



## DUE DILIGENCE POLICY

*Approved by the Director: April 2013*

*Date for next review: April 2018*

### 1. Introduction

GRAD is a not-for-profit institution dedicated to building an understanding of Russian visual culture. We initiate new findings on art and design from Russia and the former Soviet Union from the early twentieth century to present. Our dynamic programme of exhibitions and publications enables audiences to engage with Russian visual culture in new ways.

In order to fulfil our mission of creating pioneering exhibitions, we must borrow works of art from public and private collections, both national and international. We are committed to doing this according to the highest ethical standards and in compliance with all applicable laws. Furthermore, GRAD strongly supports the principle that stolen, illegally exported or otherwise illicitly traded items should not be exhibited or brought into the UK.

This policy sets out the principles regarding provenance and provenance research to which GRAD adheres when considering any acquisition, inward loan, gift or bequest and is consistent with the principles set out in Combating Illicit Trade: Due Diligence Guidelines for Museums, Libraries and Archives on Collecting and Borrowing Cultural Material (DCMS 2005).

### 2. Standards and Guidelines

In relation to all loans covered by this policy, GRAD aims to comply with the standards laid out in the following:

- 2.1 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;
- 2.2 Combating Illicit Trade: Due Diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material, published by DCMS, October 2005;
- 2.3 The UNESCO 1970 Convention on the Means of prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property;
- 2.4 The ICOM Code of Ethics;
- 2.5 The MA Code of Ethics;
- 2.6 Spectrum: UK Documentation Standard for Museums;
- 2.7 The Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- 2.8 The ICOM red list.

### 3. Statement of Principles

3.1 GRAD will conduct provenance checks on all proposed loans to the Gallery in accordance with the procedures outlined below, paying particular attention to the period between 1933 and 1945 and the 1970 UNESCO threshold.

3.2 GRAD will not accept as a loan, gift or bequest any object without confirmation that the donor or lender has valid and legal title to retain and transfer the object and to enter into the loan.

3.3 GRAD will borrow any item only if reasonably satisfied that there is no legal or ethical reason not to borrow.

3.4 GRAD will exercise due diligence to establish the legal status of objects under consideration, making every reasonable effort to investigate and clarify the provenance of an object. In practicing due diligence, GRAD will apply high standards to our research into all exhibition loans and acquisitions.

3.5 Where necessary, GRAD will extend research beyond the information supplied by the vendor, donor or lender in an effort to clarify the history of the object. Further guidance may be sought from our Advisory Board, external curators and experts, academic institutions or auction houses.

3.6 GRAD will only acquire or borrow 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.

3.7 Information obtained about the provenance of an object will be documented and preserved to ensure GRAD's ability to respond to any public requests and to avoid duplication.

3.8 GRAD recognises that in practice less significant and multiple objects are not always accompanied by detailed histories and that in these circumstances, having taken into account information gathered through the curators' research which must be conducted according to GRAD's established minimum standards, best judgement must apply.

3.9 Notwithstanding high standards of research, GRAD also recognises that there may be circumstances in which an object is acquired or borrowed for which the history is deemed to be reasonably secure and is accepted in good faith, but for which legitimate ownership is nonetheless challenged. In these cases, GRAD is committed to giving prompt and serious consideration to bone fide enquiries over ownership and claims to title, under the applicable guidelines.<sup>1</sup>

<sup>1</sup> Reference is made to 'Spoliation of Works of Art during the Holocaust and World War II period: Statement of Principles and Proposed Actions', NMDC, 1998, and 'Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material', DCMS, 2005.

3.9 GRAD is a not-for-profit educational institution that seeks to encourage enquiry and open debate. Faced with an absence of information within a provenance, and having taken into account this policy and considered the research undertaken in accordance with GRAD's codification of procedures for due diligence, GRAD may from time to time elect to bring a work into the public domain through exhibition, in such circumstances where GRAD can demonstrate the highest standard of due diligence has been undertaken and consideration has been given to the view of the current possessor, in belief that such display may encourage legitimate owners or claimants to make known their interest.

#### **4. Provenance and Due Diligence Procedures**

4.1 The Director and Assistant Curator will be responsible for completing provenance checks in respect of all proposed loans to GRAD and, in cases where the lender cannot provide acceptable documentary evidence of provenance, further due diligence checks. The Assistant Curator will in all cases complete a provenance checklist, and in appropriate cases a due diligence checklist. No loan-in may proceed without completion of the relevant checklist(s).

4.2 In case of a proposed loan to a temporary exhibition, GRAD will set the timetable for completion of the checks referred to in paragraph 4.1 above and monitor progress.

4.3 Responsibility for overseeing provenance and due diligence checks lies with the Director.

4.4 Records and documentation relating to the provenance and due diligence checks will be retained for a minimum of ten years.

#### **5. Loans – in Documentation**

5.1 The terms of all loans-in will be recorded in a written loan agreement.

5.2 In cases where GRAD's standard loan agreement is used, it will include declarations/ warranties from the lender: that the lender has good legal title to the item lent and full legal authority to enter into the loan; and that the lender is not aware of any past, current or potential claim by a third party. In addition, it will include a term that the import and export of the subject of the loan will be made in accordance with all applicable national and international laws and agreements.

5.3 In cases where the lender insists upon using its own loan documentation, GRAD will use reasonable endeavours to ensure that similar terms are included.