

Immunity from Seizure

Questionnaire for museums seeking approved status under Part 6, Section 136 of the Tribunals, Courts and Enforcement Act 2007

1. *Your details*

1.1. Name of institution.

1.2. Name of the representative of institution having overall responsibility for assuring the provenance and ownership of the object and compliance with all relevant guidance.

1.3. Job title and contact details.

2. *Compliance with national and international standards*

Please confirm that your loan procedures comply with the relevant guidelines and standards including (but not limited to) 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 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.

3. Due diligence procedures

For your institution to gain approved status under Section 136 of the Tribunals, Courts and Enforcement Act, the Secretary of State will need to be assured that your due diligence procedures are of the highest standard. Please describe your due diligence or ethical loans policy, taking account of the following questions below:

- 3.1. What provenance information do you request from lenders? Do you rely solely on this information to be satisfied that lenders have acquired an object by legitimate means and what steps do you take to verify it? Under what circumstances would you carry out further investigations of your own?
- 3.2. When seeking loans, do you check whether the current lender (whether it is a public institution or a private collector) has legal authority to loan the object to the Museum? In the case of private collectors, what kind of checks are carried out?
- 3.3. When researching an exhibition, do your curators restrict research on provenance to certain periods only (e.g. between 1933 and 1945 or after 1970)?
- 3.4. Do you require proof of import into/export out of a particular country post 1970, where this is otherwise in doubt?
- 3.5. Describe how you would proceed where the provenance of an object is incomplete. What additional steps would you take?
- 3.6. Would you go ahead with the loan if the history of the provenance of the object is incomplete? If so, in what circumstances?
- 3.7. If the lender is unable to supply further information, do you use art loss databases such as those listed on the Cultural Property Advice Website, in addition to information provided by the lender or owner?

4. Record keeping

- 4.1. What records do you keep of due diligence checks?
- 4.2. How long do you keep them for?

5. Loans-in agreements

Does your standard "loans-in" agreement require lenders to confirm:

- 5.1.1 that the lender has legal title to the object and can lawfully lend the object to the museum or gallery for the exhibition; and
- 5.1.2 that the lender is not aware of any past, current or potential claim by a third party.

- 5.2 Do you require that the loan must be made in accordance with all applicable national and international laws, conventions and agreements?
- 5.3 Does the loans-in agreement state that the object/s must be returned to the country of origin at the completion of the exhibition/s in the UK or at the completion of a travelling exhibition through multiple countries?

6. Expertise

- 6.1. To whom is work on due diligence assigned and what is their position within the organisation?
- 6.2. Does this person have access to specialist advice and guidance, where necessary?
- 6.3. Do you have a programme of training to understand and apply provenance and due diligence guidelines? What does this entail?
- 6.4. Who takes responsibility for overseeing due diligence procedures in your organisation?

7. Documentation

To assist us in considering your application, please provide (where these exist) a copy of your:

- Standard "loans in" agreement.
- Ethical loans or due diligence policy. Please indicate if it is published and if so, please supply details of publication.
- Due Diligence Checklist for loans.
- Due Diligence Risk Assessment/Provenance questionnaire.
- Evidence of a provenance research case you have undertaken recently i.e. copies of documentation/correspondence with a lender and supporting information.
- Copy of a report on the due diligence checks and process undertaken in relation to a recent exhibition of works from abroad, where available.

Signature

Name and signature of Director or person with ultimate responsibility for due diligence in accordance with Part 6 of the Tribunals, Courts and Enforcement Act 2007.