



National Gallery of Australia – Due Diligence and Provenance Policy

Purpose

The National Gallery of Australia, as a major cultural collecting agency with a charter to collect Australian and international works of art across all media, conforms to appropriate policy and guidelines to ensure the objects it brings into the collection have clear title to ownership, appropriate ownership history (provenance) and conform to legislation in relation to moveable cultural heritage. The *Due Diligence and Provenance Policy* outlines these principles and procedures.

Principles of due diligence for acquiring works of art

The Gallery adheres to the following principles:

1. The Gallery is committed to the responsible acquisition of all works of art.
2. The Gallery is committed to the principle that all collecting be done according to the highest standards of ethical and professional practice and complies with Australian legislation and the Gallery's approved acquisition strategies and collection development policies.
3. The Gallery does not support the illicit trade of works of art, the destruction or defacing of ancient monuments, and the theft of works of art from individuals, museums or other repositories.
4. The Gallery shall not knowingly acquire objects which have been stolen in peace time, or appropriated by theft or other illicit means during times of civil unrest and armed conflict.
5. The Gallery recognises that some works of art for which provenance information is incomplete or unobtainable may deserve to be publicly displayed, preserved, studied and published because of their rarity, importance and aesthetic merit.

Guidelines for the acquisition of works of art by purchase, gift, bequest and exchange

The Gallery's acquisition guidelines provide that:

1. The Gallery rigorously researches the provenance of a work of art prior to acquisition. Research includes, but is not limited to, determining:
 - (a) the ownership history of the work
 - (b) countries in which the work has been located and when
 - (c) the exhibition history of the work

- (d) the publication history
 - (e) whether claims to ownership of the work have been made
 - (f) whether the work appears in relevant databases of stolen or contested works
 - (g) the circumstance under which the work is being offered.
2. The Gallery makes considerable effort to obtain accurate written documentation with respect to the history of the work, including import and export documents.
 3. The Gallery requires vendors, donors and their representatives to provide all available evidence and documentation of a work of art offered for acquisition, regarding its origins and provenance. If the Gallery is unfamiliar with the source of an acquisition it will, where practicable, consult with colleagues who have had prior dealings with the source or contact in question.
 4. The Gallery ensures that the work complies with the Gallery's acquisition strategy and collection development policies and in the case of high value items, seek appropriate warranties and guarantees from the vendor.
 5. The Gallery complies with the Australian Government's *Protection of Movable Cultural Heritage Act 1986*.
 6. In the case of auction sales, the Gallery seeks documentary proof of provenance from the vendor via the auction house or, in the absence of this, a sworn affidavit, where practicable.
 7. The Gallery takes into consideration cultural sensitivities in its collecting and display of the work.

The Gallery's curatorial staff have an ongoing role in ensuring acquisition processes are compliant with best professional practice and are responsible for researching the provenance of objects already acquired as well as those under consideration for acquisition. All acquisitions are considered by the Gallery's Council, and acquisition submissions specifically report against provenance and the history of negotiating as part of the procedure.

In cases where specific provenance issues arise, the Gallery seeks assistance and advice from specialists from appropriate organisations.

Where an object belonging to the Gallery is claimed for restitution or repatriation such claims will be handled with respect and sensitivity. Any considered restitution act by the Gallery will take into account the individual merits of the case, the Gallery's de-accessioning policy, cultural, legal and legislative factors and the long-term preservation of the work of art.

Legal and due diligence considerations

The Gallery recognises the *1972 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import and Export and Transfer of Ownership of Cultural Property* and complies with the Australian Government's *Protection of Movable Cultural Heritage Act 1986*. In addition, the Gallery adheres to the *Code of Ethics for Museums* (2004) of the International Council of Museums (ICOM) and the *Code of ethics for art, history & science museums* (1999) of Museums Australia, which preclude museums from participating in transactions involving illicit material.

The Gallery recognises that, under some foreign governments, procedures may be in place that allow consent to be given to museums to acquire works of art that would otherwise be unacceptable under the government's policies, laws or conventions. These procedures may also permit retrospective approval of an export. In special cases and where there is a likelihood of a considered and timely response from an appropriate entity, the Gallery could obtain consent in writing before acquiring the work.

Source and reference material

The Gallery's guidelines and principles have been informed by the Association of Art Museum Directors' *Report of the AAMD Task Force on the acquisition of archaeological materials and ancient art* (2004) and *Combating illicit trade: due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material* (Department for Culture, Media and Sport, London, 2005).

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