



Interview with Richard Barnett

Richard Barnett is the Head of Legal at the National Gallery London, which houses the UK's national collection of paintings in the Western European tradition from the 13th to the 19th centuries.

The National Gallery is committed to caring for, enhancing, and studying its collection to ensure access to the artworks for education and enjoyment by the widest possible public, free of charge, for 361 days a year. Richard specialises in commercial, intellectual property, and technology law, with expertise in contract negotiation, brands, and data protection within the cultural sector.

At the National Gallery, Richard leads the legal team, overseeing legal matters related to the gallery's operations and activities. Prior to his current role, Richard served as the General Counsel at the Science Museum Group in London. His legal career began at Eversheds, where he completed his training contract before moving on to boutique firm Hansel Henson.

Richard sat down with **Belyndy Rowe** (Senior Associate at Bird & Bird and Chair of the CAMLA Young Lawyers Committee) to discuss his career.

BELYNDY ROWE: Can you please provide an overview of your background and experience as a legal professional in the art industry?

RICHARD BARNETT: I certainly didn't start my career as an art lawyer. Initially, I worked in IP and commercial law. I trained at a prominent international firm, Eversheds. Afterward, I became qualified and joined a specialised IP practice called Hansel Henson. Our focus was on soft IP, trade marks and copyright, with a particular emphasis on computer games, TV, and film. We also handled some small-scale corporate M&A transactions. I truly enjoyed my time there. They were very nice people, and they also entrusted me with my own caseload, which was precisely the experience I was looking for.

An opportunity arose to join the Science Museum Group. I had always considered pursuing a career in public service, and this seemed like an excellent avenue. My 4 years at the Science Museum Group were incredibly intense. Prior to my arrival, they had never had a Head of Legal. I had also never worked in the cultural sector before. There was an awful lot to do. The group comprises 5 museums and an extensive airbase storage facility. The Royal Air Force had

provided the Science Museum Group with this site to house a significant portion of their collection. The site includes numerous hangars filled with items such as Concordes and printing presses, housed in different buildings. It was a challenging but tremendously rewarding experience, and I made a dent in establishing a legal operation there.

During my first interview at the Science Museum, I had the pleasure of meeting Kate Howe who was the General Counsel at the National Gallery. I had pursued art history as part of my degree. When a few years later she mentioned her upcoming retirement and plans for new endeavours, I saw an opportunity. I applied for the position and was fortunate to secure it.

As for working in the art industry at the National Gallery, I learned a lot on the job as I went along. I find that the core legal principles remain quite universal, at least within the English legal context. While there may be art industry-specific terminology and customs to grasp, it's not an entirely alien landscape from IP and commercial practice. I was fortunate to have a colleague here at the National Gallery who had also spent a couple of years in this role. So having

an in-house lawyer wasn't entirely new to the organisation. That person's insights were invaluable, and I've also encountered a network of helpful individuals within the museum and gallery sector.

BELYNDY: As Head of Legal, what are your key responsibilities and how do you ensure legal compliance within the Gallery's operations?

RICHARD: At the National Gallery, and in many larger cultural institutions, there's a common thread in that they function much like 20 or so different businesses, all operating from one site: a visitor attraction, a catering operation, an event hire business, touring exhibitions, a licensing and publishing business, a research centre and a comprehensive learning offering for children, adults and academics. This complexity and variety are what makes these places so interesting and challenging.

The National Gallery is a major visitor attraction that, before the pandemic, welcomed a staggering 6 million visitors annually. Managing and staffing such a monumental operation is no small feat. We deal with a multitude of challenges from addressing visitor concerns to ensuring their safety as they explore our premises.

Maintaining the physical condition of our building is crucial, especially when housing priceless artworks. The old masters, for instance, require meticulous care, and we employ advanced climate control systems to preserve their integrity. We also uphold the highest standards in terms of building maintenance.

We've successfully navigated the art market, acquiring pieces both at auctions and through private sales. Additionally, we've utilised various tax

schemes available in our country to facilitate these acquisitions, a process that can pose challenges for public institutions.

We have public procurement requirements as we are an arm's length body of the Department for Culture, Media, and Sport, so we must adhere to strict public procurement rules when buying goods and services.

Art acquisition however represents only a portion (roughly 30% to 40%) of my role; the remainder of my responsibilities are more multifaceted. We acquire and lend artworks, as well as organise international tours, such as our successful ones to Japan and Australia, even amidst COVID restrictions. Currently, we have an ongoing tour in Asia, visiting Shanghai and Korea. Remarkably, the exhibition in Shanghai has become the most visited exhibition in the National Gallery's history, with 430,000 attendees.

We also offer a diverse range of commercial services. From hosting events and running a shop to managing concessions and catering. Our learning program is fantastic. One standout initiative is 'Summer in the Square', a free art festival. At the helm is our Head of Learning, Karen Eslea, a true marvel who has enhanced the program significantly over the past three years.

BELYNDY: What initially attracted you to the Head of Legal role, and what have been the most rewarding aspects of your position so far?

RICHARD: Each day brings its own unique challenges. While we do have a strategic plan in place at the gallery, the specifics of our day-to-day activities remain unpredictable. We never quite know what the hot topic of the day will be or who we'll need to engage with to draft contracts or correspondence. It's one of the great joys of the job.

During my recent annual review, I couldn't help but reflect on the exceptional experiences this role has offered. Not every lawyer has the opportunity to negotiate contracts with the Louvre concerning da Vinci drawings. Even if the subject matter can be highly intricate, it's also incredibly enjoyable and fulfilling.

In total, our team consists of five members, including myself. In my role I report directly to the director. I oversee two solicitors (both named Charlotte) who despite the slight inconvenience of their shared name, both excel in their roles: a data protection and information governance manager, and a procurement manager.

All members of my team work exceptionally hard. They genuinely care about the instructions they receive and strive to deliver their very best. I must emphasise that working here remains a tremendous privilege. This role is undeniably a remarkable and rewarding opportunity. There are moments when I can hardly believe how fortunate I am.

BELYNDY: What do you find most inspiring and unique about working with a collection of such renowned artworks?

RICHARD: It's truly remarkable when you ascend the stairs and encounter some of the most exquisite creations that humanity has ever produced. One thing I've come to appreciate even more since being here, surrounded by the collection every day, is that each piece holds a spectacular history and an incredible story.

Take, for instance, *The Finding Of Moses* by Orazio Gentileschi, a picture we acquired in my first couple of months at the Gallery. It's not just a beautiful representation of that biblical story, but the same artwork that once adorned the walls of Charles I as he had it commissioned for his wife upon the birth of Charles II.

Every work transports you to a different time and place, offering a rich and unique experience. It's a slower and more profound way of engaging with and appreciating the world around us, which, I dare say, is somewhat akin to mindfulness. Many of these works aren't instantly accessible. They require contemplation and a deeper look, a departure from the instant gratification of constant doom-scrolling.

BELYNDY: Do you have a favourite work?

RICHARD: That is quite a challenging question. However, there's one that comes to mind, a painting by Carel Fabritius, titled *A View of Delft*. It's by the same artist who features in 'The Goldfinch' by Donna Tartt, which is a fantastic book centred around a Fabritius picture. His story is fascinating; he died tragically in an explosion that destroyed most of his art. Consequently, there are only a few of his paintings, and this particular one is quite unique. It's tiny, among the smallest in the collection, resembling a detailed drawing. In the picture, you'll find a man slouching in one corner, with a Church in Delft behind him. Interestingly, an art historian named Laura Cummings recently wrote a book about it. I've always had a deep appreciation for that painting and often find myself drawn to it.

On the other hand, there are the 'big hitters'. I have a special attachment to Thomas Lawrence's *'Red Boy'* because I worked on its acquisition, making it particularly dear to me.

It is a tradition at the gallery that when people leave the gallery, they typically receive leaving cards with their faces superimposed on a picture. I suspect I'm nailed on for my head being stuck on the *Red Boy* when the time comes.

But the truth is, there's so much to love in the collection. It spans different eras and represents various facets of our history. For instance, I love Raphael's *Portrait of Pope Julius II*, despite the Pope's notorious reputation. The painting somehow humanises him, creating a sense of sympathy. In practically every room, there's something captivating.

It's difficult to choose favourites; it's almost like picking among your children. Everyone has their own cherished pieces, and this sentiment extends to the public's feelings about the collection as well.

BELYNDY: The art industry often involves complex legal issues, such as copyright, intellectual property, and contracts. How do you stay updated with the latest developments and changes in art-related laws and regulations?

RICHARD: That's something I miss from "big law". Major firms excel in having established professional support lawyers and knowledge services. They provide lawyers with the resources for continuing professional development. Unfortunately, we don't have the same luxury.

We do have some specific societies and interest groups. For instance, there is a "Lawyers in Charities" (LinC) group who meet quarterly to discuss and share issues and problems. I'm also member of the 'Society of Computer Law' (SCL), given my IT/IP background – and that society provides great events and training.

I'm also involved in a new group being set up this year called the Art Lawyers Association (ALA) which brings together experienced art lawyers from private practice, auction houses and the public sector.

We also rely on the legal content published by law firms. They don't go unnoticed; we read and consume these materials to stay informed. The fundamentals of English contract law and IP change relatively slowly, unlike

fields like employment law, which evolve more rapidly. Data protection has seen significant changes over the last 5 or 6 years and continues to evolve. It's a dynamic field, with new bits of legislation added.

My role at the gallery includes taking on the privacy officer functions. I must admit that I don't believe GDPR is the perfect solution. It's a rather complex piece of legislation that can inundate individuals with information they lack the time or capacity to process. A principle-based system with clear obligations might be more effective. Instead of just showing a cookies pop-up, it could state that websites can collect your data but must delete it after 30 days, for example. I'm more inclined toward that approach. GDPR's current structure is not very helpful, especially when non-compliance is often tacitly tolerated, making it even messier. This is a personal concern of mine. It's an area that absolutely should be regulated, but with technology advancing so rapidly, it poses unique challenges.

I believe generative AI will be revolutionary technology for lawyers. The catch right now is that it's only useful if you already know the answer. It doesn't help if you're uncertain because you can't distinguish between valid information and nonsense. It operates based on what seems to fit, not necessarily on what's true. However, I do think it will fundamentally transform how we work. My current concern is that it's incredibly easy to inadvertently disclose proprietary or confidential information when using it. We don't have a reliable "walled garden" system for its use yet, but Adobe, Microsoft and others are all building systems to meet this need.

BELYNDY: How do you collaborate with other departments within the gallery, such as curatorial, exhibitions, and sales teams, to address legal considerations and potential risks in their activities?

RICHARD: We have a decent set of precedents that people use. We work on precedents for loans in and loans out with the registrars, the people who control those sorts of things. But we do so much contracting. It's not possible or desirable for us to look at everything.

And people at the gallery know who we are. We sit in the middle of the building. It's sort of everyone being available, knowing the committees and just having our ears to the ground to figure out what's going on. Internal communication is not always the public



sector's strong suit, but I do think our team is quite outward facing, and we just try to stay in a dialogue with people.

However, we can still get blindsided by stuff. There are still projects where you go, 'Hang on, what are you doing here?'. People come to legal once it's already in motion or once they've already got a problem. They always come to us when they get into a dispute or a problem. They might quite accidentally use the wrong template or thought they could take out IP provisions to make the contract shorter. Sometimes people play with contracts. A little bit of knowledge can be the most dangerous!

That said, there are lots of people who fulfil contract manager functions. Our registrars team (responsible for moving works in and out of the gallery) knows more about import and export than I do. And I would lean on them to advise me on what to do there. And we might go to external counsel to have a look if we think we're in a particularly tricky spot.

I have heard in-house teams referred to as the "department of business prevention". You don't want to be that. We try to be facilitators rather than just

saying, 'No'. We suggest alternative ways or solutions. It's more work to think of different solutions and manage risk.

BELYNDY: The gallery's collection holds immense cultural and historical value. How do you ensure the preservation and protection of these artworks while still encouraging public access?

RICHARD: It's a real tightrope because you want to have as good access as possible, and as close access as possible. But there are several strands to this. One is security. You could make the artwork virtually totally secure by sticking it behind glass panels and keeping the public 6 to ten feet away from it. You can do that, but it does affect the enjoyment of the art. I think there's no doubt about that. So we are reluctant. There are various interventions that you can undertake, such as physically separating people from artwork. You can have security that is extremely oppressive, with rules like no liquids, no bags, no nothing. You could go that far, but you want it to feel like people are entering a cultural venue where they can have fun and enjoy the art. So there is a balance to be struck, and we're still working on that balance.

I think we do a great job; our operations team ensures it's a good experience with lots of invigilation. We have increased the number of works that are glazed, and we have sophisticated security systems, many of which aren't visible.

Physical security is one aspect, and the other is the condition of the building. We have sophisticated plant systems to maintain the paintings in tip-top order. We also have a conservation team, some of the best scientists and conservators in the world, working on and fixing the pictures, monitoring them, and keeping an eye on their condition.

One great thing about this place is that we have some of the best art handlers, curators, and registrars in the world. In the conservation studio, they have a philosophy of not doing anything that can't be undone because technology is likely to advance, and better conservation methods may emerge in the future. There has been a slow increase in the gallery glazing artworks. We had an instance where people have thrown things and stuck things to pictures, and we don't want to expose the artworks in any way. However, we did have measures in place to protect the artworks before these incidents occurred.

We track what people do with the pictures using motion sensors and similar technology. This allows us to keep a close eye on what goes on. Most people are aware that they should not lean against the walls, etc. We want to trust people to enjoy the collection while ensuring its safety.

BELYNDY: The art world has seen an increase in digital initiatives and online presence. How do you approach legal issues surrounding the gallery's online exhibitions, virtual tours, and digital publications?

RICHARD: The gallery has a robust digital program that includes various elements such as Augmented Reality (AR) installations, an app called 'Keeper of Paintings' developed in collaboration with companies Arcade Limited and Story Futures (part of Royal Holloway University) as well as interactive games.

We also offer virtual galleries, digitised collections available online, and a significant amount of video content through various social media channels and our website.

As a lawyer, my approach to these digital initiatives is similar to how private practice lawyers approach their work. I use the tools and knowledge gained from other areas of law to navigate the complexities, often dealing with somewhat outdated legislation. The

increasing complexity of delivery systems and software, including cloud computing and AI, can pose challenges related to IP and contractual issues. Nevertheless, we do our best to navigate and adapt to these challenges effectively.

Acknowledging the importance of digital initiatives, the gallery has integrated them into its overall strategy. There is a digital-first approach, and prior to my joining, significant progress had already been made (particularly by our excellent information services team). When the pandemic hit, we were well-prepared, having laptops and virtual internal systems in place, which allowed us to work remotely seamlessly.

BELYNDY: How did the gallery manage its operations during the pandemic?

RICHARD: The gallery was closed for a total of 117 days during the lockdown. We were among the first to reopen once restrictions eased, but it was a challenging time. Due to the strict lockdown measures, people were not allowed to visit cultural institutions or go outside for extended periods.

I worked from home during this period while taking care of my small children, who were around three and four years old at the time. We were fortunate to have a small patio garden, but many people in large cities didn't have that luxury.

I wasn't furloughed and continued to work throughout the lockdown. However, it was a tough period for the country and the cultural sector, with significant layoffs and closures affecting many businesses reliant on public engagement, events, and retail operations.

The gallery itself was closed for a long time. It is designed to maintain a kind of homeostasis to respond to external conditions and changes. However, in recent years, energy costs have significantly increased. This has been exacerbated by various economic challenges, including high inflation, which is currently around 10% in the UK. The rising costs of fuel, oil, and gas have contributed to this situation, and it's a concern that needs to be addressed.

BELYNDY: Collaborating with international institutions or hosting foreign exhibitions might present unique legal challenges. How do you manage cross-border legal matters and ensure compliance with different jurisdictions?

RICHARD: Trust and strong relationships are crucial when collaborating with international partners, especially in the context

of lending artworks or engaging in commercial deals. The calibre of the partners you choose is essential, and when working with world-class institutions like the Rijksmuseum, the National Gallery in Washington, the Shanghai Museum, or others, you can have confidence in their capabilities and standards.

Building these relationships requires trust, and while contracts play a significant role in protecting your interests and brand reputation, trust remains a fundamental foundation. Ensuring that the people and organisations you collaborate with are trustworthy is essential.

In terms of due diligence that we engage in, we conduct credit checks, international checks, and for significant deals we engage ethics committees for evaluations. This demonstrates a thorough and responsible approach to partnerships and helps safeguard the institution's reputation and interests.

BELYNDY: What is your vision for the legal department's future in the gallery, and how does your team plan to contribute to the continued success of the institution?

RICHARD: My vision for the organisation focuses on modernisation, collaboration, and a digital-first strategy. I really think that when technology is allied to sensible commercial legal thought leadership. This can really help organisations.

I also think we have a responsibility to our colleagues to try and put them in the best position we can, to facilitate all that we are trying to achieve. This means that we have to create a good environment for people to work in. I think it's important that we enjoy our work and that as a team, we spend time together, and enjoy the collection.

BELYNDY: Richard, thank you for speaking with us for this special art law edition of the CLB.