2001-2002, made over £14 million available for acquisitions, including manuscripts and archives.
- University museums are supported through their universities and through public funding from the Arts and Humanities Research Board (AHRB). The AHRB was established in October 1998 by the three higher education funding councils for England, Scotland and Wales, the Department for Employment and Learning in Northern Ireland and the British Academy. The AHRB provides core and project funding to many museums based in, or attached to, higher education institutions in England.

Table D1: Public sector museum funding by source of grant (£ million)

Year	Department for Culture, Media & Sport: funding for National Museums, Galleries & Libraries	Ministry of Defence: funding for Service Museums	Local Authority: museum funding	Resource: museum funding
1996-97	211.6	8.38	149.02	6.7
1997-98	205.2	9.46	155.43	6.39
1998-99	203.5	10.53	136.13	6.47
1999-00	219.3	10.25	135.97	9.01
2000-01	228.5	11.44	145.79	9.61
2001-02	245.6	13.27	155.7	12.65
2002-03	267.3	13.43	n/av	15.84

D2 In recent years, museums have tended to direct their grant in aid towards running costs, and a significant proportion of funding for acquisitions has been raised from sources such as the Heritage Lottery Fund, the National Heritage Memorial Fund and the private National Art Collections Fund.

Purchase Funds

D3 The National Heritage Memorial Fund (Annex F) was established in 1980 to defend the most outstanding parts of the UK national heritage. Its grant in aid is used mainly to buy land, buildings, works of art and other objects of outstanding interest and importance. In 1992 it also became the distributor for the Heritage Lottery Fund.

D4 The Heritage Lottery Fund (Annex E) was formed to distribute funds to capital and revenue projects that safeguard and improve access to land, buildings, objects, and collections of importance to the national and local heritage.

D5 The V&A Fund began in the 1860s at the South Kensington Art Schools and was launched in its present form in 1881 with an annual grant of £1,500. The Fund is not just for objects of fine and decorative art. It embraces the acquisition of all material relating to the arts, culture, history and literature. Its remit initially covered the whole of the UK and Northern Ireland. In 1965 the fund's scope was increased to include universities and libraries. In the same year a separate fund was established in Scotland under the aegis of the National Museum of Scotland, and Scottish institutions ceased to be eligible for grants from the V&A fund. In 1967, Northern Ireland was given its own fund.

D6 The PRISM Fund was set up in 1973 to further the public preservation of original items or collections important for all aspects of the history and development of science and technology. The fund was originally conceived as a purchase fund, but in 1990 it was re-named The Preservation of Industrial and Scientific Material (PRISM) Grant Fund to coincide with the expansion of the Fund's remit to allow the funding of conservation of significant items and collections already in museums.

D7 The PRISM fund was operated by the Science Museum until April 2003 when it came within the direct management of Resource. The PRISM Grant Fund is open to applicants from Registered Museums in England and Wales. An equivalent fund for Scotland is operated by the National Museum of Scotland.

D8 Both the V&A and PRISM Funds embrace the funding of archival and library material.

D9 Through the 1980s the V&A and PRISM Funds had an annual vote of £1 million and £150,000 respectively and this increased to £1.5 million and £0.25 million in 1992. In 1995-1996 the Museums & Galleries Commission reduced the V&A Fund to £1 million but the PRISM fund remains at £0.25 million.

Table D2: V&A Fund and PRISM Fund: grants for acquisitions 1991-92 to 2002-03

Year	V&A Purchase Fund	PRISM Fund
1991-92	£1,446,482	£176,427
1992-93	£1,261,180	£136,524
1993-94	£1,454,510	£129,810
1994-95	£1,711,012	£151,493
1995-96	£1,151,462	£129,033
1996-97	£1,014,967	£156,494
1997-98	£973,504	£132,389
1998-99	£1,005,782	£177,079
1999-00	£1,026,649	£101,857
2000-01	£840,216	£113,946
2001-02	£1,131,879	£106,372
2002-03	£1,054,922	£163,260

Note: Figures for the PRISM fund exclude grants for conservation

Private and Voluntary Sector Funding and Contributions

D10 University museums are supported through their universities, through public funding from the Arts and Humanities Research Board, and in some cases through entrance fees. The Arts and Humanities Research Board provides core and project funding to many museums based in, or attached to, higher education institutions in England. University museums are classified as private sector bodies and so do not benefit from VAT recovery in respect of free access.

D11 DCMS-sponsored Museums and Galleries raised over £60 million from donations, friends, fundraising and corporate sponsorship in 2002-2003. Some of this income was made available specifically for the acquisition of works of art. The amount raised through sponsorship and other fund raising varies significantly from year to year. For non-national museums and galleries fund raising is even more difficult.

D12 The National Art Collections Fund is a charity, supported by over 90,000 members, which gives grants towards the purchase of works of art for the nation's collections. The charity has bought outright, or helped museums and galleries to acquire, 500,000 works since its foundation in 1903. In 2001, it offered grants worth £5.8 million to institutions ranging from the British Museum to the smallest regional galleries. It handles gifts and bequests from private donors to museums and galleries.

D13 The Friends of the National Libraries is an independent charity, founded in 1931. Its purpose is to help libraries in the United Kingdom acquire books, manuscripts and archives, in particular those that might otherwise leave this country. Since then, the Friends have helped in the purchase of printed books, manuscripts, records and archives of historical, literary, artistic, architectural, and musical interest. Eligible libraries include the British Library, the National Libraries of Scotland and Wales and any university, county, local authority and other library, record office, museum or gallery to which the public has access, and which in the opinion of the trustees, constitutes a proper repository for a proposed acquisition. Grants from the charity range from a few hundred pounds to tens of thousands of pounds.

D14 Some independent museums receive annual grants from local authorities, but many have no public-funding support for their core activities. Almost all of them are set up and run as charitable companies, and are therefore eligible to benefit from charitable donations, including Gift Aid. Gifts to charities are also exempt from capital gains tax and inheritance tax. Independent museums range from small local organisations, mainly operated by volunteers, to large or national-scale operations. Almost all independent museums have admission charges, and some operate only seasonally, deriving much of their income from tourists.

E

Annex E: Heritage Lottery Fund

E1 The Heritage Lottery Fund (HLF) was established in 1995. Originally, it received one fifth of the good causes income from the National Lottery, and since 1998, one sixth. In 2002, following extensive consultation about the priorities for this funding, the HLF published a Strategic Plan covering the period 2002-2007, which outlines the key priorities for all of the heritage income from the Lottery forecast over that period – a total projected income of £1.395 billion. Since the start of the Lottery, the HLF has received, as at the end of June 2003, (and thus partly overlapping the income forecast in the 2002 Strategic Plan), a total of £2.64 billion, of which £1.64 billion had been paid out in grants or other expenditure, with the remainder, and more, committed to heritage projects.

E2 The criteria for all HLF's grant programmes (which include support for acquisitions by museums, galleries, libraries) focus on the objectives outlined in the current Strategic Plan. All of the grants made under the main general awards programmes must meet the priorities of conserving and enhancing our diverse heritage, or encourage more people to be involved in their heritage, or both; and all grants must ensure that everyone can learn about, have access to and enjoy their heritage. Key questions in the application materials are directed therefore precisely at these priorities, and there are further questions about how the project, if funded, will be managed, the risks that it faces, its financial viability, and expected outcomes, including the extent of benefits the project would bring to the community and wider public.

E3 A partnership contribution, to show that there is commitment to the purchase of the item, is always required for HLF awards of more than £50,000. Expert advice is taken on several different aspects of most applications, including not only the valuations where a purchase grant is requested, but on issues such as access and education. The normal timescale for Heritage Grant applications is a six month turnaround, but for smaller awards for up to £50,000 within which some acquisition requests fall, a three month turnaround is offered. If a grant is awarded for the acquisition of an object, the HLF normally requires a condition that the contractual obligations attaching to it should be valid for 80 years, though a lesser period is the norm for the Your Heritage awards scheme. Decisions are taken locally by twelve committees covering the UK countries and the regions of England for awards of up to £2 million, and by the Trustees for awards of greater than that sum.

E4 The HLF has made awards to a total value of £145 million to assist the acquisition of works of art of all kinds and archives. Of this total £96.3 million, representing approximately 150 grants, has assisted in the purchase of paintings and sculpture.

E5 There has been an emphasis on helping regional and local museums to purchase significant objects or works of art which will enhance their collections and broaden local appreciation of heritage. In recent years, however, there have been three purchases of major works of art by the HLF for national museums: these were *Whistlejacket* by Stubbs, bought in 1997 by the National Gallery in London with a grant of £8.268 million, the 1999 purchase of the Botticelli *Virgin and Child* with a grant of £7.687 million by the National Gallery of Scotland, and the award of £7.6 million to the same institution for the purchase in early 2003 as part of a "hybrid" Acceptance in Lieu arrangement of Titian's *Venus Anadyomene*. In addition, the HLF has recently offered its largest grant for a work of art of £11.5 million for the acquisition of the *Madonna of the Pinks* by Raphael, which is the subject of an export deferral.

E6 Where the HLF's criteria for access and education can be seen to be met, HLF awards have funded export-deferred items. There have been 30 HLF-supported export-deferred items since 1995-1996, with a total value of grants of around £6 million. A number of requests for funding from HLF to secure items subject to export-deferral procedures have been turned down for the reason that the level of public and educational benefits that the purchases looked likely to achieve had not been demonstrated. The HLF has also funded a few "hybrid" Acceptance in Lieu deals in circumstances where the policy directions and the criteria for HLF awards could be met.

E7 In assessing requests for purchase grants, the HLF increasingly therefore is seeking a wider spread of benefits than those demanded from the use of the National Heritage Memorial Fund, in particular, how a purchase will increase public access and enjoyment, will be used to reinforce or tailor educational programmes and to reach new audiences, or will involve as wide a spread of people as possible. Recent applications for purchase grants have been accompanied by active proposals addressing all these areas, and often where appropriate also making provision for touring, sharing purchases with other relevant museums or galleries, in effect acting as a catalyst for the enhanced provision of educational work in the institution concerned.

Table E1: The Heritage Lottery Fund's acquisitions, 1995 to 2003

Year	£ millions
1995-96	31.9
1996-97	13.4
1997-98	16.9
1998-99	5.4
1999-00	13.3
2000-01	12.8
2001-02	14.3
2002-03	21.4

F

Annex F: National Heritage Memorial Fund

F1 The National Heritage Memorial Fund (NHMF) was set up under the National Heritage Act 1980, in succession to the National Land Fund as a memorial to those who have given their lives for the United Kingdom. The catalyst for the creation of the Fund was the failure of the Land Fund to prevent the dispersal of the contents of Mentmore Towers.

F2 The Memorial Fund provides funds to secure items of outstanding interest which are of importance to the national heritage and under threat of loss to the nation.

F3 In 1980, the NHMF was given the proceeds of the National Land Fund and, from that point onwards received annual grant-in-aid ranging from £2 million to £23 million. In the year before the National Lottery was introduced (1993-1994) the grant-in-aid was £12 million. It currently receives grant-in-aid of £5 million a year and has an endowment which, at the end of June 2003, stood at £21 million. This endowment stood at £30 million in June 2001 but was used to fund the grant of £17.425 million for the National Trust to buy Tyntesfield, a nineteenth century house and contents.

F4 The NHMF can help buy historic buildings and land, works of fine and decorative art, museum collections, archives, manuscripts, and items of transport and industrial history. It can also on occasion help with conserving and restoring heritage assets at risk. Exceptionally the NHMF may consider endowment funding. The criteria for taking decisions are the importance of the asset to the national heritage, the outstanding interest, the degree of risk, the realism of the costs (and, for purchases, the value of the collection or piece), and the financial need. Because of the origins of the Fund, applications may also have a memorial character, giving special consideration to items or projects which are connected with those who have given or risked their lives for the United Kingdom. A level of public access to the project or the items to be funded is normally required.

F5 There is no formal stipulation that partnership funding is required for any NHMF application, though in almost all cases the grant request is less than 100 per cent. Expert advice is taken on all applications, and where there is a request to help buy items of outstanding importance, independent advice on valuation is always taken. If there is an urgent deadline which needs to be met on a straightforward purchase, for example because of an auction, a fast-track service can sometimes be offered, if this is pre-arranged and agreed. If assisted with a grant, NHMF will normally expect any objects to be held in perpetuity by the acquiring body.

F6 The NHMF receives its funding as grant-in-aid. Sometimes the question is raised whether it could receive funds from the Heritage Lottery Fund. There are three reasons why the Heritage Lottery Fund rejects this course. First, it would be a clear example of potential substitution of lottery funding with grant-in-aid, thus breaching the principle that lottery funds should be additional to government expenditure. Second, under section 24 of the National Lottery Act, Heritage Lottery Funds may only be distributed in response to a properly worked-up application from an outside person or organisation, operating independently from the NHMF; the Trustees of the NHMF could not therefore properly apply to themselves for a grant. Third, even if it were proper for them to do so, the NHMF would struggle to produce an application which fully meets the Heritage Lottery Fund criteria; any application would have to demonstrate how NHMF was going to deliver the full range of Heritage Lottery Fund requirements for public access, education, involvement, and conservation and could fundamentally change the nature of the rapid response which NHMF can on occasion deliver.

F7 Throughout its lifetime, the NHMF has purchased close on 900 items, ranging from major houses, their contents and estates to major works of art of all types. Close on £180 million has been deployed over 23 years by the NHMF in saving heritage objects. Many of these have been small-scale grants of under £100,000 benefiting local museums and galleries, and only a relatively small proportion of the grants, around 30 in all, have been for sums of more than £1 million.

Table F1: Grant-in-aid to National Heritage Memorial Fund, 1993-2003

Year	£ millions
1993-94	12.0
1994-95	9.3
1995-96	8.8
1996-97	8.0
1997-98	5.0
1998-99	2.0
1999-00	2.5
2000-01	3.5
2001-02	5.0
2002-03	5.0

Table F2: The National Heritage Memorial Fund's Acquisitions, 1993-2002

Year	£ millions
1993-94	5.8
1994-95	10.4
1995-96	13.2
1996-97	4.2
1997-98	10.2
1998-99	5.6
1999-00	0.7
2000-01	4.8
2001-02	20.6

G

Annex G: Conditional exemption

Conditional exemption from inheritance tax and capital gains tax is available where qualifying heritage assets are given public access. Conditional exemption may be claimed for heritage assets that are judged to be pre-eminent, provided undertakings are given by the owner to:

- Preserve them and keep them in the UK;
- Secure reasonable public access to them (some measure of which must be ‘open access’ – without prior appointment); and
- Publicise the availability of such access and the terms of the undertakings.

G1 In 1896 the then Chancellor of the Exchequer agreed that certain important heritage objects could be exempted from estate duty. The successor to that exemption remains available today against inheritance tax, but is now subject to the new owner giving undertakings about their care of the object, reasonable access for the public and publicity.

G2 The tax owed in relation to these objects is only deferred, not written off completely. If an owner sells a conditionally exempt object, or ceases to observe the undertakings they gave to secure exemption, they must then pay the deferred inheritance tax charge.

Qualifying Assets

G3 Relevant objects, or a collection or group of relevant objects, can qualify for exemption if they are pre-eminent for their national, scientific, historic or artistic interest. An object which is historically associated with a building which itself has been granted exemption due to its outstanding historic or architectural interest, can also qualify for exemption.

G4 “National interest” relates to all parts of the United Kingdom, and “relevant objects” can include pictures, prints, books, manuscripts, work of arts, scientific objects and, potentially, any other object that does not yield income.

G5 Currently there are about 90,000 objects in the conditional exemption scheme. More than two thirds of these are in museums, galleries or properties that are open to the public.

Amendments under the Finance Act 1998

G6 The conditional exemption scheme was amended by the Finance Act 1998. Changes included:

- an increase in the quality threshold from, broadly, “museum quality” to the “pre-eminent” standard (the same standard as applies to Acceptance in Lieu – see Annex I);
- a stipulation that the access provided to the public cannot be confined to access only by a prior appointment; and
- requirements for publicity to be given to the exempted object and the arrangements for access to it.

G7 Schedule 25 of the Act contains details of the changes and can be accessed via the Internet on the HMSO website at <http://www.hmso.gov.uk/acts/acts1998/80036-bt.htm#sch25>.

G8 More information about conditional exemption, including details of heritage assets which the public can see, can be found at <http://www.inlandrevenue.gov.uk/heritage>.

H Annex H: Private treaty sales and the *douceur*

Tax exemption for private treaty sales of pre-eminent objects to Schedule 3 bodies

H1 When a heritage asset, such as a work of art, is sold the vendor may be liable to capital gains tax and to inheritance tax. However these tax charges are not incurred if an owner sells an object that qualifies for conditional exemption by private treaty to a Schedule 3 body.

H2 In a private treaty sale the owner agrees the sale with only one buyer, rather than putting the object up for sale to the highest offer, such as in an auction, where any potential buyer can bid for it. Heritage items qualify for conditional exemption if they are judged to be pre-eminent (Annex G). Most public collections are included in Schedule 3 (Annex K).

H3 If the buying institution, for example a national museum, took the whole benefit of this tax exemption on private treaty sales, they would only pay the vendor the net proceeds after tax that a vendor would receive from an open market sale. This would be equal to the estimated open market value, less the capital gains tax and inheritance tax the owner would have had to pay as a result of such a sale.

Douceur

H4 It is longstanding policy that the price paid by the purchasing institution should not be reduced by the full amount of this tax saving but should instead be adjusted upwards so as to leave part of the benefit, known as the *douceur*, in the hands of the seller. This arrangement is administrative not statutory.

H5 Under the *douceur* arrangement the vendor is left with more, net of tax, than if he had sold the property in the open market and paid the tax, and the Schedule 3 body pays less than the estimated open market value to acquire the property. However, taking into account the tax foregone, the total cost to public finances is more than it would be in an open market sale at the gross-of-tax price underlying the *douceur* calculation.

H6 The benefit of the tax exemption is usually shared so that the seller receives 25 per cent of the tax saving (the *douceur*), and the institution the remaining 75 per cent.

H7 While in theory, the parties can agree a higher or lower *douceur*, in practice the rate rarely changes from 25 per cent. Any increase in the *douceur* would leave the buying institution having to pay more (see Table H2).

H8 The *douceur* is also available for chattels under the Acceptance in Lieu (AIL) system (Annex H), though here the *douceur* is fixed at 25 per cent.

Table H1: Calculation of a private treaty sale price which includes a *douceur*

The table below shows how a private treaty sale price would be calculated on the basis of a 25% *douceur*. In this case, the seller would receive £12,400 more than if he had sold his work of art on the open market at the same price as the agreed estimate and paid tax to the Inland Revenue.

	£	£
Agreed current market value		100,000
Tax applicable:		
Capital gains tax at 40% on gain element, if gain say £40,000	16,000	
Inheritance tax payable at 40% on £84,000 (market value less capital gains tax)	33,600	
	<hr/>	
Subtract total tax	49,600	49,600
		<hr/>
Net receipts after full tax		50,400
Add back 25% of tax (the <i>douceur</i>)		12,400
		<hr/>
Tax exempt price paid		62,800

The sum of £62,800 is known as the “special price”. It is what the vendor receives from the public collection.

- The *vendor* has £12,400 more than if he had sold the object for £100,000 in the open market and paid the tax.
- The *public institution* pays £62,800, which is £37,200 less than its open market value.
- At the same time the *Inland Revenue* writes off £49,600, the total tax that it would otherwise have received following an open market sale.

Costs of sale, such as professional fees, are not taken into account in the notional tax calculation and therefore have to be met in full from the sale proceeds. But by opting for a private treaty sale the vendor does not incur a seller’s premium charged at auction.

Table H2: Varying the rate of the *douceur*

The following table shows the price that a museum would have to pay to purchase an object with an agreed open market value of £100,000 by private treaty sale at a range of possible rates for the *douceur*. This example uses the same tax and gain assumptions as table H1 above.

Rate of <i>douceur</i>	10%	20%	25%	30%	40%	50%
Cost to museum and amount received by vendor	£55,360	£60,320	£62,800	£65,280	£70,240	£75,200

I

Annex I: Acceptance in Lieu

11 The Acceptance in Lieu (AIL) scheme enables taxpayers to transfer works of art and other heritage objects into public ownership while paying inheritance tax.

12 The legislation under which chattels and land can be accepted in lieu of tax is contained in Sections 230 and 231 of the Inheritance Tax Act 1984. As well as land, the legislation permits the Acceptance in Lieu of objects which are individually pre-eminent or form part of pre-eminent collections; and objects which are or have been kept in certain buildings.

13 In 1992 the AIL Panel was set up to handle the increasing complexity of the offers being made.

Criteria for pre-eminence

14 Objects are regarded as pre-eminent if they would constitute a 'pre-eminent' addition to the collection of a national, local authority, university or other independent museum. Items which are, or have been, in a building in owned by a Schedule 3 body (Annex K) may be Accepted in Lieu even if they are not individually pre-eminent if it is considered that they should remain in, or return to, that building.

Criteria for Pre-eminence

- That the object has an especially close association with our history and national life.
- That it is of especial artistic or art-historical interest.
- That it is of especial importance for the study of some particular branch of art, learning or history.
- That it has an especially close association with a particular historic setting.

15 The AIL Panel interprets these criteria with some freedom, while maintaining rigorous standards of excellence. An object needs to meet only one of the criteria in order to qualify as pre-eminent.

AIL in practice

16 Anyone who is liable for the payment of an existing inheritance tax bill can offer a heritage object in part or whole payment of the tax. The Inland Revenue accepts or declines the offer on the recommendation of the Secretary of State for Culture, Media and Sport, (or the appropriate Minister for cases with a Scottish, Welsh or Northern Irish interest) who is, in turn, advised by the Acceptance in Lieu Panel.

17 After an offer has been received, the Inland Revenue informs the Department for Culture, Media and Sport (or the Scottish Executive, Welsh Assembly or Northern Ireland Executive where there is an appropriate interest) and refers the case to Resource.

18 The AIL Panel then takes over consideration of the case. If the Panel decides that the object appears to be pre-eminent, it appoints two or more expert advisers, who are generally museum curators, scholars in the field or members of the art trade. These experts examine the object, assess its condition and provide written reports to the Panel, advising on whether the object meets one or more of the criteria outlined above, whether its condition is satisfactory and whether the price at which it is offered represents the open market price.

19 In the light of this advice, and the collective knowledge of its members, the Panel then makes a recommendation to the Secretary of State. When the object has particular regional associations with Scotland, Wales or Northern Ireland, the recommendation is made to the appropriate Minister with a copy to the Secretary of State.

Open market price and hybrid arrangements

110 The price at which the object is offered should represent the open market price at the time of the offer. If an offer is made below the open market price, the AIL panel will ask the offeror's agent if they wish to revise the price. On some occasions, the offeror may be aware that the offer is below the open market price but is content that the value of the object covers the tax liability and is willing to forego any benefit from the higher market price that might have been agreed.

111 Once the open market value of the offered item has been agreed, the 'special price' (i.e. the amount of tax which the offer will settle) is calculated in the same way as for a private treaty sale (see Annex H).

112 In cases where the special price more than covers the outstanding tax, and the offeror is unwilling to forego the excess, the recipient museum or gallery has to pay the offeror the difference between the tax liability and the special price. This is known as a 'hybrid arrangement'.

Allocation

113 All objects accepted under the scheme are allocated by the Secretary of State to a public institution to ensure that public access is guaranteed to as many people as possible. The offeror can make the offer conditional upon allocation to a specific institution. If an offer is unconditional, institutions are invited to make an application for the object via advertisements in the *Museums Journal* and on the Acceptance in Lieu section of the Resource website, <http://www.resource.gov.uk/action/ail/00ail.asp>.

114 The AIL Panel takes into account any wishes which have been expressed before offering advice to the Secretary of State on appropriate locations (or if the offer is conditional on allocation to a specific institution, advises whether the offer should be accepted on these terms). In all cases, the ability of the museum or gallery to provide adequate and safe display is an essential condition for being considered an appropriate location.

In situ offers

115 Sometimes items are offered which have a strong link with a historic building in public ownership, such as a National Trust property. These items will be transferred to the owner of the building so that they can remain in or return to their historic setting, provided that there is sufficient public access.

116 Some items are accepted for AIL because of their place in an important historic house in private ownership. Such items have an additional significance from being seen within the context for which they were created or with which they are associated. In this case, the objects can remain *in situ* so they can be seen in their historic context provided that conditions of security and public access are met. Ownership of the items will nonetheless pass to a public museum.

Benefits to the offeror

I17 In satisfying a tax liability, an offeror is able to apply a higher proportion of the value of an object if it is offered in Lieu than if the same object is sold at auction. This is because the offer benefits from the *douceur* arrangements described in Annex H.

I18 For example, if in order to settle a tax liability, an estate sells an object valued at £100,000 on the open market, inheritance tax is generally payable at a rate of 40 per cent and the estate receives £60,000. If the same object is offered in Lieu, 25 per cent of the tax that would have been payable is remitted to the estate, with the result that the object has a tax settlement value of £70,000. An object is, therefore, worth roughly 17 per cent more if it is offered in Lieu of tax than if it is sold on the open market at the same price.

I19 There are further attractive, although intangible, benefits. Many owners like to think that objects which may have been in their families for centuries can remain in the UK and they welcome the opportunity of having a say in their allocation. Where an object is offered *in situ*, it can still remain an integral part of the collection to which it historically belongs, even though ownership will have changed.

Further information

I20 For further information about the Acceptance in Lieu scheme refer to the Acceptance in Lieu annual reports which can be accessed via the Resource website (<http://www.resource.gov.uk/action/ail/00ail.asp>), or contact Resource: The Council for Museums, Archives and Libraries, 16 Queen Anne's Gate, London, SW1H 9AA, telephone 020 7273 1458 (publications) 020 7273 1444 (information), or email info@resource.gov.uk.

J

Annex J: Export of cultural objects

J1 Certain cultural objects more than 50 years old and valued above specified financial thresholds require an individual licence if they are to be exported out of the United Kingdom, whether on a permanent or temporary basis.

J2 The export licensing controls for objects of cultural interest are designed to balance the need to keep nationally important objects in this country, the rights of owners and the encouragement of a thriving art trade.

J3 Above certain valuation limits, licence applications must be referred to expert advisers, who consider the applications against the Waverley criteria.

The Waverley criteria

- Is the item so closely connected with our history and national life that its departure would be a misfortune?
- Is it of outstanding aesthetic importance?
- Is it of outstanding significance for the study of some particular branch of art, learning or history?

J4 If an expert adviser thinks that an item meets any of these criteria, they refer the export licence application to the Reviewing Committee on the Export of Works of Art, which may recommend that ministers defer the decision on granting the export licence.

J5 The deferral of the licence enables a purchase offer to be made, at or above the recommended price, and provides UK institutions and private individuals with a final chance to raise the money to purchase such items before they are exported. The deferral period can be extended where there is a serious intention to raise funds with a view to making an offer to purchase.

J6 If the vendor rejects an offer at the fair market value of the item, the export licence will be refused. If no such offer is forthcoming, the licence will be granted at the end of the deferral period.

Further information

J7 For further information about the export of cultural property, or to access annual reports on the Export of Works of Art, refer to the Department for Culture, Media and Sport website at www.culture.gov.uk. The Department's telephone number for enquiries is 020 7211 6200. Alternatively contact the Cultural Property Unit, Department for Culture, Media & Sport, 2-4 Cockspur Street, London SW1Y 5DH, or email exportlicensing@culture.gsi.gov.uk.

Table J1: Applications for export licences considered by the Reviewing Committee on the Export of Works of Art

Year	Total Cases	Deferred	Deferred and not exported		Deferred then licensed for export		% of deferred cases where licence was eventually granted
			Number	Value £million	Number	Value £million	
95-96	27	21	11	5.7	10	22.2	48
96-97	29 ¹	25	12 ²	1.5	13	22.7	52
97-98	19 ³	15	8 ⁴	4.4	7	18.8	47
98-99	20	17	9 ⁵	2.5	8	21.0	47
99-00	18 ⁶	13	10 ⁷	4.5	3	5.0	23
00-01	37 ⁸	34 ⁹	27	6.6	7	12.6	21
01-02	34 ¹⁰	31	25 ¹¹	7.5	5 ¹²	11.4	16

1. Including one case where it was found that the object had arrived in the UK within the last 50 years and a licence was issued in accordance with normal policy, and another re-application that was refused.
2. Including two cases where a matching offer was refused and the Minister therefore refused an export licence.
3. A further four cases were referred to the Committee, but the applications were withdrawn before a hearing took place.
4. Including one case where a matching offer was refused and the Minister therefore refused an export licence.
5. Including one case where a licence application was withdrawn during the deferral period.
6. Including one case where a licence was withdrawn before the Committee's recommendation was made. A further 11 cases were referred to the Committee, but the applications were withdrawn before a hearing took place.
7. Including four cases where a licence application was withdrawn during the deferral period.
8. A further five cases were referred to the Committee, but the applications were withdrawn before a hearing took place.
9. Including four cases where a licence application was withdrawn during the deferral period.
10. Including one case where it was found that the object had arrived in the UK within the last 50 years and a licence was issued in accordance with normal policy, one case where an application was withdrawn before the Committee's recommendation was made, and one case where the item was found to have been exported unlawfully.
11. Including two cases where a licence was refused following refusal of a matching offer, one case in which a licence was issued but the sale of the item to a UK institution was subsequently being negotiated, and one case in which the licence application was withdrawn during the deferral period.
12. A licence was issued for a further item, but a sale to a UK institution was subsequently being negotiated.

Table J2: Export licence applications deferred on the recommendation of Reviewing Committee on the Export of Works of Art

Year	No. of items exported	Value of items exported (£)	No. of items bought	Value of items bought (£)	Support by HLF (£)	Support by NHMF (£)	Support by NACF (£)	Support by Resource/V&A Fund (£)
95-96	10	22,287,294	10	3,898,817	2,188,322	464,887	329,205	57,200
96-97	13	22,731,737	10	1,120,722	236,100	225,000	144,079	4,981
97-98	7	18,896,762	7	4,125,200	1,180,633 ¹	0	376,500	54,500
98-99	8	21,009,066	8 ²	2,369,631	560,000	0	117,320	58,000
99-00	3	5,024,833	6	491,027	140,100	0	131,500	42,290
00-01	7	12,367,972	23 ³	3,168,087	525,700	1,254,930 ⁴	690,701 ⁴	5,012
01-02	6	13,436,169	20	2,706,601	1,156,456	471,500 ⁵	569,395 ⁵	78,000

1. A grant of £12,000 was also made for conservation work.
2. Including a Roman gold finger-ring, valued at £2,352.50, which was donated by the owner to the British Museum.
3. Including a series of 13 related finds.
4. Offers of grants were made for a further two items by the NHMF and the NACF. In both cases, the licence applications were withdrawn.
5. Including support for two items where purchase offers were refused.

K Annex K: Schedule 3 bodies (Inheritance Tax Act 1984)

The National Gallery

The British Museum

The National Museums of Scotland

The National Museum of Wales

The Ulster Museum

Any other similar national institution which exists wholly or mainly for the purpose of preserving for the public benefit a collection of scientific, historic or artistic interest which is approved for the purposes of this Schedule by the Treasury

Any museum or art gallery in the United Kingdom which exists wholly or mainly for that purpose and is maintained by a local authority or university in the United Kingdom

Any library the main function of which is to serve the needs of teaching and research at a university in the United Kingdom

The Historic Building and Monuments Commission for England

The National Trust for Places of Historic Interest or Natural Beauty

The National Trust for Scotland for Places of Historic Interest or Natural Beauty

The National Art Collections Fund

The Trustees of the National Heritage Memorial Fund

The National Endowment for Science, Technology and the Arts

The Friends of National Libraries

The Historic Churches Preservation Fund

English Nature

Scottish Natural Heritage Section

Countryside Council for Wales

Any local authority

Any Government department (including the National Debt Commissioners)

Any university or university college in the United Kingdom

A health service body, within the meaning of Section 519A of the Income and Corporation Taxes Act 1988

Since the 1984 Act, the following 'similar national institutions' are, with the approval of the Treasury or the Board, also included in the list of bodies within Schedule 3:

British Library

Fleet Air Arm Museum

Geological Museum

Imperial War Museum

Lambeth Palace Library

London Museum

National Army Museum

National Galleries of Scotland

National Library of Scotland

National Library of Wales

National Maritime Museum

National Museums and Galleries on Merseyside

National Portrait Gallery

National Postal Museum

Natural History Museum

Portsmouth Naval Museum

RAF Museum

Royal Botanic Gardens, Kew

Royal Marines Museum

Science Museum

Tate Gallery

Tower Armouries

Ulster Folk Museum

Victoria and Albert Museum

Wallace Collection

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