1. Introduction

1.1 I am writing to seek your formal approval of revised acquisition and disposal policies for Leighton House Museum and Linley Sambourne House.

2. Background

2.1 The Museums Libraries and Archives Council (MLA) is a non-departmental public body sponsored by the Department for Culture Media and Sport (DCMS). The MLA’s main purpose is to promote best practice in museums, libraries and archives in the United Kingdom.

2.2 The MLA has an accreditation system which sets out nationally agreed standards. Leighton House Museum and Linley Sambourne House are registered museums under the accreditation scheme. In 2007 the MLA introduced new standards and all museums are going through the process of re-applying for accreditation. Officers are preparing applications for both of the Council’s museums. We need to adhere to MLA standards to achieve these accreditations. Accreditation confers significant advantages on the Council as it gives us access to external sources of funding and support. Furthermore if we are not accredited we are unlikely to persuade other museums to lend us works for display.

2.3 As part of any submission for accreditation, the Council must include its acquisition and disposal policies. The policies should set out a coherent approach to the development of the museums’ collections. They should support the core purposes of the museums and result in
collections of lasting value and significance. The MLA requires that the policies should be reviewed every 5 years.

2.4 The draft acquisition and disposal policies I propose would help the Council decide how to shape the collections of paintings and other works in Leighton House Museum and Linley Sambourne House. They indicate what works could be bought in future in pursuit of the proposed vision statements for these museums.

2.5 The policies also indicate the conditions under which low value and irrelevant works could be loaned permanently, given away, exchanged, or sold. We need to make disposals of this kind, not least because the Council’s curators are currently spending too much time and resources on the management of numerous works that have no connection to the vision statements for the museums, are of dubious aesthetic value, and are not on public display. We also hold a very small number of high value works that are not relevant to the vision statements for our museums. It is arguable that we should try to sell these works, perhaps in order to acquire other works that are relevant to our vision. That said, I must draw your attention to the potential risks associated with such disposals.

2.6 In April 2008 the MLA published new guidance about acquisition and disposal policies. The guidance is attached as Appendix 1. The guidance includes the following statement:

“The acquisition, management and disposal of collections will flow from:

- a museum’s constitution and statement of purpose
- the legal basis on which the collections are held
- the public benefit derived from the effective use and management of the collections
- an assessment of the needs of the museum’s collections
- the collections held by other museums and organisations collecting in the same or related geographic areas or subject fields.

Financially motivated disposal risks damaging public confidence in museums and the principle that collections should not normally be regarded as financially negotiable assets (MA Code of Ethics, 2008, paragraph 6.13).”

2.7 The Council cannot ignore the guidance of the MLA without risk. In April 2008, Bury Metropolitan Borough Council sold a painting by L.S. Lowry in order to cover a shortfall in the Council’s budgets. This led to much negative publicity and a series of adverse
consequences for that Council’s museums service. The MLA stripped Bury Council of its accreditation, making it ineligible for normal grant aid for acquisitions and other support for services. There was much negative publicity for Bury Council, which was accused of ‘cultural vandalism’, triggering its resignation from the Museums Association.

More recently, in September 2009, Southampton City Council announced plans to raise £5.5 million towards the cost of a new museum devoted to the story of the Titanic through the sale at auction of a painting by Alfred Munnings and one of two bronzes by August Rodin. A high-profile public campaign against the sale has been organised through the press and objections have been raised by the Museums Association, the Art Fund, and the Museums Libraries and Archives Council. The attorney general is considering the matter, which looks set to embroil Southampton City Council in an extended legal dispute.

2.8  If – like Bury and potentially Southampton - the Council of the Royal Borough treated its museum holdings as conventional assets to be disposed of on the open market, the risks to the Council would include:

- a loss of MLA accreditation;
- a reduction in the status of Leighton House Museum and Linley Sambourne House;
- a loss of access to staff training and development opportunities provided by the MLA;
- a loss of access to the MLA’s grants programme; an inability to obtain government indemnity to cover the insurance of paintings on loan to the Museum (probably forcing the return of these works and an end to any further loans);
- the cessation of contributions from the Art Fund (which has contributed around £250,000 to the Museum over the past 10 years to assist with 8 acquisitions); and
- the cessation of contributions from the Heritage Lottery Fund (which has contributed £935,000 to Leighton House Museum over the last 8 years).

I advise that these risks are unacceptable if we wish to maintain the current reputation of Leighton House and Linley Sambourne House. In my judgement these risks outweigh any financial advantages to the Council that might accrue from the sale of any works.

2.9  To avoid these risks, I have prepared acquisition and disposal policies that are consistent with MLA guidance and follow their prescribed content and format. The draft policies are attached as appendices 1 and 2. The draft policies describe the main themes in the vision for Leighton House as an active and engaging museum, and set out a mission statement for Linley Sambourne House. They
briefly describe the collections. They set out criteria for acquisitions. They describe the type of works the Council would not collect. They specify the museums working in similar fields with whom the Council would consult on future acquisitions. They describe disposal procedures which include the need:

- for transparency
- for sound curatorial reasons for disposal
- to respect donors’ wishes, or conditions attached to grants, and to have regard to the legal status of any works
- to consult relevant parties
- to prioritise the retention of the work in the public domain
- for the Council (not the curator alone) to control disposals, and
- for the ring-fenced use of the proceeds of any sale for the benefit of the collections, normally for more acquisitions.

2.10 I must draw your particular attention to the last of these bullet points. A recent review and valuation of the collection carried out by the museum curators has established that, of the paintings that fall outside the criteria for retention, two have a substantial monetary value. These are a painting by John Linnell (1792-1882) valued at £25,000 - £35,000 and a landscape by Joseph Wright of Derby (1734-1797) estimated at £200,000 - £350,000. By agreeing the policy, the Council would be accepting that any future disposal through sale of these paintings might generate a sum of this order and that this sum will be reserved as a purchase fund, or collection improvement fund, for the museums. All other works in the collection that fall outside the criteria for retention have been identified as of low or, in several instances, negligible value.

3. Consultation

3.1 We have sought the advice of the MLA’s Museum Development Officer for Central London. He has agreed with the proposed acquisition and disposal policies as long as any funds raised from sales are ring-fenced for collections.

3.2 We have consulted the Director for Property and he is satisfied that the proposed policies are consistent with the Council’s normal approach to the disposal of assets.

4. Options

4.1 The options for decision are as follows:

**Option One:** to approve both the attached policies for Leighton House Museum and Linley Sambourne House and enable the accreditation process to continue.
**Option Two:** not to approve either or both of the two policies, and to ask officers to consult you and your colleagues on possible revisions to any of the policies you do not approve.

5. **Financial, Legal, Sustainability, Risk, Personnel and/or Equalities Implications**

**Financial**

5.1 The Group Finance Manager comments that the Council has invested significant sums in Leighton House. It is a subsidised service and the Council demonstrates its commitment to the service by agreeing additional funding for new acquisitions and is paying for the current Phase 2 refurbishment at an estimated cost of £1.5 million.

5.2 Where external contributions have been made towards acquisitions it is right that conditions should be attached to any disposal. However, for Council funded acquisitions there is an arguable point that they should be treated as ordinary assets of the Council, and that the Council should be free to dispose of them as it sees fit. On the other hand, if the Council wished to make acquisitions in the future, having a ring-fenced reserve would facilitate that and would enable the Council to access external funding to support its ambitions. In effect, the Council would be facilitating the exchange of artworks that fall outside its ambitions for artworks that do.

**Legal**

5.3 The Chief Legal Officer has given advice on the statutory powers available to the Council in relation to these works and on other ancillary matters.

5.4 Section 12 of the Public Libraries and Museums Act 1964 (“The 1964 Act”) provides that a local authority may provide and maintain museums and art galleries within its administrative area or elsewhere in England or Wales, and may do all such things as may be necessary or expedient for or in connection with the provision or maintenance thereof. Section 15 of the Act provides that a local authority may establish a fund for the purchase of objects for exhibition in any museum or art gallery and schedule 2 paragraph 3 of the 1964 Act provides that where any object kept for exhibition in a museum or art gallery is sold by the authority, then the proceeds of sale may be paid into this fund unless the proceeds of sale are subject to some trust, the terms of which prevent this. Section 139 Local Government Act 1972 deals with acceptance of gifts and provides at subsection (1):

("Subject to the provisions of this section a local authority may accept, hold and administer—")
...for the purpose of discharging any of their functions, gifts of property, whether real or personal, made for that purpose; or ...for the benefit of the inhabitants of their area or of some part of it, gifts made for the purpose; ...and may execute any work (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section.”

5.5 The statutory powers are broad but it is vital that, before disposing of an item, the museum is clear that it is legally entitled to do so and in particular that the donations or bequests or purchased items are not subject to conditions or restrictions which prevent, or limit the terms or method of disposal. Useful guidance is contained in the ‘disposal toolkit’ issued by the MLA which should be followed wherever possible to minimise the risk to the Museum and Council. This guidance makes it clear that in situations where formal title may not be established for an item then a risk assessment should be carried out prior to disposal. Likewise if an item was purchased with the assistance of external funds then the guidance advises that the Museum contacts those funding bodies prior to disposal. It is also important that full records are kept after disposal to deal with any issues or challenges that may arise in future.

5.6 The proposed acquisition and disposal policies for Leighton House Museum and Linley Sambourne House include provision that the Council, as Governing body of the museums, will ensure that the disposal process is carried out having consideration to the Council’s constitution.

Sustainability
5.7 There are no significant sustainability implications arising from this report.

Risk
5.8 There are significant risks associated with the disposal of artworks in the Council’s ownership. These are described in the report, together with risk reduction measures.

Personnel and Equalities Implications
5.9 There are no personnel or equalities implications arising from this report.

6. Recommendation
6.1 I recommend that you approve the Acquisition and Disposal Policies for Leighton House Museum and Linley Sambourne House
6.2 I recommend that you approve the setting up of a reserve fund exclusively for the purpose of making purchases of works of art from the sale of works of paintings currently owned by the Council.

Peter Ramage  
Director for Waste Management, Culture, and Leisure

Tot Brill  
Executive Director, Transport, Environment and Leisure Services

FOR COMPLETION BY AUTHOR OF REPORT:

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Background papers:

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FOR COMPLETION BY GOVERNANCE SERVICES:

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