

# The Art Market Adjusts: Next steps for the UK art market

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CATEGORY:  
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### **Giulia: Is the government considering any legislation to support the UK art industry?**

**Eleni:** On 24 March, a few days after lockdown officially began in the UK, Arts Council England (ACE), the body that supports artists, curators, museums, libraries, theatres, and other cultural practitioners established announced a £160m relief fund to help artists, venues and freelancers in the cultural sector.

Of the £160m, £20m are earmarked for individuals (made up of grants of up to £2,500 each), £90m for National Portfolio Organisations – venues such as the Barbican Centre, the Institute of Contemporary Arts and Whitechapel Gallery – to alleviate their financial pressures – and £50m for organisations that fall outside the NPO scheme (made of grants of up to £35,000 each).

ACE diverted funds from National Lottery project grants and development funds, and from emergency reserves in order to create the relief fund. Payments are expected to be made within 15 days of ACE offering a grant which, based on the two rounds of applications, should mean applicants will receive funding between mid-May and June this year.

Aside from the ACE Emergency Response Package, organisations and individuals working in the cultural sector have access to the following schemes – although concerns have been raised as to how applicable these might be.

For employers, such as museums and galleries, the Coronavirus Job Retention Scheme (at the time of writing applications are open until 30 June) offers support for continuation of employees' salaries, who would otherwise be laid off during the Coronavirus crisis by reimbursing 80% of a furloughed worker's wage costs up to £2,500 per month. However, aside from various eligibility requirements for both employers and employees (discussed in greater detail here) NPOs (which receive public funding to delivery policy outcomes set out by each NPO in their business plan) will only be eligible for the scheme if (i) they do not already receive public funding explicitly intended to cover staff costs which they are now claiming; (ii) the combined total of their grants and Scheme payments do not represent more than 100% of the total income they would have expected to receive for the same period were it not for Covid-19.

The furlough scheme had raised initial issues for institutions such as the British Museum, the Tate, the National Gallery and the V&A which are partly funded by the UK government and partly funded by a mix of fundraising and commercial activities. In particular, unions representing museum staff were concerned that furloughed employees would not receive their full salary. The above mentioned institutions, working together with the unions, have confirmed they will pay furloughed members of staff 100% of their salary via top ups.

Smaller institutions and galleries may also have access to the small business grant scheme, the retail and hospitality grant scheme (if eligible) as well as a series of bounce back loans or coronavirus business interruption loans whose terms depend on an organisation's turnover and the extent to which it has been affected by coronavirus.

Finally, galleries and institutions may benefit from VAT deferrals, business rate holidays until 2021.

For individual artists, the position is far more uncertain. While artists could apply to the ACE Emergency Response Package, the only scheme offered by the UK Government at this date is the Self-Employed Income Support Scheme. Non-UK artists on a visa will also be able to access the scheme. However, the eligibility requirements are such that many artists and freelancers in the cultural sector will not be able to benefit from the SEISS.

In the first instance, SEISS will only become accessible at the end of June. At the same time, Universal Credit (which could be used as a temporary form of relief depending on eligibility) has a 5 week delay period. Since many artists and cultural sector freelancers supplement their income through zero-hours or fixed term contracts, they fall through the net of both the SEISS and the Job Retention Scheme meaning that, for the most part, their only source of funding will be constituted by grants.

Likewise, while commercial tenants are covered from eviction until 30 June, this does not extend to artists' studios, making them vulnerable to eviction.

**Giulia: How are museums and galleries logistically handling (and financially coping) with the pandemic? Do you have a sense of when they might reopen?**

**Eleni:** Museums and galleries are, where possible, making use of the government schemes available to cope with the pandemic. Independent institutions, such as the Holbourne Museum in Bath, are also relying on fundraising campaigns and crowdfunding to survive. It is also rumoured that ACE will be lobbying the Department for Digital, Culture, Media and Sport for an additional £250m increase in public funding although this has not been confirmed as of yet.

One of the measures implemented by the UK Government was the 'Museum and Galleries Exhibition Tax Relief' which can be used in circumstances where an exhibition is abandoned at any point in its production phases. This allows the 'production company' to claim relief for production expenditure (which may include de-installation costs) incurred before the exhibition's abandonment. Similarly, if the exhibition is temporarily closed or cannot be de-installed due to the current crisis, those de-installation costs could also be claimed.

This might be useful as museums and galleries alike have for the most part postponed their exhibitions and their future calendars. By way of example, Camden Arts Centre was due to open 'The Botanical Mind' in late April 2020 but has decided instead to launch it online in May and then present it to the public in its physical space as soon as restrictions are lifted. Other museums, such as the Tate, have extended their loans to foreign institutions.

However, for museums and institutions deciding to extend or cancel future exhibitions is a delicate and diplomatic affair as, given the globalised nature of the art world, this has knock-on effects. For example, the Royal Academy of Arts has recently announced the cancellation of two exhibitions that were due to launch in June – Kauffman and Cezanne. This would allow at the Kunstpalast in Dusseldorf to be extended, subject to approval from the lenders.

At the same time, the RA has extended its Spiljaert exhibition until 20 September, when it was originally due to be shown at the Musee d'Orsay between June and September. This will therefore affect the Musee d'Orsay's future calendar.

In the UK, following a government dossier published on 11 May, several art trade associations (including LAPADA, the British Art Market Federation and the Society for London Art Dealers) have received confirmation from the Department for Digital Culture, Media and Sport that both galleries and auction houses will fall under the category of "non-essential retail" and will be allowed to start resuming some client-facing business starting from 1 June. Social distancing measures will still need to be maintained and as long as they comply with these, staff working for auction houses or galleries should be able to visit clients in their homes.

However it is unlikely that auction houses will be able to host a high number of client bidders when they reopen in June (if any at all). On the other hand, museums and larger art venues will likely be allowed to reopen on around the 4th July as long as there has been no second wave of COVID 19 in the meantime.

Aside from re-scheduling their shows, museums and galleries alike are concerned about the prospect of being one of the last to re-open and social distancing measures (which means a decrease in footfall, and therefore of ticket sales). It is also important to note that even London's largest museums are preparing themselves for significant drops in international visitors which, at the British Museum and the National Gallery, constitute more than 60% of annual visitors.

Museums are currently modelling budgets and plans, with the V&A preparing for an 80-85% fall in attendance as its worst-case scenario. Regional museums, who are frequented for the most part by UK-visitors, are instead expecting a 50% decrease in numbers.

While commercial galleries are protected from eviction up until 30 June, this is not a rental holiday meaning that they will need to set aside enough to be able to continue their leases when sales are expected to dwindle further and when artists may have difficulties producing works faced with studio evictions and no income protection.

In addition to the above, both museums and commercial galleries with shows in place have obligations to lenders (as discussed here).

**Giulia: One of Britain's largest art fairs, Masterpiece London, which was scheduled to run during the last week of June, has been cancelled. How does this affect the art market in Britain? Are any changes to Frieze London being discussed?**

**Eleni:** In 2019 the British art market had become the second largest in the world, holding a 21% share of total sales. These figures are likely to be drastically different in the next few years.

Fairs like Masterpiece and Frieze are critical in attracting buyers to London and have driven further sales – both at auctions and satellite fairs organised in the same weeks.

It is notable that Photo London, whose 6th edition was due to run from 14-19 May 2020, has now announced new dates for 7-11 October 2020 as well as a new venue which, it states, will be able to accommodate social distancing measures.

While Frieze has yet to announce any postponements (it is currently scheduled for 8-11 October 2020), any further art fair cancellations are likely to have a greater impact on the English art market than on the US or Asian market as a result of Brexit. Prior to Covid-19 several art galleries had decided to shift their headquarters from London to Paris or Brussels in order to avoid the uncertainty of differing regulatory measures, potential

import and export duties and the like. The UK Government has repeatedly stated that, notwithstanding Covid-19, it intends for Brexit to be fully completed by the end of this year.

This means that, assuming international travel and fairs resume at their pre-Covid levels in January 2021, London may no longer benefit from the same caliber and density of European galleries and/or dealers presenting works at Frieze Masters or Masterpiece.

While it is difficult to predict what the British art market will look like in the months ahead, the art market as a whole is expected to contract as social distancing and international travel curtailments will likely push buyers to focus on online sales and local dealers. Art market fairs, which in recent years had mushroomed, are also likely to reduce as dealers and galleries (possibly with reduced budgets) will need to be more selective in their attendances.

At the same time, the world's largest auction houses continue to have headquarters in London. This, coupled with the fact that their London sale, purchase and consignment contracts are drafted under English law, should continue to ensure a steady stream of business.

**Giulia: Museums and institutions are rightly concerned regarding valuable artworks hanging in spaces that no longer have the usual amount of security staff on site. In what ways do usual insurance policies taken out by museums/institutions fall short of current circumstances? Is there a push among UK museums to keep vigilant?**

**Eleni:** Museums and galleries, as discussed, have obligations to their lenders as well as to their own collections. As many operate with reduced security staff, this has prompted concerns relating to the vulnerability of artworks.

The Victoria & Albert Museum, by way of example, has increased its patrols of the galleries as the risk of theft is heightened, while also tailoring its business continuity plans in response to the ever-changing scenarios. They have been particularly vocal about their vigilant strategy in order to discourage any attempts to break-in.

However, for smaller UK museums, aside from theft, another main concern is electrical faults, leaks and fire. This is due to the fact that they do not have the resources for full-time on site security during lockdown, meaning that faults in the building could be undetected and then result in serious damage.

As insurance policies are specifically tailored, there is no UK-wide approach. It is all the more important for museums, galleries and institutions to review their policies and check whether these cover government ordered closures and/or pandemics or diseases should they need to make a claim, as well as whether the reduction in security-staff could be attributable to the government or to the institutions themselves for the purposes of the claim.

**Giulia: In a push to drive online traffic major and smaller galleries, as well as institutions, have been attempting to create online digital experiences. How have UK galleries and institutions adapted to these new models? Is there enough funding for it to be practicable?**

**Eleni:** The art world's move to online digital platforms and exhibitions has been widely reported of late. While the shift is viewed mostly positively – as galleries and institutions attempt to cope with Covid by driving online sales and online engagement, in the UK these models also raise concerns.

Gallery-mammoths such as Hauser, Zwirner and Pace have the resources to host elaborate online exhibitions, with video-tours and curated content. At the same time, VR and AR platforms for the art world are being launched in order to allow potential buyers to view works as if they were already in their home.

While David Zwirner's collaborative online exhibition Platform:London allowed smaller commercial galleries (such as The Approach, Soft Opening and Arcadia Missa) to present and sell works on its platform, for institutions and galleries with access to smaller funding pools the growing dominance of online sales marks their potential displacement.

In fact, while the ability to purchase works directly online may democratise the art market and make it more transparent (as price tags could become more commonly revealed), it is also worth considering that larger galleries have the ability to attract greater traffic. Smaller brick and mortar spaces too may suffer on the whole as dealers and smaller galleries in Mayfair who do not have the resources or the ability to quickly shift to online sales (also due to the regulatory procedures that must be complied with) may find themselves edged out and too dependent on their established network of contacts.

Likewise, regional or smaller museums and institutions who do not have a fully digitised catalogue, may find it difficult to pivot to online offerings due to staff furloughs.

It is therefore of paramount importance for better-funded and/or larger museums and commercial galleries to be collaborative and share resources to ensure that digital sales and online traffic benefit the art sector as a whole.

**Giulia: How are museums and galleries in UK thinking about future re-openings, future loans and big-ticket exhibitions? For example, if social distancing measures will need to be put in place will the trade-off between lower footfall and costs of running the museum be worth it?**

**Eleni:** As discussed above, no re-opening date has been announced of yet for museums and galleries. It is worth remembering that in the UK, for the most part, national museums and institutions do not have entrance fees for permanent collections. This means that funding takes place, in part, through ticket sales to prominent exhibitions. While some have postponed their new exhibitions, meaning that they will not need to incur costs to install the works, museums may still be required to spend money on advertising in order to encourage the public to attend. Depending on what social distancing measures will be in place, museums will need to consider – from a financial point of view – more than ever the trade-offs between entering into loan agreements for important works of art and the prospect of decreasing footfall and ticket sales.

Back in 2019 Art Fund in the UK had launched the Weston Loan Programme – a three-year program providing funding to local/regional museums

and galleries to borrow works from national collections (such as The National Gallery) to encourage the sharing of works throughout the UK.

Programs such as this may prove invaluable once restrictions are eased to encourage museum visits in times when perhaps the same group of visitors would have taken a train to London rather than visiting the local gallery in Southampton or Wakefield. Again, it is imperative for museums and cultural institutions in the UK – which over the years have seen their funding greatly reduced – to continue and enhance their collaborations in this time of crisis.

**Giulia: Usually museum staff in London are extremely busy dealing with thousands of visitors and planning upcoming exhibitions. It is a source of some sadness that after nearly 2 months they remain closed both for visitors and for staff. What if anything positive can be made of these long standing closures?**

**Eleni:** I consider that this is a unique opportunity for museums and national institutions in the UK who are subject to restitution claims from source countries around the world, to tackle this issue which before the pandemic was beginning to have increased adverse publicity for them and to review each item and create a roadmap as to how to deal with the claims in a fair and transparent way. Each item will have its own story and museums have an opportunity to show their own deep knowledge of each item and not to simply present the source countries with strict legal responses to their claims which will increasingly attract adverse publicity and criticism from the public. Restitution claims are inevitably complex but museums should not be afraid to return some items (notably ones considered to be national treasures) if that means they could enter into loan arrangements for these or other items and/or keep in their permanent collections other equally important items to them which are not so important to the source countries. Museums should remember that source countries would welcome their artefacts being displayed in London and elsewhere in the UK, which is an opportunity to showcase that country's role in the history of the world and development of culture across borders.

All stakeholders involved should consider dealing with these and other art related claims through arbitration which would conserve confidentiality and enable everyone to conduct their proceedings without the media exercising undue pressure or pre judging matters. It also helps to preserve the value of the artefact irrespective of what the dispute might be. It also provides finality (as it is near impossible to appeal arbitration awards) and its global recognition could provide neutrality to international parties and enforceability where necessary.

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