

# THE NATIONAL GALLERY

## INTELLECTUAL PROPERTY RIGHTS RISK MANAGEMENT STATEMENT

## **INTELLECTUAL PROPERTY RIGHTS RISK MANAGEMENT March 2012**

Policy owner: Head of Information Systems

### **Introduction**

The National Gallery owns a wide range of intellectual property (for example, in its paintings, images, texts, publications, videos). These are valuable assets and we have a duty of care to ensure that they are used properly, retaining an appropriate level of quality and not unwittingly sacrificing control over their use and any potential income opportunities. We must also ensure that we do not abuse the intellectual property owned by others.

### **Risks**

The following risks are addressed by this policy:

- Failure to enable the broadest public access to the collection leading to reputational damage and risk of not fulfilling statutory charitable objects.
- Failure to preserve the quality and value of its intellectual property, thereby leading to reputational and financial loss.
- Non-compliance with relevant legislation with respect to both its own and third party intellectual property rights.

### **Policies and procedures**

The National Gallery will:

- Provide the broadest public access to its national collection.
- Preserve the quality and value of the assets that it owns, which includes its copyright, trademarks, database right, publication right, design right and all other intellectual property rights and similar rights (i.e. its Rights).
- Retain an exclusive right to determine how its intellectual property is used. This allows the control of reproduction, distribution, rental, performance (in the case, for instance, of video or streaming media), communication to the public and adaptation.
- Allow full exploitation of these assets and related rights, and take the necessary actions to ensure that wherever possible, future and potential rights are assigned to the National Gallery.
- Comply with the copyright legislation and other relevant legislation.
- Respect third party rights and ensure that appropriate authorisation is sought before content is reproduced.
- Ensure that its rights and those belonging to third parties are not infringed and take the appropriate action in cases where infringements and unauthorised uses are brought to its attention.

### **Ownership of Rights**

The rights to any material created by staff as part of their normal employment for or on behalf of the National Gallery (the usual work for which a member of staff is paid), or resulting from the substantial use of National Gallery facilities or premises, belong to the National Gallery.

All rights in material created by other individuals associated as part of their work with the Gallery (for example, volunteers, interns, researchers, freelancers, work experience, contractors, suppliers) must be agreed in advance and recorded in writing using an appropriate contract.

Rights should be managed appropriately in accordance with the provisions of the Copyright, Designs and Patents, Data Protection and Freedom of Information Acts and other relevant legislation.

### **Creation of New Material**

For newly acquired paintings and other items that will form part of the Gallery's collection it is essential that the rights to be acquired as part of the purchase (or gift or donation) agreement are established at the time of the acquisition, and steps should be taken to acquire full rights if necessary.

For loans or temporary deposits to the Gallery the most comprehensive Rights should where possible be sought, with the actual rights acquired documented within the loan agreement.

Appropriate rights for any other new material that is commissioned (for example, images, texts, software, video, audio) should be detailed explicitly within the commissioning contract.

### **Using Rights not owned by the National Gallery (i.e. owned by 'Others')**

Staff are responsible for making sure that they obtain the appropriate permission and/or licence to use material whose rights are owned by others and ensure that the material is used only for the purposes for which rights have been obtained. Rights are rarely transferrable and those obtained for one purpose will not apply unconditionally for other purposes and may also be time-limited. Usage constraints, if any, are specified for material sourced from National Gallery Systems (for example, the Image Library) and must be complied with. However, staff should not assume that unrestricted use can be made of material available from public sources – such as the Internet – and must comply with any associated conditions.

In all cases, staff are responsible for ensuring that the integrity of the original material is retained in any reproduction. Permission for alterations to the original content must be obtained in advance from the rights holders or their representatives.

Wherever feasible, a mutually agreed credit line should be used alongside any reproductions in accordance with the wishes of the rights holders. Agreement should be sought if the available credit information is unclear.

NGC Picture Researchers will facilitate the clearing of permission for the use of any image of the whole or a detail of an exhibition loan, or images for other specific projects including printed catalogues

The National Gallery will only supply material in accordance with relevant legislation and will notify recipients of their obligations with regard to Rights holders in the re-use of that material.

Staff must ensure that the use of any material from outside the Gallery does not imply endorsement or verification of any associated companies, products or services, unless this is specifically intended.

#### **Allowing others to use National Gallery Rights, including images**

A clear statement of appropriate use should be given where others are granted the rights to use National Gallery assets, including text, images and paintings on loan. This statement should specify, at least, constraints on distribution of and access to those assets, the credit to be given and the return of any material belonging to the National Gallery.

The National Gallery's graphic designs, logos, and other text or design symbols associated with that name cannot be used by anyone outside the National Gallery unless authorised by the Head of the Design Department.

The National Gallery is committed to working towards reciprocal agreements with other institutions regarding the reproduction of content to mutual benefit. This may support activities that are primarily non-commercial or reduce the cost of transactions that would otherwise be commercial.

Staff should take all steps to protect both the reputation of the National Gallery as well as any issues of confidentiality that may arise through working with others and the possible exploitation of the National Gallery's assets.

#### **Filming and Photography**

Filming and photography through any means including digital or telecommunication technologies is not permitted in the premises of the National Gallery unless permission has been granted in advance.

Where possible, rights for the National Gallery to use, screen and otherwise repurpose the material generated by outside agencies

(including footage created for broadcast purposes) should be obtained through written agreements.

### **Responsibilities**

This Policy applies to staff (e.g. employees, part-time or full-time, temporary or permanent), self employed (e.g. freelancers) and contractors who should familiarise themselves with this Policy and ensure that they comply with it.

Staff should consult their Head of Department where there is any uncertainty but if an issue remains unresolved or a conclusion is reached which is contrary to the spirit of the Policy then the issue should be raised for discussion at Executive Committee. In all cases the Director will be the final arbiter.

Staff must also ensure that visitors, guests and those working with the National Gallery are aware of the restrictions relating to the distribution and reproduction of the National Gallery's assets. All instances of unauthorised use, distribution, access or reproduction must be reported immediately to the Head of Information Systems.

The National Gallery has issued a licence to the National Gallery Company (NGC) to use certain rights relating to visual images and the National Gallery trademark and to also licence others to use them for the purposes of public access and for revenue generation from commercial projects.