



department for
culture, media
and sport

Consultation on anti-seizure legislation: summary of responses

1. The Department for Culture, Media and Sport (DCMS) held a consultation on introducing legislation to provide immunity from seizure for international works of art on loan in the UK from 8 March to 10 May 2006. The purpose was to invite views on the introduction of legislation in this area and on what form the legislation should take.

2. We are grateful for the 23 valuable responses received from organisations and individuals. The majority of responses were supportive of introducing legislation in this area to bring the United Kingdom in line with other countries and to maintain its position as a major centre for world-class exhibitions. Many respondents emphasised the importance of adhering to the *Statement of Principles and Proposed Action on the Spoliation of Works of Art During the Holocaust and World War II period*, issued by the National Museums Directors Conference and the principles set out in *Combating Illicit Trade: Due Diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material*, published by DCMS. They felt that legislative proposals should stick closely to these principles and that proposals should be presented in such a way that they are not seen as removing the need for due diligence research on provenance of items on loan. The need to ensure that Holocaust survivors are not denied access to justice was stressed.

3. The majority of respondents felt that the granting of immunity should be automatic, rather than relying on an advance application and that potential claimants should not be given an opportunity to object to the grant of immunity in relation to a particular object. Generally, respondents felt that an application system would be administratively complex, expensive to run and capable of creating delays to important exhibitions. Such a system could also act as a deterrent to private lenders or those wishing to remain anonymous for good reasons. One respondent proposed a semi-automatic system for the granting of immunity, with a public listing of objects to be exhibited, followed by a period within which objections could be raised. Other respondents felt strongly that due diligence should be made obligatory by law or that a US-based system of declaration through standard loans documentation, accompanied by a statement of the threats/risks should be introduced in the UK. A number of respondents considered that there was a strong risk that providing automatic immunity from seizure could result in museums being less rigorous in making inquiries about the origin and history of the objects they borrow and that some form of verification was needed.

4. There was a mixed reaction to the question of whether immunity should be extended to objects borrowed by all museums and galleries, those entitled to use the Government Indemnity Scheme or those accredited by the Museums, Libraries and Archives Council. One respondent pointed out that MLA accreditation only covers England and so would leave a considerable gap as regards the rest of the United Kingdom. All respondents felt that a basic criterion should be that the exhibition should offer public benefit and access.

5. Most respondents felt that immunity from seizure should only be given to objects loaned to exhibitions which are not organised for profit but felt that agreeing a common definition of "not for profit" would be difficult and there were questions as to whether this should relate to the exhibition or the organisation. One respondent referred to an exhibition which is raising funds for a national museum abroad, which may be defined as commercial but with a benevolent cause.

6. There was strong support for making immunity available for all loaned objects, not just those in public ownership but the majority of respondents were concerned that it should not extend to objects exhibited for sale. Some respondents mentioned that the definition of 'benefiting the public' should include works intended for research, rather than only for display.

7. Most respondents felt that immunity from seizure should be given in relation to applications for interim relief; against applications to enforce any judgements or arbitration awards; and against any form of seizure by the Police, HM Revenue and Customs or other authority, though one respondent noted that it would be necessary to have regard to the UK's obligations under international and EU law in relation to such seizures. They also agreed that immunity should also be available where a work is retained in the UK for conservation or restoration work to repair damage suffered during the exhibition. It was suggested that legislation which was limited to barring claims for the return of objects, while permitting claims for collateral monetary remedies would provide incomplete protection (though it was noted that a statute granting more extensive protection might be subject to challenge).

List of respondents

Art Loss Registration
British Library
CLAE
English Heritage
Freda Matassa
Leeds Museums and Galleries
Museums, Libraries and Archives Council
Museums Association
National Library of Wales
National Maritime Museum
National Museums of Wales
National Museums of Scotland
National Museum Directors' Conference
National Museum Directors' Conference: Spoliation Advisory Committee
National Museum of Science and Industry
Professor Norman Palmer
Royal Academy of Arts
Sotheby's
Tate
National Gallery
The Society of London Art Dealers
Victoria and Albert Museums
Welsh Assembly Wales