

Guidance Sheet 4

Managing relationships between creative industries and museums

Summary

All projects between museums and creative industry partners need **a written agreement**. For complex projects, you may need a formal contract, drawn up with legal advice. More straightforward projects may only require a letter of agreement.

All agreements should cover:

- Deliverables and timetables: what will be produced, with key dates and deadlines
- Money: Financial arrangements
- Roles: Who is responsible for what, including health and safety, project management and insurance
- Ownership, Rights and Exclusivity: Who will own anything produced physically, and who will own copyright and other intellectual property rights and whether either party is giving the other exclusive rights to anything
- Credits and Branding: How things produced will be credited and branded
- Approvals: Who will need to approve (and so have the right to reject) anything produced
- Restrictions: on what can be done or when and where things can be done
- Termination: can the agreement be ended early and if so what does that mean for the financial arrangements

Some agreements may also need to cover:

- Disagreements , liabilities and indemnities: what you will do if things go wrong
- Risk management: who is responsible, and how this will be managed
- Maintenance and guarantees: for any work produced
- Marketing and trademarks: who is responsible for marketing? Can each partner use the others' branding?
- Consultation: who will manage public consultation and how will you respond to findings?
- Confidentiality: what information needs to remain confidential?
- Geographical scope and international rights: are their geographical limits to your agreement?
- Monitoring, reporting and evaluation: you may want to put some commitments in your agreement

- What happens next? Some agreements may need to address what happens to physical outputs of your project, or the partners' longer term relationship

Other considerations

Ensure your project is **marketed and promoted** effectively. Think about the long-term aim of enhancing your reputation and brand as well as the short-term aim of building audiences.

Ensure you agree an appropriate **fee**: this guidance note includes some samples.

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Note that nothing here is intended as legal advice and nothing should be construed as legal advice. Every situation is different and if there is anything you are unsure about you should take your own legal advice from a qualified legal practitioner.

1 Types of relationships

There are several different forms of relationship between museums and creative businesses and individuals (here called 'creatives' for short).

The museum commissions a creative to do something For example: to make a work of art or to produce a film. In this case the museum is the client and the creative is the contractor or supplier. Normally, the museum will pay a fee, or series of fees, to the creative for the work they do.

The creative buys something from a museum For example: the right to use an image of something in the collection in a publication or on a website, the hire of a space for filming, or a license to use the museum's brand on a product. In this case the creative is the client and the museum is the contractor or supplier. Normally, the creative will pay a fee, or series of fees, to the museum for use of the museum's assets.

The creative and the museum collaborate For example, they work together to develop a new product, they jointly produce a series of events, or work together to produce a book. Normally, money will not change hands, but there will be an agreement about how expenditure, and potential income, will be shared between the museum and the creative.

The first two ways of working are well established and there is lots of advice available (although certain issues, such as intellectual property rights, can still be quite complicated). The third, working collaboratively, in a genuine partnership, is less common but has huge potential for creating new products, exploring new ideas and reaching new audiences and consumers. Such collaborations, especially if they are externally funded, will usually require a 'lead partner', which will be a point to be agreed upon by all concerned.

The better people understand each other, the smoother things are likely to go when work starts. For example, when museums commission artists:

'The biggest problems emerge as a result of poor communication, briefing and contract - and the failure of the museum to understand just how different the artist's perspective can be from that of the museum staff. It is hard to manage projects when you have no idea how the finished item will turn out, so it is important that there is confidence and trust between the artist, the member of staff handling the commission, and the museum's senior management.'
Jane Morris, Commissioning an Artist Museum Practice, issue 31, Autumn 2005

In all relationships, collaborations and partnerships it is valuable to discuss and understand what everyone expects, what they need and want and how they work. A good way of doing this is to take time to develop an agreement that works for everyone involved. This guidance sheet looks at what can be included in an agreement between a creative and a museum and also looks at subjects such as fees and marketing.

These things can take considerable time. In an extreme case of commissioning a large and complex work of art:

'The easy bit was making the actual work... We spent almost two years going through all the legalities and the regulations, and it was only in the last four months that we actually put the work in place.'
Artist Richard Wilson in Louisa Buck & Daniel McClean, *Commissioning Contemporary Art: A handbook for curators collectors and artists*, 2012

2 The Agreement Part 1: Basics

2.1 Why have a written agreement?

As in anything involving more than one organisation, the more clearly you can describe what you aim to achieve together, why you are doing it and how you are going to approach it, the easier things will be in practice.

The ideal agreement has clear benefits for both parties and is based on trust rather than suspicion. It gives an opportunity to explore properly how the relationship will work and should include enough flexibility for things to change as the relationship develops, but enough detail to help if some of the obvious things start to go awry.

Treat discussions about the agreement as an opportunity to map out the relationship in detail, to get to know each other better and to understand each other's priorities, values and ways of working. See it as a constructive process.

2.2 Is a written agreement complicated? Types of agreement

There are different ways of setting out the relationship. For a large, high cost project you may need a specially written contract, with input from a lawyer. But that will be disproportionate for a smaller piece of work. In some cases the creative or the museum may already have a standard form of agreement, such as standard terms and conditions for supplying images, for making a short film, or for producing a specially commissioned art work. Often these standard agreements will work just fine – but do read through them and do not be afraid to suggest changes to anything you are unhappy with. Every agreement is up for discussion until both parties have signed it – and do not sign something you don't like. Once signed, an agreement can be changed if (but normally only if) both parties agree. As others will have been there before you, it is worth discussing proposed projects and associated agreements with your peers. They may have omitted or included particular elements, and understanding their rationale may strengthen your thinking in drawing up an agreement.

At the very minimum, there should be a short written agreement between the creative and the museum that sets out the key points of the relationship. This could be in the form of a letter and should be exchanged and signed by both parties before detailed work starts.

Buying or selling a simple service is often quite straightforward, but collaborations and commissions can be very different - so there cannot be a one-size-fits-all approach. You are more likely to want a more detailed written agreement, and to take legal advice, if the relationship has a high financial value, if there is a large amount of work and time committed, or if reputations could be badly damaged if things go wrong.

2.3 Staged agreements

In some cases, it will not be possible to predict how a relationship will develop and it might be better to have a written agreement that covers only the first stage of the work. This can then be followed by other agreements as the work develops. Where there are going to be a series of agreements, it is a good idea to agree the total budget at the beginning of the process to prevent misunderstandings arising later as costs and expectations almost inevitably start to rise.

2.4 What is the minimum an agreement should cover?

Any agreement should cover, as a minimum:

- **Deliverables**: What will be produced: a film, book, app, exhibit, design, game, retail product, event...
- **Timetable**: Key dates and deadlines
- **Money**: Financial arrangements
- **Roles**: Who is responsible for what, including health and safety, project management and insurance
- **Ownership**: Who will own anything produced physically

- Rights: Who will own copyright and other intellectual property rights
- Exclusivity: Whether either party is giving the other exclusive rights to anything
- Credits and Branding: How things produced will be credited and branded
- Approvals: Who will need to approve (and so have the right to reject) anything produced
- Restrictions: on what can be done or when and where things can be done
- Termination: can the agreement be ended early and if so what does that mean for the financial arrangements

Whether or not you decide to include the following points in your written agreement, you are advised to discuss them all before work starts in detail.

2.5 Deliverables

Begin by specifying what is going to be produced. It might be something relatively simple like a book, artwork or a retail product. Or, it might be something harder to describe like a programme of engagement for a particular audience, an experimental film or a special event. It may be sensible to include a detailed brief that describes requirements in detail. Consider, as appropriate:

- What will it be used for?
- Who will it be used by?
- What will it be made of?
- What size will it be?
- How durable does it need to be?
- What formats will it be produced in?
- Are there any restrictions on it?
- Are there any equalities issues? Will it be suitable for people with disabilities?
- Will there be more than one? If so, how many? If it is an item for retail and sells well, what will the arrangements be to produce more?
- As well as the main deliverable, will there be any ancillary things, such as interpretation, publicity, talks?

2.6 Timetable

Specify when the work will start and when it will finish. Include dates for key milestones, such as preliminary designs, agreement on final design, and production of prototype. These key milestones may be linked to the payment of parts of any fee.

2.7 Money

Financial arrangements will vary enormously, depending on the type of relationship between the creative and the museum and the scale of the work. Sample fee levels are given below in section 4 of this guidance note.

1 Museum commissions a creative

Here, the museum will normally pay fees to the creative for the work they undertake. Payments may include some or all of:

- **Initial design fee** A flat fee contribution to costs if the creative is producing samples before final agreement, or a guaranteed 'advance' payment of a percentage of the total production cost. Design fees are common if more than one creative is applying for the work. Advance payments such as initial design fees are made to the creative whether or not the full project proceeds. You should agree on the future ownership of any preparatory work. (See rights, below)
- **Main fee for work** This fee may be paid in stages, specified in a payment schedule and tied to key milestones in the timetable. It may include expenses and materials costs, or they may be stated separately. Consider any costs for licenses for software, for image reproduction, for maintenance or similar. Remember some of these types of cost might be payable annually
- **External costs** Who pays any costs due to external manufacturers to fabricate things or to host a website or app?
- **Delivery and installation costs** Consider what these might be and specify who pays them
- **Exhibition fee** Sometimes artists are paid an exhibition fee by a museum (see sample fees below)
- **Commission or royalties** Sometimes instead of - or as well as - fees, payments will be made for each item sold. For example, there might be a royalty payment every time an app is downloaded, every time a product is sold in a shop, or a commission payment if a work of art is sold
- **VAT** Many costs and charges are subject to VAT, if the creative is registered for VAT. Many items and services have VAT on them at 20%, others (such as books) are zero-rated for VAT. See <http://www.hmrc.gov.uk/vat/forms-rates/rates/goods-services.htm>
- **International costs** There may be additional costs to take into account if there is a cross-border or overseas element to the work. It might affect VAT or other taxes and charges; for example, who pays customs duty if anything is sourced or manufactured outside the EU?
- **Cost price and retail price** In the case of products for sale, specify the retail price and cost price. Consider whether there will be different cost prices for larger quantities. Will it be acceptable to charge a lower or higher retail price?

2. Creative buys service or asset from a museum

Here the creative will normally pay fees to the museum. These can include:

- **Fee for supplying an image** of something in the collection. If the museum does not own copyright in the item, then specify this and give details of the copyright holder, if known
- **Reproduction fee** for rights to reproduce an image of an item in the museum's collection. This fee will vary depending on how the image is going to be used, how large, in what quantities and in what geographic areas. Increasingly, museums do not charge reproduction fees to small print run academic or educational publishers where their activity supports the museum's mission. Note that if the museum does not own copyright in the item then the creative will need to separately seek permission to reproduce from the copyright holder (and often pay an additional fee)
- **Location fee** For use of the museum's premises for example for film or TV

- **License fee** For the museum's brand, name or logo to be used
- **Research fee** For the museum's time in collating and providing information

3 Collaboration

The financial arrangements here will vary. It may be that no money changes hands and the creative and the museum simply agree to cooperate to produce the deliverable. If it is a collaboration to produce an app or a book, then the museum might provide free access to content (assuming the museum holds the copyright) and the creative might provide free use of their software or publishing process. Or, one party may pay a fee to the other for their skills and time or to license something to which they own the rights such as images or software. Often, for joint projects in receipt of external grant funding, a percentage of 'match-funding' is required, which may be cash allocated by the partners, or it may be a calculation of 'in kind' contributions. This can be explored with the funder.

If a retail product is being produced then the creative and the museum might agree to split the cost of manufacture and then split any income. Agree who will pay for any external specialist advice. As well as specifying how income is shared (and who collects the income), specify who pays what costs. If there is external funding, take account of that in making the decision about how to split expenditure and any income.

An agreement for a collaboration should state the duration of the agreement (or the period of review or termination – see termination, below). It could include the budget for the collaboration, specifying who is responsible for each part of the budget. Note that it might not be possible to specify detailed costs at the start, in which case it may be best to specify maximum expenditure by each party and use a two-stage agreement, or specify a date at which progress and the budget will be reviewed and prepared in detail. In the case of products being developed for sale, at an early stage agree the target quantities, retail price and cost price.

The financial arrangements must be between legally recognised parties. They will need to take account of VAT, if relevant. If the creative is an individual, it might be appropriate to discuss responsibility for any tax and national insurance (normally that will be the responsibility of the creative) and include this within the agreement.

2.8 Roles

Set out who is responsible for what. Unless the organisations are very small, specify named points of contact in each organisation. If appropriate, specify who is responsible for different aspects of project management. In a collaboration there might be a steering group, but specify who will chair the steering group and so effectively have final responsibility. Specify responsibilities for health and safety and reporting to any external parties such as funders. Specify responsibilities for insurance. Any contractor should have adequate public liability and professional indemnity insurance. The party that owns any physical items should be responsible for insuring them against loss or damage (so responsibility for insurance would change if ownership transfers from the creative to the museum at some stage). In the case of location use for filming, it is particularly important that the museum specifies and tightly controls who can give permission for particular things to happen, otherwise to attempt to obtain agreement, the film crew may energetically ask anyone they can find. Associated matters are touched upon below, under Restrictions.

2.9 Ownership

Consider, as appropriate:

- Who will own anything physical that is produced?
- Who will own the printed copies of a collaboratively produced book?
- Who will own items produced for a museum shop before they are sold?
- Who will own a commissioned work of art?
- What if there are more than one of something? Will they all be owned by the same organisation?
- Will anything become part of the museum's collection?
- Will the creative keep any examples?
- Who will own any record of the process (eg a video diary)?
- What about ownership of preparatory works, such as sketches, studies, models, prototypes?
- In the case of items for sale, will things be supplied on 'sale or return'? If so, how is it decided what will be returned, and when, and who will pay the costs of returning it? What will happen if no one wants things left unsold?
- Will ownership change at any point? For example, when does a commissioned item become the property of the museum?
- Are there any restrictions on what the owner can do? There will be restrictions connected to intellectual property (see below), but will any other restrictions be appropriate. For example, if an item is made for a museum shop, can it be sold in other places, too? If a film is made to be shown in the museum can it also be put on YouTube?

Note that in the case of commissioned works, the museum does not automatically own the work produced unless this is stated in the agreement. With works of art it is common practice that any purchase will be a separate transaction with separate financial arrangements. (However, in the case of a commissioned work of craft common practice is that the museum owns the work.) Shop stock is likely be owned by the creative, or the manufacturer, if different, unless it is paid for by the museum.

2.10 Copyright and other intellectual property rights

Ownership of a creatively produced item is quite separate to ownership of the intellectual property in the item. There will be restrictions on what the owner of an item can do with it unless they also own the intellectual property rights. For example, a museum will not be allowed to reproduce, photograph or copy an item (or license anyone else to do so) unless it has specifically obtained the rights to do so.

Generally, unless the agreement specifies otherwise, all intellectual property rights will belong to the creative, whoever owns anything physical produced under the agreement.

Things are simpler if ownership of the rights transfers with ownership of the creative product and museums are usually advised to get rights assigned to them. However, creatives are usually advised to keep hold of their rights, so they can benefit from them in future.

This is a complex area and expert advice may be needed. If the creative wants to retain intellectual property rights in the creative product, one possibility is for the agreement to incorporate a clause in which the creative gives a license to the museum to have the right to do certain things with the creative product. For example, the agreement may state that the creative licenses the museum to reproduce the item and make copies of it for all non-commercial purposes, such as inclusion on the museum's website. Or the license might go further and give the museum permission to sell reproductions such as postcards and use an image of the item in publicity materials.

Conversely, the agreement may specify what the creative can and cannot do. For example, if the creative is making a film for the museum's website, the agreement may specify that the creative cannot license the film to anyone or show it anywhere for a specified length of time.

If a museum holds the copyright in an item and licenses it to, say, a publisher for use in a book, the museum may want to specify how many copies of the book may be printed and which parts of the world it can be sold in. (The higher the print run and the wider the geographic range, the higher the fee will tend to be, see Sample fees, below.)

Before a museum licenses the use of something in its collection for reproduction or for use as part of a design, it is of course crucial that the museum ensures it actually owns the rights to it and is allowed to license the rights to others before it attempts to do so. As the Museum Copyright Group explains, 'Before you grant rights, you need to know what rights you have and what you can do with them.' As noted above, a museum may own a picture, a letter or a photograph but it does not automatically follow that it owns copyright or any other intellectual property rights in the item.

(For more guidance see Further Information below.)

2.11 Exclusivity

Agreements can be exclusive or non-exclusive. For example, a publisher may find it cheaper and easier to get a license to use an image of an item in a museum's collection non-exclusively, which will mean the museum can also license use of the image to other publishers. In another example, a museum may commission a creative to design something exclusively, so that the creative cannot produce a similar work for anyone else. In a collaboration, a creative and a museum may work together exclusively to produce, say, a range of ceramics – in which case neither the creative nor the museum would be able to produce any other ranges of ceramics. Exclusive agreements can be very restrictive as they will prevent you from entering into similar agreements with others; in most cases non-exclusive agreements will be more appropriate for a creative, who will want to work with a range of organisations and for a museum, which will be aiming to serve the widest public benefit. Museums should be extremely cautious about giving exclusive rights to reproduce anything in the collection.

2.12 Credits and Branding

Businesses and organisations work hard to create a brand that communicates what they do and is distinctive enough so it can be recognised after seeing it a few times. Branding is important and needs to be considered when promoting a product or event.

Things to consider:

- Whose brand will appear on the product or any associated marketing?
- If the product is going to carry the brands of all parties involved they must all agree how each should appear
- If only one party's brand is being used, how will the other be credited?
- Specify any credit that is required by a funder

2.13 Approvals

Specify who has to approve anything in the contract and the stages at which things will need to be approved. This might be approval of designs, use of images, use of software, prototype retail products or works of art. As well as approving items themselves, it may include approving the quality of their production and their fitness for purpose. Where possible keep the approval process simple and specify the timeframe within which approval has to be given or refused (24 hours? a week? a month?). Specify how approval will be given; will it need to be in writing? Remember that a right to approve is also the power to veto, which if used unreasonably may lead to the agreement collapsing – also see termination, below. If there will be descriptive text or other interpretation or publicity, will anyone have the right to approve (and veto) it?

(For more on approvals, see marketing and trademarks, below, and also the Museummaker toolkit; details in Sources of Further Information, below.)

2.14 Restrictions

Spell out any restrictions on things such as:

- Access to collections (accompanied by museum staff or able to enter stores alone? free to handle items?) and buildings (only during public opening hours? or perhaps only outside public opening hours?)
- Use of materials
- Use of light and heat in proximity to collections
- Size and weight
- Working hours
- Will there be any work with children or other vulnerable people? If so, will people need to provide a criminal history record from AccessNI?
- In the case of film-location hire, what about special effects such as gunfire, smoke, dry ice or fake snow?

Again, discussions with peers will likely provide you with suggestions for other things to look out for in relation to 'on site' matters.

2.15 Termination

It is unlikely, but possible, that the contract will need to be terminated before it is completed. Specify how the contract can be terminated. Can one party simply give notice to the other? If so, how much notice? And consider the financial implications of termination. If one party is paying a fee to the other then perhaps specify whether the fees due to date will all be paid on termination. Will either party be able to ask for additional costs in the case of early termination?

3 The Agreement Part 2: What else might an agreement cover?

In all cases, agreements should be proportionate to the scale and complexity of the project. You may not need to include clauses covering these additional areas for relatively simple projects, but it is worth going through them together and agreeing what both partners consider necessary.

3.1 How you will deal with any disagreements that arise?

The best way to deal with disputes is to pre-empt them, by ensuring that your agreement is a full and clear reflection of what both partners understand the project to entail, and what your respective rights and responsibilities are. You will be able to resolve most disagreements that do arise through a simple conversation and it is important to ensure that you maintain good communication so that both parties feel able to express any dissatisfaction or unease at an early stage, before problems become entrenched. However, especially for larger projects, it might be useful to set out how you will deal with any disagreements or complaints from either party. This is likely to be a staged process. The first step should be to attempt to resolve the problem through a formal meeting between both partners (negotiation). You may wish to include a second step which would involve bringing in more senior representatives from both partners, depending on the nature of the project and the partners involved. You may wish to include a clause saying that, in the case of a problem that remains insoluble at this stage, you will use mediation or other means of alternative dispute resolution before considering litigation. Mediation is a structured negotiation conducted with the aid of a neutral third party and is usually far cheaper and quicker than litigation.

Agreements for more complex projects might include clauses setting out how financial responsibility for any costs involved in dispute resolution will occur, but agreements of this complexity are likely only to be drawn up with legal advice.

3.2 Risk management

All projects involve identifying and managing risks. Sometimes this will be a routine and intuitive part of project management. For large projects, and especially those which involve an event, or an installation in a museum or gallery space, you will need formal procedures to identify, document and manage risks. You might want your agreement to set out which partner is responsible for identifying and managing risks.

3.3 Liabilities and indemnities

For complex projects, especially those which involve a significant amount of on-site working, and particularly if your partner will be in contact with the public, your agreement should set out your understanding of who is liable for what, should anything go wrong, to ensure that everyone is clear about their responsibilities. You should always check that the partner has adequate levels of public liability, professional indemnity and employer's liability insurance, depending on the nature of the project.

If you contract an individual to work on your site (for example, an artist installing a commissioned piece in a gallery), you assume liability for their safety. More advice on liability from a health and safety perspective is available from the Health and Safety Executive:

<http://www.hse.gov.uk/pubns/indg368.pdf>.

Think about other things that could go wrong, and who will be held responsible. For example, if your project involves producing work to install in a museum, or for sale in a museum shop, you might include a clause about liability for any damage caused. For items for sale in a shop, you might want to specify which partner bears product liability (if the product causes harm to a purchaser, for example). If there would be cost implications arising from any delays, you might want to include a clause about who would bear these costs.

For some projects, it might be necessary for one partner to agree to indemnify the other partner for any losses or damages that they might incur. What would you do if a mistake by one party caused reputational damage or financial loss to the other party? Think about whether this situation could arise and whether it is necessary to include a clause about this in your agreement.

3.4 Maintenance and guarantees

Where the project involves the development of a product, whether real or virtual, your agreement should cover what happens if anything goes wrong, as well as routine maintenance. So if your project involves developing an app, what happens if a fault is discovered after the launch: is the provider responsible for putting this right? If the project involves a handmade wooden bench for your gallery space, what happens if cracks appear? An agreement might include a guarantee against any defects that are the responsibility of a maker. But what happens if the bench is vandalised? Is the museum committed to paying the maker to restore the bench, or can it call in a conservator or furniture maker to carry out the repair? Similarly, for projects that involve creating works or installations that require maintenance, think about whether to include this in the provider's fee: what are their obligations and how long do they pertain for?

3.5 Marketing and trademarks

For collaborative projects, it might be appropriate to include clauses in your agreement setting out who is responsible for marketing and promoting the project. Will one partner take this on, will you divide the work up into particular areas of responsibility, or will it all be handled jointly? Do you want your partner to commit to doing a certain amount of marketing or promotion? Do you want to approve all marketing materials before they are used?

Where a museum and a creative industry partner are in a client-provider relationship, the provider partner may be able to benefit from publicising the project. For example, a museum which is used as a location for filming could benefit from publicising that it has been used in this way. An agreement should specify whether or not the museum is allowed to use the film or TV programme's name in its publicity material. Where a creative industry partner has produced something for a museum, the individual or organisation might be able to enhance their reputation by using the museum's name on their marketing materials. Your agreement might specify whether this is allowable. Usually, it is beneficial for both parties to be as open as possible to this kind of publicity but make sure you are clear about what is and is not allowed. Consider whose logos and branding will be used on publicity material and remember this might need to include crediting funders. Your agreement might need to consider the use of trademarks, which are governed by special rules.

3.6 Consultation

If your project involves public consultation, the agreement should set out what both partners' responsibilities are. How will you both be involved in the process? How will it be managed? Who will determine how you will respond to the findings of consultation? For example, imagine you were developing a new display or programme for the museum. Both partners had agreed preliminary plans for the output from the project, but the results of the public consultation were rather negative about those plans. One partner is happy to change, but one partner wants to stick by their original vision. What do you do then? If public consultation is an important element of a project, issues like this should be covered by the agreement.

3.7 Confidentiality

If either party wants any aspects of the project or of their broader work to remain confidential, this should be specified in the agreement. As public sector bodies, museums often share information with similar organisations about project costs and processes; partners from the creative industries should think about whether they are happy for information to be shared in this way. If partners from the creative industries have had access to sensitive information about collections (the location of stores, the insurance valuations of parts of the collection, for example), the museum might wish to specify that this information has to be kept confidential.

3.8 Geographical scope and international rights

This will be relevant for projects that involve filming or software development for example. You may need to specify what the geographical limitations of the terms of your agreement are.

3.9 Monitoring and reporting

For complex projects, and especially for collaborations, you will need to agree project milestones and establish mechanisms for monitoring progress against these. For client-provider projects, you may want to agree a schedule setting out when the provider will report progress to the client. Consider whether it is appropriate to include the detail of these procedures in your agreement. (You might want to put the outline of your approach in your agreement, to ensure that both parties are committed to the principle, but leave some flexibility over the precise processes.) The project milestones might be linked to payment stages.

3.10 Evaluation

Your agreement might specify how the project will be evaluated, and how the results of that evaluation will be acted on and more widely shared. Who will be responsible for undertaking the evaluation? For projects involving public funding, you might need to set aside some funding for external evaluation, and you might want to include this in your agreement, as well as ensuring that both parties agree to contribute to this process. Evaluation might consider the output of your project: how did the public respond to what you produced? For collaborative projects in particular, it might also look at the nature of your working relationship, which could be very useful if this is a new way of working for either party. Think about whether any of this is important enough to include in an agreement.

3.11 Disposal/removal/sale or resale

This will be relevant where a project involves the production of an exhibited work that is not going to be permanently accessioned into the museum's collection. Your agreement should specify how long it will be kept in place. Also think about what will happen to it at the end of this time: will this be specified in the agreement? If not, the agreement should set out who will make the decision: is the museum free to decide what to do with the work, or will museum staff need to consult with the artist or maker? Does the museum have the right to sell the work at the end of its lifespan in the museum or should it be returned to the maker?

3.12 Long-term relationship

What will you do after this project is finished? It may be too early to say precisely, but think about whether the agreement needs to include any clauses which cover a longer-term relationship between the two parties. For example, if you have produced a product for a museum shop, you might specify that if it sells well you will explore opportunities to sell it in other retail outlets.

4 Sample Fees

Film, photography and TV

In 2006 Museum Practice advised 'Charge properly. Fees are negotiable, but they should start at £100 per hour for photography, and between £1,500 and £3,000 per day for television.'

However, fees depend on the type of programme. TV news programmes and local programmes may not expect to pay any fees for a short amount of filming, especially if they are reporting on the museum itself. The National Trust charges from £150 per hour for documentary filming in its properties. For feature films or major TV drama series, such as *Pride and Prejudice*, expect to earn from £3,000 per day. Do not forget to charge any expenses you have to bear. If you feel that you need specialist conservation advice to ensure the safety of buildings and collections during filming, you should factor this in to your location fee. And when planning your staff cover, remember that the typical working day for the crew is 12 hours. Crews may well work overtime or shoot at night, and you need to plan for this.

For something such as a TV documentary you might charge less in exchange for a guaranteed clear mention of the name of the museum/building in the programme (rather than in the end credits, where far fewer people will see it). Also see Guidance Sheet 2 for more advice to museums on location use.

Payments to artists

Advice on payment for visual artists is available at <http://visualartists.org.uk/wp-content/uploads/2013/12/NORTHERN-IRELAND-Payment-Guidelines-for-Visual-Artists-December-2013-0.0.pdf>

Exhibition fees are sometimes paid to artists for exhibiting in a museum or gallery. A 2013 survey by a.n. found 70% of artists did not receive a fee for their most recent exhibition in a publicly-funded gallery in the UK. 11% received a fee of up to £200; 10% a fee of £200 - £1,000 and 8% over £1,000. 35% of artists had their expenses covered and 50% got production support from the museum or gallery.

If a museum displays works for sale by an artist or maker, then it will take a commission on any sales. This can vary up to 50% of the sale price. If a museum commissions a work of art but does not purchase it then there should be an agreement about splitting the price, should a purchaser emerge as a result of the final exhibition. The majority of artists' dealers take 50 per cent of the purchase price; museums often negotiate a split of 20 per cent to the museum and 30 per cent to the dealer in these circumstances, with the remaining 50% to the artist. (See Jane Morris, *Commissioning an Artist Museum Practice*, issue 31, Autumn 2005.)

Design fees

A design fee is usually only a token contribution to the creative's costs and is common if several people are asked to prepare samples as part of a selection process. Fees might typically be in the £300 - £500 range.

Reproduction fees

Museum reproduction fees vary widely between museums and depending on factors such as:

- the purpose for which reproduction is being made (for example, commercial adverts have a higher fee than short print-run books)
- the geographical range and number of languages (for example, world rights in any language have a higher fee than one country, one language)
- the size and position of the reproduction (the front cover of a book will have a higher fee than a ¼-page image on page 50)

At the lower end, a reproduction fee can be around £40 and at the top end around £400 (plus VAT, if the museum is registered for VAT). A variety of discounts may be applied, for example for use of multiple images from the same museum, and there may be surcharges, for example for print runs over 20,000 or for repeat transmission of a TV programme.

Increasingly, museums do not charge any reproduction fees to short print-run academic or educational publishers where their activity supports the museum's mission.

Full schedules of fees can be found on the websites of the following museums: Ashmolean Museum, Hunterian Museum (Glasgow), Jewish Museum (London), Sleaford Museum

5 Marketing and Promotion

It is worth investing time and effort to make sure that you maximise the opportunity to publicise your work, and that you do so in a way that serves both partners' needs. If your project is novel and eye-catching enough to attract news coverage, make sure you maximise this opportunity. Ensure you build in adequate budgets for marketing and promotional activity.

New products or projects can provide great opportunities for reaching new audiences and new markets, so make sure you maximise this and tailor your marketing appropriately.

Think about the aim of your marketing activity. You will want to attract users or customers. But the project may also have benefits around building your reputation or changing your image. Make sure your marketing works for these longer-term less tangible benefits as well.

For collaborative projects, both partners should be involved in deciding the tone, wording and look of any marketing materials. You need to aim for an approach that reflects the essence of both partners' brands. Decide who is responsible for marketing: is one partner going to take this on, or is it going to be done jointly? Even if each partner produces different materials, ensure a cohesive look across everything associated with the project by using core elements of text, images and design elements.

Think about how you will market your product. Consider a mix of approaches, such as social media, traditional media such as press, launch events or private views, or a programme of events that relate to the work. Identify target markets for promotional activity. Where a project involves attempting to reach audiences that are new to one of the partners, make sure you draw on each other's experience and expertise and build on existing networks. Think about overlaps in your existing audiences. If using both partners' contact lists, can you avoid duplication?

Launch events or private views can be a good way both to publicise the project, and also to start building new relationships, if both partners invite their supporters. Where the partners' audiences and supporters have different demographics, however, you will need to think carefully about whether the same launch event can work for both. Depending on the project, a series of events aimed at different audiences and using different formats could help to highlight the work in different ways. Think about behind-the-scenes tours with lunch, the opportunity to meet the artist, or a creative session where the audience gets involved in making...

Where a museum has commissioned a product or service from a creative industry partner, consider whether the partner has expertise or materials that can help you with your marketing.

If the project has worked well for you, think about how you can share the experience with colleagues in your sector to enhance your professional reputation and help strengthen the links between museums and the creative industries. Could you write a piece for a blog or newsletter about your work? Could you showcase the project on both parties' websites to encourage similar work in the future? Could you contribute a case study to the NIMC website?

6 Sources of further information

Also see the list of contacts in Guidance Sheet 2 and details of how to find suitable museums in Guidance Sheet 1

Organisations

Northern Ireland Museums Council

NIMC provides advice, guidance and case studies on a range of areas of museum practice to all museums in Northern Ireland www.nimc.co.uk/

Museums Association

The MA is the UK wide professional body for museums and those who work in them
www.museumsassociation.org

Along with its other services the Museums Association produces Museum Practice, an online publication and archive containing useful examples and guides to work in this area (most content available only to members and subscribers):

- Jan 14 Commissioning films
- Jan 06 Raising income – including commissioning retail products, film locations
- Dec 12 Late night events case study at National Museums Scotland in partnership with local creative industries
- Jan 05 Working with artists

www.museumsassociation.org/museum-practice

Association of Cultural Enterprise (ACE)

The Association for Cultural Enterprises promotes commercial best practice in the cultural, heritage and visitor attraction sector by providing training and networking opportunities and facilitating the sharing of information and experience between its members

www.acenterprises.org.uk/index.asp

Museum Copyright Group

The Museum Copyright Group is a network of museum professionals with a common interest in sharing knowledge and expertise about copyright and related issues

<http://museumscopyright.org.uk/>

Collections Link

This is an online network to support those working in museums share knowledge and experience. It includes a number of resources around copyright-related issues

www.collectionslink.org.uk

Web2rights

Web2Rights Ltd specialises in the production of tailor-made resources to help people understand licensing, copyright and other legal issues associated with Web engagement

<http://web2rights.com/index.html>

Contemporary Art Society

Builds links between museums and artists. Includes a wide range of resources, including information from a seminar on copyright

<http://nn.contemporaryartsociety.org/archive/seminar-contracts-copyright-collections/>

Online resources

The following online resources may also be of some help for both museums and the creative industries when working together:

- How to keep you clients happy, article on the Design Alliance website
<http://www.nidesignalliance.com/articles/how-to-keep-your-clients-happy/>

- Basics of contracts with links to more advanced material http://www.a-n.co.uk/knowledge_bank/article/92627
- Introduction to simple contracts to work with artists www.artquest.org.uk/articles/view/commissioning-an-artist1
- Further resources on contracts <http://www.artquest.org.uk/articles/view/contracts>
- Crafts Council Six Steps to Commissioning www.craftscouncil.org.uk/professional-development/buying-and-selling-craft/buying-craft/commissioning-craft/
- Museum Licensing: how to do it right. Joshua J Kaufman www.ijkaufman.com/museum-licensing/ NB that some details of this guide apply only in the USA
- V&A brand licensing <http://www.vandalicensing.com/>
- Association of Independent Museums factsheet on venue and location hire <http://www.aim-museums.co.uk/downloads/da4d2b67-1140-11e2-a028-001999b209eb.pdf>
- Tyne and Wear Archive and Museum: guidance on health and safety when filming <http://www.twmuseums.org.uk/venue-hire/filming-amp-photography-at-our-venues.html>

Publications

Commissioning Contemporary Art: A handbook for curators collectors and artists, Thames & Hudson, 2012

Museummaker Toolkit <http://www.artscouncil.org.uk/funding/funded-projects/case-studies/museummaker/>

