

11 February 2009

Dear Sir/Madam

Guidance on the provision of provenance

The provision of provenance by exporters for cultural objects that are intended for export, would appear to be a recurrent, contentious, and on occasions fractious issue for quite sometime.

It may be useful to look at first principles and reflect on why exporters are asked to provide provenance.

When an application is received by the Export Licensing Unit (ELU) the first question the Unit need to answer is whether the object has been in the UK for the past 50 years. If you are applying for an export licence for an object that has been imported into the UK, other than the Channel Islands, within the last 50 years, you must supply with your application the appropriate paperwork, as proof of this.

In the case of exports from an EU Member State, the ELU must ensure that the object has been legally imported into the UK, before the ELU can process and issue the licence. For example, if you wished to export an object to a non-EU destination, and the object in question had been exported from France, it may have required a French Passport (the French equivalent of an export licence). This should be enclosed with your application. If the object did not require a French passport then you will need to enclose proof of this, such as an invoice proving the purchase price for the object is below the threshold value at which it would require a passport for it to be legally exported from France. If the object had been imported from the Netherlands, or Germany, we would require confirmation that the object is not on those Member States' restricted lists.

For objects that have been imported from a **non-EU** Member State, you should include with your application a declaration letter confirming the details of where the object has been imported from and enclose with your application the appropriate paperwork demonstrating this. If you provide import proof, or a previous export licence, it will speed up the processing of your application, as it will not have to be referred to an Expert Adviser, and will usually take five working days to process.

Objects that have been in the UK for 50 years or more and that are over the financial thresholds set out in the Open General Export Licence 2004 are referred to an expert adviser, who decides whether an objection should be raised to the export of an object under the Waverley Criteria. The provision of provenance aids an adviser in their consideration and is particularly pertinent when considering the first Waverley Criterion, as an object may, by association with an important person, location, event or a collection which is of great historical significance, be of national importance.

On occasions, when the ELU receives an application with no details as to the provenance of the object, upon investigation it is found that some objects have been in the UK for under 50 years, whilst others had been in the for at least 50 years. The ELU can not therefore assume that an application accompanied by no details has been in the UK for the last 50 years, and will continue upon receipt of such applications to put the processing of that application on hold, whilst enquiries are made.

I am aware there can be difficulties where vendors may not wish to divulge any information surrounding the acquisition of the object, often stating "the piece was bought in the trade". This may well be a perfectly legitimate desire to keep commercially sensitive information secret from other dealers. However, this practice is at odds with the need to provide provenance for an export licence. I can assure you that all information received by the ELU is treated as strictly confidential and would not be revealed to another dealer\competitor.

If all avenues of enquiry have been exhausted an applicant may provide the ELU with a written statement. When making a definitive statement we recommend that you use the following wording:

"The information I have given in conjunction with this application is complete, accurate and true, and I have enclosed all relevant supporting documentation as part of this application.

I recognise that knowingly or recklessly providing any information which is false in a material particular in order to obtain an export licence is a criminal offence".

This declaration is not intended to be used instead of proof of provenance, but rather in conjunction with whatever provenance an exporter may have. Further enquiries will be made in any case where the only information on provenance submitted with an export licence is such a written statement.

Further guidance can be found in our booklet entitled UK Export Licensing of Cultural Goods which is available on the export licensing section of the MLA's website www.mla.gov.uk. The form, ELA 1, can be found on the Export Licensing page of the MLA's website. It is intended to act as a checklist for the completion of an export application form; it replaces the previous form and again it can be found on the MLA's website. The following link is for a new website which has been designed to provide information on cultural property issues, including import\export. www.culturalpropertyadvice.gov.uk This site will be available from the end of November.

If you have any questions, or are unsure that you have included enough information with your export licence application, please do not hesitate to contact the ELU on 020 7273 8265/66/67/69/73.

Yours sincerely

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