



## Due Diligence Policy and Procedures for Incoming Loans

Approved by: Hunterian Strategic Development Board, University of Glasgow

Approval date: March 2018

Review date: March 2020

## Introduction

The Hunterian is committed to developing its exhibition programmes according to the highest ethical standards in compliance with all applicable laws and in accordance with national and international standards. This policy sets out the due diligence principles to which The Hunterian adheres when considering an object for loan to The Hunterian for all purposes, including long-term, research and display. The University of Glasgow is a world leader in provenance research; The Hunterian is able to call on the support and advice from researchers working in partnership with the Smithsonian Provenance Research Initiative.

## Principles

The Hunterian will exercise due diligence to ensure:

- The lender has good legal title and can lend free from encumbrances
- The object has not been stolen, looted or illegally imported or exported
- There is no known claim of ownership by a Third Party

## Standards and guidelines

The Hunterian due diligence procedures conform to standards as set out in the following:

- Statement of Principles on “Spoliation of works of art during the Holocaust and World War II period” National Museum Directors Conference, 1998  
([https://www.nationalmuseums.org.uk/what-we-do/contributing-sector/spoliation/spoliation\\_statement/](https://www.nationalmuseums.org.uk/what-we-do/contributing-sector/spoliation/spoliation_statement/))
- “Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material” DCMS, October 2005  
([http://old.culture.gov.uk/images/publications/Combating\\_Illicit\\_Trade05.pdf](http://old.culture.gov.uk/images/publications/Combating_Illicit_Trade05.pdf))
- UNESCO 1970 “Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property”  
([http://portal.unesco.org/en/ev.php-URL\\_ID=13039&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html))
- ICOM Code of Ethics for Museums  
([http://icom.museum/fileadmin/user\\_upload/pdf/Codes/ICOM-code-En-web.pdf](http://icom.museum/fileadmin/user_upload/pdf/Codes/ICOM-code-En-web.pdf))
- Museums Association Code of Ethics for Museums, 2015  
(<http://www.museumsassociation.org/download?id=1151400>)
- SPECTRUM: The UK Museum Documentation Standard  
(<http://collectionstrust.org.uk/spectrum/spectrum-5/>)
- “Convention on International Trade in Endangered Species of Wild Fauna and Flora” 1973/79 (<https://cites.org/eng/disc/text.php>)
- ICOM Red List of archaeological objects or works of art  
(<http://icom.museum/programmes/fighting-illicit-traffic/red-list>)

## **Roles and Responsibilities**

Hunterian curatorial staff will undertake due diligence research during the development stage of an exhibition or research project proposal. Where an external curator is working on behalf of The Hunterian they will report back to a named Hunterian curatorial who will be responsible for ensuring that due diligence is pursued.

The Head of Collections Management, or delegated Collections Management staff, will assist as appropriate to pursue specific lines of enquiry and ensure the process is documented and recorded on The Hunterian's collections management system in accordance with the Documentation Policy and published on The Hunterian's website in accordance with the regulations governing Immunity from Seizure.

The Deputy Director has responsibility for overseeing due diligence procedures.

The Director has ultimate responsibility for due diligence.

External academic and/or legal advice will be sought from elsewhere within the University of Glasgow if required.

Where appropriate, the Director and Deputy Director will consult with University colleagues responsible for the University's wider gift acceptance, ethics, bribery and other relevant policies.

## **Procedures**

Due diligence relating to loans from abroad for temporary exhibition fall within the SPECTRUM procedures grouped under Loans In and is an extension of The Hunterian's normal practice of gathering information and agreeing loans.

Prior to progressing with the loan, the Hunterian curator will:

- Carry out an initial assessment of potential loans, rejecting anything that is known to be ethically unacceptable, such as taken illegally from archaeological sites, the result of spoliation or protected natural material.
- Confirm the lender's legitimate title and legal authority to lend the object. For incoming exhibition loans for which Immunity From Seizure will be sought this will include confirmation that the object(s) is/are usually kept outside the UK, not owned by a person resident in the UK and that there are no existing restrictions on import of the object into the UK.
- Request the Lender completes a Hunterian Due Diligence Incoming Loan Provenance Form.
- Carry out further research if, for example, the lender is unable to provide the required information or there is doubt concerning the information supplied. This will include seeking information from published and unpublished sources and consulting with other curators, scholars and authorities. Checks will be made with auction houses and dealers and any other organisations that might hold information that can be used to establish provenance.
- The proposed object itself may, if practical, be examined for evidence, such as labels or marks that may assist provenance research.
- Where appropriate, give particular consideration during provenance checking to the period 1933-1945. This will include consulting appropriate online resources including:
  - Central Registry of Information on Looted Cultural Property 1933-1945 (<http://www.lootedart.com>)

- Lost Art Internet Database (<http://www.lostart.de/Webs/EN/Datenbank/Index.html>)
- Art Claims Looted Art and Cultural Property Initiative (<http://art.claimscon.org/home-new/resources/overview-of-worldwide-looted-art-and-provenance-research-databases/>)
- International Research Portal (IRP2) (<https://irp2.ehri-project.eu/>)
- Where appropriate, confirm that the excavation, importation or transfer of objects has not contravened the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. This will normally involve proof of legal import/export; particular attention will be given to objects originating from areas of conflict or known looting.
- Where appropriate reference will be made to:
  - ICOM Red List (<http://icom.museum/resources/red-lists-database/>)
  - Art Loss Register (<http://www.artloss.com/>)
 and other relevant loss/claimants lists, databases and reference sources including:
  - Interpol Stolen Art Database (<https://www.interpol.int/Crime-areas/Works-of-art/Database>)
  - The Getty Provenance Index (<http://www.getty.edu/research/tools/provenance/search.html>)
  - The National Art Library (<https://www.vam.ac.uk/info/national-art-library>)
  - The Witt Library (<https://courtauld.ac.uk/study/resources/image-libraries/witt-library>)
  - UNESCO Database of National Cultural Heritage Laws (<http://www.unesco.org/culture/natlaws/>)
  - CITES (<https://www.cites.org/>)
- Observe all relevant national and international regulations governing the import and export of cultural property and the control of trade in endangered species of wild flora and fauna.
- Seek further legal advice when required.

### **Agreeing to the loan**

The Hunterian will only enter into an agreement if it is satisfied that the loan is ethically acceptable. Approval for the loan will be made by The Hunterian's Loans Panel chaired by the Director.

The Hunterian's Incoming Exhibition and Research loan agreements state that "The Hunterian operates an ethical loans policy and recognises and complies with the ICOM Code of Ethics and the (UK) Museums Association Code of Ethics. The Hunterian recognises and complies with the principles for Combating Illicit Trade (DCMS 2005); the UNESCO 1970 Convention on the Illicit Import, Export and Transfer of Cultural Property the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Hunterian will not knowingly acquire, borrow or display any work for which there is reasonable cause to believe that the work may have been stolen, illegally exported or illegally imported from its country of origin."

Lenders are required to acknowledge that they have legal title and lawful right to lend the object(s), that they are not aware of any past, current or potential claim by a Third Party, that all provenance and due diligence checks and information provided is accurate, and that the Loan Agreement is made in accordance with all applicable national and international laws, conventions and agreements.

Where lenders require that their own loan agreement or conditions of loan documentation is used as the official agreement between lender and borrower, the agreement will be scrutinised to ensure that it conforms to the relevant national and international standards and that issues of provenance and that legitimate ownership have been fully addressed. If provenance and legitimate ownership are not explicitly covered in the lender's loan agreement, the lender will be asked to provide information about the object's provenance and sign a separate declaration confirming that they have legal title to the object, that they can legitimately lend it and that they know of no third party claims to the object.

The Hunterian will not accept any item on loan without confirmation that the lender has valid and legal title to retain and transfer the object. The Hunterian will borrow only those objects for which provenance has been established or through presence in the public domain, are judged to have a history that is reasonably secure. If any doubt remains about a potential loan, or if the necessary agreements are not secured, the loan will be rejected by The Hunterian.

### **Publication of information**

Where immunity from Seizure is sought, information will be prepared for publication on the Hunterian website (<https://www.gla.ac.uk/hunterian/>) according to the regulations governing the legislation. In summary, information about the exhibition of the object, the lender, as well as description and provenance details of the objects, will be published for an initial period of at **least four weeks plus one day** prior to the objects entering the UK and for a period of at **least twelve weeks** following the initial period, or on the day after the last day on which the exhibition is open to the public, whichever is the later.

### **Documentation of procedures**

All information gathered about the potential loan will be retained throughout the research, agreement and loan stages. This will be attached to the relevant loan record in the collections management system and contain lender name, exhibition title and object name/reference number. Access to this information will be restricted to the appropriate staff (usually curator, Head of Collections Management, Deputy Director and Director). This documentation will be retained in perpetuity.

Following the close of the exhibition, all documentation will be retained in hard copy for a minimum of 10 years, regardless of whether the object was accepted or rejected for loan. This may include: a completed provenance information form, formal correspondence with lenders/owners, curators and scholars; informal notes and records; copies of, or references to, any published or unpublished sources relating to the provenance of an object.

Any information published on the Museum website will be removed after the required period but retained within the collections management system as archive information.

Information will be considered confidential in accordance with Data Protection legislation. However, The Hunterian will comply with Freedom of Information requests and will supply appropriate information to other organisations or individuals that may carry out subsequent due diligence research, or may have a claim to possession of an object for which Immunity From Seizure protection has been provided.