

SOCIETY OF FINE ART AUCTIONEERS AND VALUERS

GUIDANCE NOTES FOR GOOD PRACTICE

FOREWORD

The Society of Fine Art Auctioneers and Valuers was founded in 1973 to promote and encourage the highest standards of practice. Since its inception the Society has done much to promote improved levels of performance, greater standards of expertise, and consequently better customer relations.

As part of this process the Society produces a framework of perceived 'best practice.' These Guidelines will also provide reassurance to prospective buyers and sellers that proper standards will be observed by Members of the Society.

General Responsibilities of Auctioneers and Valuers

A Statement of Ethics

Members should undertake to apply their professional knowledge and skills to the best advantage of their clients, both Purchasers and Vendors.

Not do anything that will place their own interests in conflict with those of their clients.

Be prepared to explain any course of action proposed or taken.

Maintain clients' confidentiality at all times.

Have appropriate professional indemnity insurance cover in place at all times.

To Vendors

Clients should be provided with a copy of the Terms and Conditions of Business.

Clients should be kept informed of the principal steps being taken on their behalf.

Clients must have agreed all charges prior to items being offered for sale.

To Purchasers

Members should be aware of the Committee of Advertising Practice (CAP) guidelines on how estimates, charges and fees should be presented in advertising material, which includes both hard copy and online catalogues. These are available on their website at www.cap.org.uk under 'Advice Online.'

Give reasonable assistance to buyers in the collection of purchases

Give reasonable assistance to purchasers to place or execute bids

Ensure that Terms and Conditions of Sale and the statutorily required copy of the Auctions (Bidding Agreements) Acts 1927 and 1969, as well as the Auctioneers Act 1845 s.7 notice, will be prominently displayed in the sale room.

Acceptance of goods

Be satisfied that the instructing client has the legal authority to give instructions and agree proposals.

Satisfy themselves concerning any item submitted for sale to enable them to provide a description that is accurate in fact and without being erroneous or misleading.

Where appropriate research items submitted for sale and enter them in appropriate sales.

Recommendations placed before a client should be sufficient in detail for the client to give instructions on an informed basis.

It is the responsibility of the auctioneer to promote appropriately items offered for sale.

The auctioneer, staff and representatives must exercise due care and diligence in all aspects of handling and storing clients' property. Unless otherwise agreed, it is essential that adequate insurance cover should be in place for all items in the auctioneers' care, whether or not such items are held for sale.

Conditions of Sale

SOFAA has published Model Conditions of Business, prepared by specialist lawyers, for both onsite and online only auctions. These take into account all relevant Consumer Rights legislation. It is recommended that Members use them and make them readily available.

Conduct of the Auction

Announce amendments to and withdrawals from the sale, including any changes in estimates, at the start of or during the sale. Draw attention to sale room notices posted to cover alterations, additions to and withdrawals from published catalogues for all bidders including those on line and on the telephone. Make it clear whether or not a lot has sold, e.g. stating 'bought in' 'unsold' etc.

Auctioneers are only entitled to bid on behalf of the vendor up to one bid below an agreed reserve. It is essential that the auctioneer's right to bid on behalf of a vendor is reserved in the published Terms and Conditions of Sale.

Auctioneers should not enter bids on their own behalf from the rostrum. Should an auctioneer or member of staff wish to bid for a lot included in a sale, a written bid should be submitted in advance of the sale. Bids executed on this basis should be on the strict understanding that items so acquired would be for personal use only, and not for re-sale. It is essential that auctioneers and their staff can openly demonstrate that they do not seek to profit from their acquisition of property in sales conducted by the member firm, other than in the execution of their task as agent for the vendor.

Staff

The employees of an auction house should not be allowed knowledge of commission bids left except insofar as their duties require.

Reserves/Estimates

Reserves should be treated in the strictest confidence at all times. They should be, wherever possible, agreed in writing prior to a sale and should be unambiguous.

It is a criminal offence to declare an estimate at below the reserve.

There is danger in failing to set reserves. Clients should be made aware of the full implications of 'no reserve'.

Bids:

Bids fall into four categories:-

Bids from the floor

Internet Bids

Commission Bids - It should be stated practice that these will be executed as cheaply as any other bid or reserves allow.

Telephone - It is advisable to make a telephone bidder aware that the Conditions of Sale apply.

Condition Reports

These should be honest and open and conducted with reasonable skill and care.

Where they are not available as an integral part of an online catalogue, as protection for both auctioneer and client, it is recommended that there should only be one report in respect of any lot and it should preferably be provided by e-mail. This also makes it easier to pass on any subsequent updates.

Auctioneers as Principals

The Society would regard it as improper for Members to abuse their position by trading for personal or corporate profit.

Client's Money

It is required that Members make appropriate arrangements for protecting client's monies, which in most cases will mean the maintenance of Clients Accounts.

Due Diligence

A vendor should provide their name, address and VAT status and sign a form identifying the item for sale and confirming that it is the unencumbered property of the vendor and, that they are authorised to sell it. The identity and address of new vendors should be verified.

Consider referring lots to a stolen property register.

Be aware of money laundering regulations.

Ensure that all staff are aware of their responsibilities in respect of the above.

Particular Responsibilities of Valuers

Purpose & Basis

The purpose of a formal written valuation should be clearly defined. This might be:-

- Insurance
- Inheritance Tax
- Family Division
- Private Treaty Sale
- Heritage Sale
- Bailment Agreement
- Retrospective valuation for Capital Gains Tax

The basis of valuation should also be clearly stated:-

- Retail Replacement/Insurance
- Current/Open Market Value
- Current Auction Estimates
- Replacement by Facsimile etc..

Each valuation should include a certificate signed by the valuer specifying unequivocally the purpose of the valuation and the basis on which values are applied. It is also good practice to explain the basis of the valuation work undertaken, the assumptions made and the meaning of the terms such as "for insurance purposes".

Descriptions

Descriptions should be accurate and include details of:-

- Authorship
- Country or culture of origin
- Date
- Size
- Descriptive detail
- Material(s) used
- Condition
- Photographs where appropriate

Fees and Terms

The basis of charging and the terms of valuation should be agreed with the client before instructions are confirmed. It may be deemed desirable to agree a fixed fee for the sake of simplicity.

Valuers as Principals

The Society would regard it as improper for Members to abuse their position by trading for personal or corporate profit.

Complaints Procedure

SOFAA is not a regulatory body and neither is it a platform for dealing with complaints about the day to day business practices of its Members.

It requires all Members to have a Complaints Procedure in place to deal professionally, effectively and promptly when a complaint is made.

Lack of knowledge of auction systems and procedure on the part of the complainant is often the root cause of complaint. Such complaints could frequently be avoided if clients were always given a full explanation of the procedures at the initial contact.

In addition, lack of a prompt response will only aggravate the matter. In those instances where a prompt response is not possible, receipt of the complaint, at least, should be acknowledged, and a time scale provided.

Members should nominate a member of senior management to oversee complaints response, and whenever a complaint is received by a member of staff, it should be brought to the attention of that nominated person to ensure that correct action is taken from the beginning.

When a satisfactory resolution is not obvious, in an attempt to prevent the matter escalating, SOFAA will assist in attempting to informally mediate one.

Helen Carless ASFAV
Chairman

Copyright: The Society of Fine Art Auctioneers and Valuers - Fifth Edition March 2017