



# ICOM CODE OF ETHICS REVISION

## Response submission ICOM Australia

**Date:** 25 October 2023

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**Purpose:** To provide a summary of feedback on the Code of Ethics from ICOM Australia members and a recommendation from ICOM Australia Committee.

**Recommendation:** ETHCOM considers the Findings and the summary of recommendations herein when revising the ICOM code of Ethics.

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## OVERVIEW

In 2023 in response to the call for feedback from ICOM Paris, ICOM Australia called out to a membership base of 600 Australian museum professionals to provide feedback for the revision of the ICOM Code of Ethics.

The ICOM Code of Ethics is identified as our most important guiding document and it was expressed to members that it is imperative that Australian conditions are represented for in this International Code.

## COMMUNICATIONS & ENGAGEMENT

### Direct Email

An EDM was sent to all members including a call for feedback via email and a link to the ICOM Ethics Code. 2 Submissions were received (appendix I)

### Members Session

**Date:** Thursday 19<sup>th</sup> October | 5pm – 7pm

An online and in person ICOM Members Discussion was hosted by the National Museum of Australia to discuss the proposed areas of revision led by Dr Mat Trinca (formerly of ETHCOM) and Deb Tout Smith (ICOM Executive).

<b>Chair of session</b>	Jessica Bridgfoot, Chair ICOM Australia
<b>Speakers</b>	Dr Mat Trinca AM, Director, National Museum of Australia, ICOM Australia Committee Deb Tout Smith (online) ICOM Executive Board Member
<b>Discussion contributors</b>	Katie Russell, Director, Australian Museums and Galleries Association Bernice Murphy, Honorary Life Member ICOM (Paris) Author of Museums Ethics and Cultural Heritage (Routledge, UK, and ICOM, Paris, 2016) Alex Marsden, ICOM Australia Committee Vice Chair

### Session overview

- Background of the ICOM Code of Ethics
- Purpose of Code revision
- Five core topics
- Questions posed by ETHCOM

See [Appendix II](#) for detailed agenda

## Findings

### Summary of members session discussion points and topics raised

#### Developing the Code

- Ethics is a mindset as much as a set of principles (and related policies and processes)
- A Code of Ethics is beyond rules. For example, in bioethics it is the use of moral reasoning to enable you to reach practical solutions and options

- Professional ethicists should be involved, or at least consulted, when developing Codes of Ethics and Charters
- Codes and Charters provide a broader perspective in which to situate your work
- The code should more clearly define desired frameworks for working with Indigenous cultural materials that involves community consultation and promotes intangible cultural heritage see the Australian Indigenous Roadmap - [https://www.amagi-indigenous.org.au/\\_files/ugd/f76062\\_c67539d5b2e2433181f66b15ec499d89.pdf](https://www.amagi-indigenous.org.au/_files/ugd/f76062_c67539d5b2e2433181f66b15ec499d89.pdf).
- Digital material could be considered in the code
- Misinformation disseminated through digital channels could be considered in the code
- Sustainability and the role of museums in disaster management and response

#### Using the Code

- The ICOM Code should provide a sound moral underpinning to inform decisions.
- Recommend working across the diversity of ICOM to draw on this expertise e.g the NATHIST Code - ICOM code needs to sit beneath but is a clear set of principles that guides and is then useful for the diversity of museum practice to build on
- Look to these codes for the questions you have to ask, not the answers
- Each organisation should draw on the Code to develop its own specific Ethical Decision-Making Framework
- Their framework needs to be transparent and publicly available (this could be a recommendation of the Code)
- The code should be used to hold Institutions to account but be constructive and *not* exclusive
- The code should recognise the complexities of Institutions working within conflict zones and not hold individuals to account for actions of political agencies

#### Recommendations

ICOM Australia propose the following key themes and areas of consideration for ETHCOM when revising the code

##### **First Nations Communities**

A key challenge of the code is to consider the diversity and challenges faced by First Nations communities across the world when considering Indigenous Cultural materials. The code could promote relationship building beyond consultation with responsibility of Museums to support and recognise *individual* needs of First Nations communities when it comes to preserving and promoting tangible and intangible cultural heritage. For example, locally - in Australia - Museums can support the repatriation of artefacts and serve as Keeping Places where Indigenous communities may not have capacity to store and preserve cultural materials for longevity. These partnerships can be long-term and meaningful and come about through relationships.

When considering working with First Nations communities cultural materials the following themes emerge –

- Relationships as key drivers of success and should be prioritised with measures in place to keep relationships ongoing (example establishing First Nations committees embedded in the organisational structure).
- Challenges around disaster management and Climate Change particularly for Islander communities.
- Repatriation
- Cultural consultation ‘Nothing about us without us’

### **Conduct**

The Code should include standards of behaviour and codes of conduct that are aspirational and encourage good practice considering its practical use for the diversity of museum sector needs -

- National ICOM committees establish mentoring practices that continue as part of ongoing ethical practice and renewal.
- ICOM establishes an international observatory of progressive museum practice.

### **Ethics**

The Code should provide moral authority and guidance for ICOM to respond to war and conflict. The code should *not* support ICOM in neutrality and apolitical nature but provide guidance to respond and (where appropriate) condemn non-ethical activities and actions in these situations. The code should also -

- Provide an ethical decision framework to guide decision making and management of collections, practice and organisations.
- Have a sound moral underpinning and encourage ethical consciousness as an ongoing process embedded in museums.

### **Digital**

Digital technologies are driving ethical change much quicker and on a larger scale than previously, this is a challenge that should be built into the new code and future code changes –

- Museums must always act to stem the dissemination and creation of fake news and misinformation using the vehicle of digital appropriation.
- Digital copyright should be incorporated into the ethical decision-making framework regarding collecting and displaying and disposing of digital works.

## APPENDIX I

### Member Submissions

**From:** Mike Jones  
**Sent:** Friday, October 13, 2023 2:33 PM  
**To:** ICOM Australia  
**Subject:** ICOM Code of Ethics

*Dear Mat and Deb, Thank you for your continuing work on behalf of ICOM Australia on the new ICOM Code of Ethics.*

*Unfortunately, I am unable to make the session on Thursday, 19 October; however, as I have been researching developments in museum ethics in the past year or two I felt it important to contribute to the discussion.*

*I believe Australia has a key role to play in this debate, not least due to significant changes in recent decades around Aboriginal and Torres Strait Islander collections, knowledge, and culture. Beyond the idea of 'decolonisation,' there has been a move toward Indigenous-led initiatives, control over cultural knowledge and collections, and the sovereignty of First Peoples. These ideas could be presented much more strongly within the Code. For example, Principle 6 could be substantially strengthened to talk not just about affinities and being responsive, but of the essential need to engage with communities, and where necessary defer to communities with regard to how tangible and intangible heritage should be managed, documented, stored, and displayed. There is also the potential to reflect a concept of control and rights over culture that sits between 'consultation' and 'restitution/repatriation' which is currently missing in the code. The concept of 'nothing about us without us' is not clearly represented, with the code still placing a lot of stock in the authority and supposed impartiality (6.2) of the institution.*

*The other high level point I would make is the need to move away from Western universalist notions of ethics. Previous versions of the code, along with key figures in its development like Gary Edson, have tried to emphasise the idea that ethical principles are universal and do not change, and that they should be applied without emotion or bias. But other ways of working (including those based in Indigenous and feminist practice) suggest there is not a single way of doing things that should be applicable in all situations—ethics and decision-making should instead be represented as deeply contextual, with the code providing space for institutions to act in accordance with particular relationships, and hold themselves accountable to those relationships. Emotion, affect, empathy, and a sense of collective responsibility are key to these ways of working.*

*Many of my recent conversations reflect this. For example, the recent Manchester Museum repatriation highlighted Esme Ward's desire to emphasise relationships and the imperative to foster and nurture community relationships as more important than retaining control over individual elements of their collections; and Courtney Johnston from Te Papa has talked about the role of museums in preserving and caring for relationships as well as collections.*

*Though it may be more than you have time to review, I have attached a copy of the accepted preprint for my forthcoming article on relational ethics in museums which looks at some of the history of the code and highlights how recent developments in Australian First Nations practice in particular have started to push beyond the boundaries of these earlier documents. This provides an expanded overview of these ideas.*

*I would be happy to contribute more to the process if you think I can provide value. Best of luck with the next step.*

*Regards, Mike Jones  
Dr Mike Jones Archivist, Historian, Collections Consultant  
<http://www.mikejonesonline.com/>  
@MikeJonesPhD*

**From:** Tim Sullivan  
**Sent:** Friday, October 13, 2023 12:49pm  
**To:** ICOM Australia  
**Subject:** ICOM Code of Ethics

*Thank you to ICOM Australia for the opportunity to comment on the revision of the ICOM Code of Ethics. Overall the Code remains a very useful and practical framework for decision making in museums. There are some areas where there are gaps in coverage, or, where contemporary pressures are causing a rethinking of current ethical constraints.*

### **Deaccessioning**

*Deaccessioning Amongst the latter there has been some discussion internationally that the Code ought to be changed to allow for museums to use funds from the sale of collection items for operational budget purposes, i.e., for recurrent funding, or non-collection related capital purposes (see ICOM Code clause 2.16). Changing the Code to enable use of funds from sale of collection items would be a regrettable outcome.*

*I have become more aware of the ways in which individual collection items are being picked off for sale to raise funds for non-collection development related activities. These strategies include:*

- 1. undermining the item's historic relevance in comparison with claims of a lack of immediate contemporary relevance (Code 2.13);*
- 2. disassociating the item from the conditions of its gifting, donation, bequest, or its purchase which masks the holding institution's ethical obligations in making a decision to deaccession and sell an item to raise funds (Code 2.12);*
- 3. perfunctory efforts to find an institution for whom the item may be considered more relevant, and, then using the failure of those perfunctory efforts as justification for the item being put to the market for other kinds of collectors (Code 2.15); and*
- 4. enabling the above by manipulating a museum's mission or its collection development and research strategies to ensure the item is outside the embrace of those strategies (Code 3.5).*

*Deaccessioning is a legitimate collection development strategy (Code 2.12-17). The Code's principles for dealing with funds derived from deaccessioning through the last resort of putting items on the market has been an effective constraint on collections held in public trust being used as fungible assets for temporary budget difficulties. Those principles are an important defence to protect collections from opportunistic and unsustainable strategies of collection degradation.*

### **Security**

*Recent thefts from museums have raised international attention to the governance and management of collection assets. Theft requires unethical (and illegal) action by persons acting in bad faith. Often those people are in positions of trust within the museum, and so boards and management are vulnerable to unethical actions from within. Consequently, it may be reasonable to strengthen the Code (Code 1.7) to ensure governance includes adequate internal audit and collection security surveys to mitigate this risk to public trust.*

### **Conflict**

*The Code refers to armed conflict as a condition of effective disaster planning (Code 2.21). The concept of armed conflict must now include acts of terrorism which are 'non-linear' opportunistic acts by non-state parties upon whom it is hard to exercise influence or sanction to protect heritage, and in which agreements or conventions entered into by nation states and their armed forces are not effective.*

*It may be necessary to include domestic political activism in defining conflict. Activists are deliberately targeting heritage assets in museums with destructive methods. Whatever the merits of their cause, the conduct of*



*activist groups whose methods include destructive attacks on heritage items are antithetical to the ICOM Code of Ethics. It is a right of people to express opinion and to dissent, but it is unethical to impose damage on items held in trust because that damage does harm to all people regardless of their association with the target of protest. The ICOM Code could be stronger in this principle in supporting managers of museums who must respond to these attacks.*

**Indigenous People**

*The Code is weak in its provision for the rights of Indigenous peoples in countries where colonisation and dispossession has occurred. Would it be feasible for the ICOM Code, reflecting, as it must, the spectrum of political, social, cultural, economic, and historical experience of Indigenous Peoples in all their diversity around the world, to include a link or reference to the principles and intent of the UN Declaration on the Rights of Indigenous Peoples? It would be consistent with the international scope of ICOM's activity. Such a measure could be conditional in providing that a relevant code of conduct for museums in relation to Indigenous People that has been adopted by the peak body of each country may take precedence where there is conflict between the UN Declaration and that local code of conduct.*

**Digital Copyright**

*There will be a challenge in determining what is a work when the work is digital. Whilst copyright provisions may provide protections for reproductions, the production of a digital work is infinitely reproducible as an original. This is particularly relevant to the potential for original digital works to be produced as NFTs for sale.*

## APPENDIX II

### AGENDA

**Members Discussion – Proposed changes to ICOM Code of Ethics**

**Thursday 19 October 2023**

**National Museum of Australia**

**Visions Theatre**

**5.00 for 5.15 start**

#### **1. WELCOME AND INTRODUCTION – JESSICA BRIDGFOOT – 5 MINUTES**

**1.1 Outcome for the session – members feedback and key issues to be considered by ICOM Paris for the redrafting of the Code of Ethics**

**1.2 How members can provide more comments and feedback by end October 2023 deadline**

#### **2. BACKGROUND**

**2.1 Why does ICOM need to revise the code? - Dr Mat Trinca AM - 8-10 minutes**

**2.2 What is the process and how are members involved?**

#### **3. NEW CODE – WHAT ARE THE FIVE CORE TOPICS – DEB TOUT SMITH – 10-15 MINUTES**

##### **3.1 Draft Core Topics**

- 3.1.1 A museum's primary responsibility is to its communities — past, present, and future. These include the communities whose objects it cares for, the communities in which it is located, and the communities that benefit from its activities.
- 3.1.2 To sustain the trust of the public, museums operate according to professional standards. These entail responsibilities on the part of the museum as well as on the part of the individuals and groups that work in and with the museum.
- 3.1.3 To fulfill their educational role (including programs, exhibitions, and publications)
- 3.1.4 To responsibly steward and safeguard the collections (tangible and intangible heritage, archives and digital collections)
- 3.1.5 To protect the museum's resources and ensure that the museum operates in a sustainable manner, serving its communities in perpetuity, a museum's governing body and leadership

##### **3.2 Questions posed by ETHCOM**

- 3.2.1 Does the proposed outline cover all of the topics that are essential to include in the revised Code of Ethics?
- 3.2.2 Keeping in mind that each of the core topics is of equal weight or importance, does the order of the core topics reflect contemporary museum practice?
- 3.2.3 Are there statements that should be added to the core topics?
- 3.2.4 Are there statements that are redundant? For example, the core topic of education is very closely related to core topic one, Communities. Should these be maintained as separate topics in the code, or should one be subsumed in the other and why?

#### **4. DISCUSSION AREAS**

**4.1 Is this a Code of Ethics or a Manual for a set of standards?**

**4.2 What are and where are the gaps in the core topics?**

- 4.2.1 Ethical relationships and responsibilities to First nations peoples and communities especially in relation to code 3 and 4. 3.f in particular
- 4.2.2 Climate change and sustainability does not really appear especially in Core 5

- 4.2.3 Does the code address the ethical needs of people working in ASEAN and Oceania especially in relation to item ii? Especially in relation to point i. What about de-colonisation?
  - 4.2.4 Collecting does Code 4 address any specific issues around contemporary collecting especially with intangible heritage and digital born collections? I
  - 4.2.5 Is the conflict of interest clauses strong enough especially given recent experience in some institutions?
  - 4.2.6 Is Code 4 strong enough compared to 2. Acquiring Collections Section of existing Code?
  - 4.2.7 Should there be more specific and stronger codes around repatriation of remains as well as cultural objects with an acknowledgment that objects should be returned
- 4.3 What else should be included?**