

Summary of compliance 2008/09

Regulating the public display sector

Working together to drive up standards

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Introduction

1. In September 2008, the HTA published a set of five summary inspection reports, one relating to each of our licensed sectors. The reports provided an overview of how the sectors complied with HTA standards and summarised the key learning points from a range of information that we had gathered about our licensed establishments. The public display report covered the period 1 September 2006 to 31 March 2008 and is available on our website at:
www.hta.gov.uk/db/documents/HTA-inspection-public-display-v2.pdf
2. The aim of this report is to provide an overview of the period 1 April 2008 to 31 March 2009 (2008/09), including:
 - any changes to the number of public display establishments
 - an update on the sector's compliance with our standards
 - a summary of the regulatory action we took
 - learning gained from undertaking on-site inspections
 - a summary of the advice and guidance we have provided, and
 - an overview of sector-specific policies that we have developed

What did we report last time?

3. In the period 1 September 2006 to 31 March 2008, the HTA received 11 applications from public display establishments, two with satellites attached. Of these establishments, the majority (nine or 82%) were from museums housing permanent collections and two (18%) were from temporary exhibition venues.
4. During the period, we undertook two phase 2 site-visit inspections. These resulted in two additional conditions being placed on one of the establishment's licences and a total of nine individual items of advice and guidance offered. The majority of advice and guidance related to the standards relating to governance and quality systems and premises, facilities and equipment. Specifically, establishments were advised to ensure that risk assessments were in place relating to the procedures associated with the storage and public display of bodies or human tissue, in particular relating to risks posed to the exhibits themselves rather than to staff and visitors of the establishment.

What changes have there been to the profile of the sector since 1 April 2008?

5. During the 2008/09 business year, the public display sector changed significantly. In the period 1 April 2008 to 31 March 2009, six new applications were made to license seven premises for public display. Of these, three were from museums wishing to obtain a licence to display their existing (and any future) holdings for public display.
6. These establishments had applied late for their licences; in each case the reason given was that it had taken them a substantial amount of time to inventory their holdings and establish whether material was more than 100 years old (and therefore exempt from the licensing requirements of the Human Tissue Act 2004). The HTA is concerned that there may be other establishments storing material with the intention of putting it on display to the public, without the appropriate licence from the HTA. This is a statutory breach of the Human Tissue Act 2004 (HT Act), for which there are penalties.
7. Four of the new applications in the 2008/09 business year were submitted in relation to temporary public displays, which were to take place in facilities other than museums. This is in contrast to the previous business year, when the majority of establishments applying for public display licences were museums that needed licences for their existing holdings and were familiar with the Museum Association's code of practice on the care and safety of human remains in museums.
8. During the period, the HTA received its first application from a small commercial establishment (GV Art) and its first from a theatre company (The Royal Shakespeare Company). These applications provided new challenges for our licensing team, which may be of interest to others in the sector. For this reason, they are included as case studies at the end of this report.
9. All the applications received during 2008/09 contained sufficient evidence to demonstrate compliance with the HTA standards and no additional conditions were placed on establishments' licences at this stage. However, two establishments, GV Art and Body Worlds, were considered high priority for inspection because they had no previous experience of handling human tissue and were new to regulation.

Learning points for Designated Individuals (DIs):

It is important to note that any establishment storing human material for public display requires both storage and public display licences, even if the material is not on display at the time of the licence application.

What did we find during phase 2 site-visit inspections undertaken between 1 April 2008 and 31 March 2009?

10. Inspection activity in this sector was focused on two very different establishments: GV Art, a privately owned commercial art gallery in Central London and Body Worlds, Gunter von Hagen's travelling exhibition of plastinated bodies and body parts, which was staged at the O2 Bubble, part of the O2 entertainment complex in South East London (see Appendix 1 for case studies).
11. Overall, these establishments exhibited good compliance with the HTA's standards. Both establishments had gone to significant trouble to familiarise themselves with the requirements of the HT Act and to seek advice and guidance from the HTA prior to the exhibitions opening. As a result, we proposed no additional conditions following the phase 2 site-visit inspections and the exhibitions opened without any significant action required of the organisers by the HTA. Our inspectors found that staff had a good understanding of the HTA's requirements, in particular the need for the exhibits to be protected from harm and treated with respect, to ensure that the dignity of the deceased was maintained.
12. Some additional advice was provided following the inspections, relating predominantly to risk management and issues of governance. These were similar to issues highlighted in the previous year's inspections and are described below.
13. Establishments were found to have risk assessments in place which addressed the general health and safety of the staff and public, but did not address risk to the specimens themselves. The HTA advises that establishments wishing to display human tissue develop risk assessments that consider the risks to staff, visitors and the exhibits themselves during exhibition opening times. Risk assessments should

also consider the suitability of equipment for moving exhibits around the exhibition space and proportional reactions to any damage that might occur to the specimens on display, such as the use of spill kits for smaller items.

Learning points for DIs: risk management

Consider how the establishment's risk assessments may be developed further by:

- identifying the hazards; i.e. those things that may cause harm
- deciding who or what might be harmed and how (visitors and the exhibits themselves)
- evaluating the risks and deciding on precautions
- recording findings and implementing actions and
- reviewing assessment and updating if necessary

Only when the hazards have been identified can appropriate action be taken to mitigate risks.

14. Training is another area identified for improvement. This was also highlighted in the previous report, although the emphasis then was on the need for staff appraisal and development.
15. Where staff are not used to handling human material, the provision of training is especially important. During phase 2 site-visit inspections, HTA inspectors seek to assure themselves that staff demonstrate awareness of the need for careful and respectful handling of exhibits, and that documented procedures are in place to help ensure this.
16. In addition, during exhibition open times, there should be sufficient staff on duty to ensure that exhibits are not left unattended for long periods.

Learning points for DIs: staff training and development

1. When staging a temporary exhibition, formally agreeing staffing plans in advance will ensure that the exhibition is adequately staffed at all times and that exhibits are not left for long periods without supervision.
2. Given the nature of exhibits, either whole bodies or other specimens, and the special requirements set down by the HTA, we advise that there are documented complaints and whistle-blowing policies readily available so that visitors and staff know how to raise concerns. There should also be a system of incident reporting in place.
3. If you have developed an exhibition audio guide for visitors, give the staff the opportunity to view the exhibition with this guide prior to the exhibition opening to the public.

17. The HTA requires that there are sound systems of record keeping and traceability. Where there is a heavy flow of visitor traffic to an exhibition, the HTA advises that a regular check of exhibits takes place against a documented inventory, to ensure that they are all present and have not been interfered with in any way.

Learning points for DIs: audit trail

Consider creating a photographic inventory list of all exhibits, as well as a schematic diagram indicating the location of each exhibit. This can be made available to staff working in the exhibition space, so that they can ensure all exhibits are present and in their original condition when undertaking their routine checks.

18. The arrangement of exhibits within the premises, and in particular how the public access these, is important to ensure the safety of the exhibits and the protection of visitors. During site-visit inspection, we have advised that frequent and appropriate signage for visitors be put in place, including directions not to touch or photograph the exhibits and preventing food and drink from being taken into the exhibition.

Learning points for DIs: signage and guidance for visitors

If a large number of visitors is expected, DIs should provide clear notices about the nature of the exhibits. The presence of real human material can be promoted to instil an attitude of reverence.

If exhibits are of an especially sensitive nature; for example, they include fetal material, an additional 'warning' may be appropriate, particularly when children are present.

What policy development was there between 1 April 2008 and 31 March 2009?

19. As temporary exhibitions are not usually held on premises designed with the storage or display of human remains in mind, the HTA considers these to be of higher risk. Therefore, the HTA has decided that a phase 2 site-visit inspection of all temporary exhibitions will be undertaken once they are set up, and before they are opened to the public.
20. The HTA has also changed its licensing procedures by introducing continuous licensing rather than requiring establishments to reapply every three years. Establishments applying for temporary licences will be unaffected by this change. Those with permanent collections will be required to submit compliance data every two years. Further information will be made available to DIs in due course.
21. The HTA continues to receive enquiries from establishments who have not applied for a licence, many of which store very small numbers of items which would require the establishment to apply for a licence if they were used for public display. If the establishment intends to display them, it should apply for a licence immediately. However, the HTA understands that some museums hold material with no intention to ever put it on public display, but rather, to keep it as part of a museum archive of items of historical interest. In these cases, a licence is not required.

22. If the establishment informs the HTA in writing of its intention never to display the material, the HTA will be satisfied that the retention of this material falls outside its remit.
23. A further area of concern is an establishment's occasional failure to date specimens accurately. The HTA has taken the position that, as a guide, the date of acquisition should be used. However, if the date of acquisition is well within the 100-year exemption period but the DI has good reason to believe that the material is more than 100-years-old, the HTA will accept a written statement of this from an independent and objective expert in the field. However, the establishment may have to remove their items from public display until the HTA is satisfied.

How have we engaged with the public display sector?

24. We regard this sector as one of our lowest-risk sectors. Apart from high-profile public exhibitions, it requires a minimal level of regulatory oversight.
25. We continue to publish on our website, responses to frequently asked questions, which are designed to support and inform DIs within the sector about our regulatory framework and licensing standards. In addition, DIs can sign up for the HTA's e-newsletter, which in recent months has included several items specifically targeted at the public display sector. These can all be accessed using the following links:

Frequently asked questions:

www.hta.gov.uk/licensingandinspections/sectorspecificinformation/publicdisplay/publicdisplayfaqs.cfm

E-newsletter:

www.hta.gov.uk/newsandevents/e-newsletter.cfm

26. We have developed a revised code of practice on public display, taking into consideration stakeholders' responses to the consultation. We hope that this code provides more comprehensive and informative guidance for those working in this sector. The revised code is available on our website and can be accessed via the following link:
- www.hta.gov.uk/legislationpoliciesandcodesofpractice/codesofpractice/code7publicdisplay.cfm

What next?

27. We hope that all museums with existing holdings of material are now licensed. As we have moved to a system of continuous licensing, establishments will be asked to submit compliance data every two years in order that we can assess their continued suitability to be licensed.

28. The HTA expects the public display sector to continue to change and grow, specifically with regard to the number of temporary exhibitions taking place on premises other than museums. These will warrant special attention and support to ensure that the HTA standards are fully met at the time the exhibition opens.

Appendix 1: Case studies

Case study: GV Art

GV Art is a private contemporary art gallery in Central London that applied for a licence to display work by an American conceptual artist who uses human tissue, predominantly skin, in his artworks. The gallery owner and director contacted the HTA several months before the opening date to find out about the HT Act and the HTA standards, and demonstrated a willingness to engage fully with the HTA and to reach a high level of compliance with the standards.

The artworks were to be imported and therefore the material was not subject to the consent requirements of the HT Act. However, the proposed DI was referred to the HTA code of practice on import and export (Code 8), which gives guidance on consent and also on transportation.

The DI was very keen to comply with HTA requirements and obtained documentation from the artist's lawyers stating that the tissue was sourced legitimately by the artist in America in accordance with local legal requirements.

To reduce the risks associated with the exhibition, and in particular the fragility of some of the exhibits, only a limited number of visitors were allowed access at any one time. In addition, the DI decided to only allow access to those over the age of 18.

GV Art discussed potential hazards with the artist and both parties agreed that a 'Do not touch' policy would help protect exhibits from harm. In addition, the premises were fully secured, alarmed and monitored by CCTV cameras.

The HTA also made sure that GV Art was aware of its obligation to inform any buyers of the need to apply for an HTA licence, should they wish to display their purchase to the public.

Case study: Royal Shakespeare Company (RSC)

The RSC contacted the HTA when it wished to stage a performance using a human skull that had been bequeathed to the company several years ago specifically for use in performances of Hamlet. The play was to take place at the company's theatre in Stratford-Upon-Avon as well as in London. The donation was made before the HT Act came into force and therefore the consent standards did not apply.

The HT Act states that a licence shall specify the premises where the licensed activity is to be carried out and prohibits the HTA from granting a licence for an activity with criteria requiring a licence to be conducted on premises at different places. In addition, it is a statutory condition that the licensed activity be carried out only on the premises specified in the licence. Therefore, the RSC could not obtain a public display licence covering different venues.

The HTA suggested that the RSC apply for a licence for the storage facility which houses the RSC collection, including the skull. The theatres were then licensed separately as satellite sites of the main hub licence.

The HTA did not undertake an inspection, but was assured by the information provided in the licence application that the appropriate standards were met.

Appendix 2: List of establishments that received an HTA phase 2 site-visit inspection in 2008/09

- GV Art Limited (12529)
- Arts & Sciences Ltd, Body Worlds at the O2 (12516)

Details of all licensed establishments are listed on the HTA website:
www.hta.gov.uk/licensing/licensed_establishments.cfm.

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