

THE WALLACE COLLECTION DUE DILIGENCE POLICY AND PROCEDURE FOR WORKS OF ART AND CULTURAL OBJECTS FOR LOAN

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1.Introduction

The Wallace Collection was formed by four generations of Marquesses of Hertford and by Sir Richard Wallace (the supposed illegitimate son of the fourth Marquess), between 1740 and 1890. Since the 1870s the Collection has been housed in Hertford House, one of the Hertford-Wallace residences and a Grade II listed building. The Collection was bequeathed to the British nation by Lady Wallace in 1897. Hertford House and the freehold were acquired by the Government so that it could be transformed into a museum. The Wallace Collection opened to the public on 25 June 1900.

A Treasury Minute of 28 July 1897 appointed the first Board of Trustees to act on the authority of a Declaration of Trust dated 27 July 1899, however the current Board was created by the Museums and Galleries Act 1992, which now specifies the Board's general function to maintain, exhibit and grant access to, and promote public understanding and enjoyment of, the Collection. Responsibility for Government financing of the Wallace Collection rests with the Secretary of State for Digital, Culture, Media and Sport (DCMS), from whom the museum receives a Grant-in-Aid from monies provided by Parliament. The museum is a Non-Departmental Public Body sponsored by DCMS. It is a charity exempt from registration under the Charities Act 2011 and DCMS is its principal regulator.

The museum contains Old Master paintings, miniatures, sculpture, French furniture, porcelain and goldsmiths' work, European, African and Asian arms and armour, and medieval and Renaissance works of art. All are of the highest quality and of international importance. Its holdings of French eighteenth-century art, European princely arms and armour and Old Master paintings are recognised internationally as being outstanding.

The Wallace Collection is a closed collection. The terms of Lady Wallace's Bequest, preclude the Trustees from adding works of art to the Collection.

In 2019, the Wallace Collection was granted a Section 105 order under the Charities Act 2011 which authorises the Collection to borrow and lend objects, in line with other National Museums.

The Wallace Collection will borrow works of art and cultural objects as part of its major loaned-in temporary exhibitions and displays programme.

This policy should be read in conjunction with the Wallace Collection's Collection Management Policy.

2. Scope

2.1 This policy governs the temporary loan of works of art and cultural objects to the Wallace Collection. The aim of this policy is to establish that all loans, without exception, comply with national and international standards and comply with the 1970 UNESCO Convention and that legitimate ownership of the object is clearly demonstrated.

2.2 The Wallace Collection will not borrow any work of art or object unless it is entirely satisfied that the lender/owner has full title and they or any agent acting for them has full legal authority to enter into a temporary Loan Agreement with the Wallace Collection.

2.3 The Wallace Collection will adhere to the 1970 UNESCO Convention (on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property), rejecting objects if there is any suspicion that, since 1970, an object may have been stolen, illegally excavated or removed from a monument, site or wreck contrary to local law or otherwise acquired in or exported from their country of origin (including the UK), or any intermediate country, in violation of that country's laws or any national or international treaties, unless the Wallace Collection is able to obtain permission from authorities with the requisite jurisdiction in the country of origin.

2.4 The Wallace Collection will pay particular attention to an object's provenance between the years of 1933 and 1945, as well as all relevant national and international regulations governing the import and export of cultural property, and the control of trade of endangered species of wild flora and fauna, as governed by CITES.

3. Related Standards and Principles

3.1 The Wallace Collection's due diligence policy and procedures conform to and are guided by the following accepted national and international standards:

- Statement of principles and proposed actions issued by the National Museum Directors Conference on Spoliation of works of art during the Holocaust and World War II period, 1998; and its 2016 renewal;
- Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material, DCMS, October 2005;
- UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 1970;
- The Museums Association Code of Ethics, 2015;
- ICOM Code of Ethics, 2013;
- ICOM Red List;
- Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- SPECTURM: UK Documentation Standard for Museums. .

3.2 The Wallace Collection will not proceed with the loan of an object should there be any doubt over the legitimacy of its ownership, its removal from its country of origin, or its entry into the UK, without the lender confirming they have valid and legal title to retain and lend the work.

3.3. Loans will also not proceed if we identify reputational risks, or if the lender is subject to international sanctions. Loans will be terminated if the Wallace Collection becomes aware that loans are being offered for sale on the open market.

4. Roles, Responsibilities and Training

4.1 The Director of the Wallace Collection has overall responsibility for ensuring the appropriate due diligence procedures are carried out.

4.2 Due diligence is monitored via regular meetings of the Provenance Panel. Work on provenance research and due diligence procedures is assigned primarily to the relevant member of the Wallace Collection's Curatorial department. This is led by the Exhibitions Project Manager and checked by the Head of Exhibitions & Collection Care and Director of Collections & Research, in accordance with the Wallace Collection's due diligence guidelines and DCMS Guidelines on Combating Illicit Trade.

4.2. All staff involved in provenance and due diligence procedure are required to work within the Wallace Collection's due diligence guidelines and DCMS Guidelines on Combating Illicit Trade.

4.3 The Wallace Collection has a training on due diligence and awareness programme for all staff within the Curatorial, Exhibitions and Collections Care departments, which is extended to any externally contracted Guest Curators with whom we work where necessary. This programme comprises of in-house training on due diligence and the requirement to read and fully comprehend this policy, the related standards and principles, and to understand their responsibilities within it. Upon completion of the training, each member of staff is required to sign the Confirmation of Due Diligence Policy Awareness record. Continued awareness is updated to relevant colleagues via meetings of the Provenance Panel.

4.4. Where appropriate, further guidance and advice is sought from additional external scholars, academic institutions, curators, specialists, auction houses, and researchers in the relevant field, the Art Loss Register and other art loss databases.

5. Due Diligence Procedure

5.1 The aim of the Wallace Collection's due diligence policy and procedure is to establish that all objects proposed for loan to our temporary exhibitions and displays comply with requirements of the 1970 UNESCO Convention and that legitimate ownership of an object is clearly demonstrated.

5.2 Application of due diligence procedures are assigned primarily to the relevant Wallace Collection Curator. The relevant Curator is required to undertake full Provenance checks for all objects proposed for loan to the Collection, these checks will go beyond the information provided by the Lender. Where appropriate, further guidance will be sought from additional curatorial and specialist consultants such as colleagues within the Wallace Collection, other National Museums, academic institutions, and major auction houses.

5.3. The necessary steps and checks are aided by and laid out in the Wallace Collection's Due Diligence Checklist and Risk Assessment, and the Wallace Collection's Loan In Agreement Form, and via the Due Diligence Form for Lenders, a separate side letter which all Lenders are required to complete.

Checks include the following:

- Request provenance history and information from Lenders;
- Subsequent further research into, and documentation of full ownership history where possible, with special consideration of the period between 1933-1945, or any gaps or information which suggests irregularity of ownership;
- Legitimate title of the current owner;
- Proof of import into or export from a particular country;
- Lender's legal authority to lend.

The Lender is required to declare the following:

- Declare their legal title to the object and confirm their lawful right to lend the object to the Wallace Collection;
- Declare that they, as lender, are not aware of any past, current or potential claim by a third party;
- Declare the loan is in accordance with the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;
- Declare the loan is in accordance with all other applicable national and international laws, conventions and agreements relating to the prevention of illicit trade and the control of endangered species.

5.4. Additional research will be obtained in the following ways: requesting further information or documentation from the Lender; contacting previous owners, including dealers; checking auction house sales records and online sales databases, consulting with relevant scholars and fellow curators; researching previous publications for exhibition histories and published provenance and well as specialist literature; consulting the Art Loss Register or similar online databases; convening the Wallace Collection's Provenance Panel.

5.5. Research steps, checks, documentation and provenance are scrutinised and given thorough review and consideration by members of the Provenance Panel. The Wallace Collection will not proceed with a loan should there be any doubt over the legitimacy of its ownership, its removal from its country of origin, or its entry into the UK.

6. Provenance Panel

6.1. In the event that, following the most thorough research possible, the full provenance history is not known, the case will be assessed by the Wallace Collection's Provenance Panel. The Provenance Panel is chaired by the Director of Collections & Research, and is attended by the Head of Exhibitions & Collection Care, the Exhibitions Project Manager, and the relevant Curator. The relevant Conservator may attend the Provenance Panel (in cases of CITES for instance), and the relevant externally contracted Guest Curator may attend.

6.2. It remains the responsibility of the Director to ensure that the procedure for conducting provenance research as outlined above is adhered to and that information on how to conduct provenance research is available at all times.

6.3. The Provenance Panel, and ultimately the Director of the Wallace Collection, will take a decision on relevant objects in accordance with the Wallace Collection's Due Diligence Policy and guided by the Wallace Collection's Due Diligence Checklist and Risk Assessment.

This process will include:

6.3.1. A thorough review of the provenance material for each object guided by completion of the Due Diligence Checklist and Risk Assessment;

6.3.2 An assessment as to whether the missing information in the provenance suggests an irregularity of ownership;

6.3.3 A decision on when to publish details of an object on the Wallace Collection's website in accordance with the procedure for Immunity from Seizure;

6.3.4 A decision on whether to refuse or proceed with the loan of an object.

7. Immunity from Seizure

7.1. Immunity from Seizure may be provided for loans being lent from abroad. This may be either as a condition of loan imposed by the lender, or as the result of due diligence work with Immunity from Seizure being the final step in bringing the loan to public awareness. In order to provide Immunity from Seizure for a loan and following the completion of all necessary due diligence checks the Wallace Collection will carry out the following steps:

7.1.1 Post on the Wallace Collection's website details of objects for which Immunity from Seizure is required. Details will be posted in line with Part 6 of the Tribunals, Courts and Enforcement Act 2007 and The Protection of Cultural Objects on Loan (Publication and Provision of Information) Regulations 2008;

7.1.2 Details on loans will be posted in a Web Template for Immunity from Seizure format on the Wallace Collection's website no less than 4 weeks and 1 day prior to the arrival of loans into the UK;

7.1.3 As soon as details are posted, the Wallace Collection's Exhibitions Department will inform the International and Cultural Property Unit at the Department for Digital, Culture, Media and Sport (DCMS) by sharing a link to the relevant part of the Wallace Collection's website;

7.1.4 The Wallace Collection will inform the Lenders of loans for which Immunity from Seizure is required;

7.1.5 The Wallace Collection will include in its Annual Report a report of Immunity from Seizure activity, a copy of which will be sent to the Cultural Property Unit, DCMS together with the completed DCMS Monitoring Questionnaire as required and provide by DCMS.

8. Record Keeping

8.1 All records of due diligence checks are deemed confidential. Records, documentation and correspondence are to be retained by the Exhibitions Department and kept on permanent file in accordance with the Wallace Collection's record retention policy and with SPECTURM: UK documentation and collection management standard.

9. Appendices

07.1 The Wallace Collection's Loans In Agreement

07.2a Due Diligence Form for Lenders (Side Letter)

07.3 07.4 Due Diligence Checklist and Risk Assessment

07.2b Web Template for Immunity from Seizure

07.2c Summary of Standards

07.2d Confirmation of Diligence Policy Awareness