

DUE
DILIGENCE
POLICY

FOR LOANS
JULY 2008

Due Diligence policy for Loans to the National Gallery July 2008

1. Introduction

This policy covers all loans of works of art to the National Gallery, for the purpose of exhibition, whether from governmental, institutional or private lenders, and whether on loan for the purpose of a temporary exhibition, or long term loan for display in the main floor galleries.

2. Standards to be applied

2.1 In relation to all loans covered by this policy, the Gallery aims to comply with the standards as laid out in the following:

- Statement of principles issued by the National Museum Directors Conference on "Spoliation of works of art during the Holocaust and World War II period" in 1998
- Combating Illicit Trade: Due Diligence guidelines for museums , libraries and archives on collecting and borrowing cultural material, published by DCMS , October 2005("the DCMS Guidelines")
- The UNESCO 1970 Convention on the means of Prohibiting and Preventing the Illicit Import , Export and Transfer of Cultural Property
- The ICOM Code of Ethics
- MA Code of Ethics
- Spectrum: UK documentation standard for Museums
- Convention on International Trade in Endangered Species of Wild Fauna and Flora
- ICOM red list

2.2 In particular, the Gallery will:-

- Conduct provenance/due diligence checks on all proposed loans to the Gallery in accordance with procedures outlined below, paying particular attention to the period between 1933 and 1945 and the 1970 UNESCO threshold
- Borrow any item only if reasonably satisfied that the lender has good legal title and full legal authority to enter into the loan
- Borrow any item only if reasonably satisfied that there is no legal or ethical reason not to borrow

3. Provenance and due diligence procedures

3.1 The relevant curator (being, in the case of a proposed loan to a temporary exhibition, the Exhibition Curator and, in the case of a long term loan, the relevant Collection Curator) will be responsible for completing provenance checks in respect of all proposed loans to the Gallery and in cases where the lender cannot provide acceptable documentary evidence of provenance, due diligence checks, in accordance with the DCMS Guidelines and the Gallery's own procedural guidance. Following completion of such checks, the relevant curator will in all cases complete a provenance checklist, and in appropriate cases a due diligence check-list. No loan in may proceed without completion of the relevant check list(s).

3.2 In the case of a proposed loan to a temporary exhibition, the Exhibition Organiser will set the timetable for completion of the checks referred to in 3.1 above and monitor progress.

3.3 Responsibility for overseeing provenance/due diligence checks lies with the Director of Collections.

3.3 Records and documentation relating to the provenance/due diligence checks will be retained for a period of six years.

4. Loan Documentation

4.4 The terms of all loans- in will be recorded in a written loan agreement

4.5 In a case where the Gallery's standard loan agreement is used it will include the following:-

- declarations/ warranties from the lender that the lender has good legal title to the item lent and full legal authority to enter into the loan; and that the lender is not aware of any past , current or potential claim by a third party and
- a term that the import and export of the subject of the loan will be made in accordance with all applicable national and international laws and agreements

4.6 In a case where the lender insists upon using its own loan documentation, the Gallery will use reasonable endeavours to ensure that similar terms are included.