

**CABINET – 29 JUNE 2016**

**EXECUTIVE SUMMARY OF AGENDA ITEM 7**

**Report title: Support for capital development of Culture venues, with particular focus on Colston Hall**

**Wards affected:** Cabot / citywide

**Strategic Director:** Barra Mac Ruairi - Strategic Director Place

**Report Author:** Alistair Reid, Service Director – Economy, Abigail Stratford, Service Manager - Major Projects and Laura Pye, Head of Culture

**RECOMMENDATION for the Mayor’s approval:**

- 1. To provide the financial support for the delivery of the further capital projects at both Bristol Old Vic and St George’s, in accordance with the terms set out at Appendix 1.**
- 2. To approve a deed of variation to the out of date Service Level Agreement between Bristol City Council and Bristol Music Trust in order to reflect revised arrangements.**
- 3. To authorise a £1.6m investment in Colston Hall Phase II to commission the original design team to prepare, submit and progress a detailed planning application.**
- 4. A further report will be presented to Cabinet no later than May 2017 (including a full business case) identifying what additional Council investment in the project might be required if the project is to progress.**

**Key background / detail:**

The report seeks approval to continue to support the Bristol Old Vic, St George’s and Colston Hall Phase II capital projects and create a city with world class cultural venues.

The redevelopment of Colston Hall, Bristol’s largest concert hall aims to transform the Hall into a resilient fit for purpose music venue for the 21st Century and enhance the Cultural offer of the City. As freeholder of the building, the Council will lead and be responsible for delivering Colston Hall Phase II.

The report specifically seeks approval for a £1.6m investment in the Colston Hall Phase II to progress design work to enable a detailed planning application to be submitted.

## **CABINET**

### **29 June 2016**

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**Ward(s) affected by this report: Cabot Ward / citywide**

**Strategic Director: Barra Mac Ruairi - Strategic Director Place**

**Report author: Alistair Reid, Service Director – Economy, Abigail Stratford, Service Manager - Major Projects and Laura Pye, Head of Culture**

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#### **Purpose of the report:**

The report seeks approval to continue to support the Bristol Old Vic, St Georges and Colston Hall Phase II capital projects and create a City with world class cultural venues.

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- 4. A further report will be presented to Cabinet no later than May 2017 (including a full business case) identifying what additional Council investment in the project might be required if the project is to progress.**

## **1. Background**

- 1.1 Bristol is renowned for its thriving and innovative cultural life. This is central not only to the city's economic future but to the way Bristolians feel about where they live. A strong, vibrant and diverse cultural offer is a fundamental ingredient in the 'infrastructure' of any healthy economy. To stand out and get ahead it needs to be authentic & distinctive. To do this we have to support our major organisation to ensure culture is thriving in the city and these organisations and their building are fit for the 21<sup>st</sup> century.
- 1.2 Many of Bristol key cultural institutions operate in buildings which are no longer fit for purpose and are in need of significant capital investment. The majority have plans for capital improvement projects of varying scale and cost over the next 10 years. These institutions are key to ensuring Culture continues to thrive in the city. The capital projects are required to enable the organisation to alter their business models and survive in a new economic climate for the arts.
- 1.3 Over the coming months the Council will develop an overview of this position so the strategic investment required to build the Cultural Infrastructure of the City can be identified. In advance of the Cultural Capital Infrastructure overview the Council has identified, in partnership with Arts Council England (ACE) that the capital projects at Bristol Old Vic, St Georges and Colston Hall Phase II are in need of immediate support.

## **2. Bristol Old Vic**

- 2.1 The Theatre Royal Bristol, home of Bristol Old Vic, is the oldest, continuously working theatre in the UK and will celebrate its 250th anniversary in 2016. Since re-opening the refurbished auditorium in September 2012, it has enjoyed unprecedented success on the stage but its front of house facilities have lagged behind what is required to be a major creative hub for the South-West of England.
- 2.2 The "Anniversary Works" project is to rebuild the Front of House and studio and is due to start in Summer 2016 and be finished early in 2018. The theatre will stay open throughout, with the public coming through the back door, into a Backstage Bar. Once reopened, the theatre will be operating as heritage destination and a commercial events space, as well as a theatre.
- 2.3 The Council owns the freehold reversion to the part of the theatre buildings known as Cooper's Hall. This is already subject a lease to 2070 to Old Vic with a rent of £1. It is intended as a condition of support to transfer this freehold to Old Vic in return for the Council ending its repair obligations. The form and terms of the support the Council provide to the project are set out at Appendix 1.
- 2.4 The Bristol Old Vic Outreach Department is dedicated to creating diverse, innovative and contemporary forms of theatre that engage with a variety of audiences, not only within the Bristol Old Vic but also in schools, communities and organisations across Bristol and the South West. It offers high quality and unique participatory experiences for audiences who have a desire to engage creatively with others and the world around them, either as participants or spectators. Over the past 12 months they have been engaged in a range of projects to

diversify their audiences which have resulted in 1500 new attendees to the theatre thanks to targeted ticketing and their audience demographic including Bristol postcodes of Stockwood and Withywood for the first time in 2015/16.

2.5 They have also delivered a series of targeted workshops and events including a schedule of workshops with Addiction Recovery Agency, Pilot workshops with Terrence Higgins Trust, workshops with 100 young people through Company Schools and have started conversations with St Mungo's Homeless Charity and Young Carer's Support with a view to future projects. Their young and adult companies also continue to grow with the Young Company maintained at 350 membership.

2.6 Their development project will:

- Develop a new, state of the art studio theatre which will accommodate more performances and a broader than ever programme
- Remove all barriers- physical or otherwise- the theatre access, whilst improving visibility and creating a familiar, welcoming theatre for all to enjoy

### **3. St George's**

3.1 St George's Bristol is one of the country's most acclaimed concert halls. However, the physical restrictions of the building have been severely restraining its future artistic development, further audience growth and overall accessibility. The 'Building a Sound Future' capital project will improve, extend and upgrade St George's to make it fit-for-purpose in the 21st century, offering facilities for audiences and artists commensurate with the high quality of artistic work presented here.

3.2 A new two-storey extension will make St George's Disability Discrimination Act (DDA) compliant for the first time in its history and provide new, flexible spaces that will be used to run activities for local schools, colleges, community groups and the general public. It will also house a new café that will be open during the day as well as evening. All this will help St George's to be financially sustainable with a robust business model that offers increased scope for self-generated income streams and a decreased reliance on external funding.

3.3 St Georges believe education and learning should inform everything they do and therefore run events for audiences of all ages running alongside and underpinning the main artistic programme. They have been involved in pioneering work with groups such as the Cosmos Choir, whose young members are drawn from some of the most disadvantaged communities in South Bristol and work with around 4,500 young people every year. They have also undertaken new strategic partnerships with the University of Bristol, Bristol Festival of Ideas, Watershed, Asian Arts Agency, Bristol Old Vic, Platforma Arts & Refugee Network and BBC Radio 3 and Radio 4, as well as many smaller organisations to diversify their audiences.

3.4 Their development project will:

- Transform the visitor experience for audiences, artists, staff and other participants; making St George's fully DDA compliant for the first time;

- Ensure our future financial sustainability, with a robust business model that offers increased scope for self-generated income streams and a decreased reliance on external funding. The new spaces and improved facilities resulting from this project will enable us to achieve this;
- Enhance the delivery of our core charitable objectives in the areas of music and education, and support wider audience engagement.

3.5 The form and terms of the support the Council provide to the project is set out at Appendix 1.

#### **4. Colston Hall**

4.1 Colston Hall is Bristol's largest concert hall. Bristol City Council and Bristol Music Trust aspire for it to become a modern, sustainable world class music venue.

4.2 In 2003 Bristol City Council's Cabinet ('Cabinet') agreed to support the redevelopment of Colston Hall. At the time it was envisaged the redevelopment would incorporate three distinct phases;

Phase I: New Foyer Building

Phase II: Improvements to main auditorium (Hall 1) and Lesser Hall (Hall 2)

Phase III: Improvement to stage and backstage areas

4.3 Colston Hall Phase I delivered a £20.3m New Foyer Building in September 2009. The Arts Council England ('ACE') contributed £7m to the project with associated funding conditions.

4.4 In 2012 the original Phase I architects, Levitt Bernstein Associates ('LBA'), were commissioned to complete a new options appraisal and feasibility study. The options appraisal study reconsidered how the remaining phases of the redevelopment project identified in 2003 (Phase II & Phase III) could be brought forward to bring the entire complex up to a higher standard.

4.5 The identified preferred option which is now referred to as Colston Hall Phase II ('the project') aims to transform Colston Hall into a modern, sustainable world class music venue by redesigning the interior of the building and investing in the reinstatement of historic fabric of the building. This includes the redesign of the interior of Hall 1, realising the untapped potential of the unused lower cellar by converting it into further spaces for education and creativity, as well as a third performance space of very different and complementary character created in the historic cellars. It also adds much-needed improved access, and creates a new café in the historic spaces and colonnade under a refurbished Hall 2.

4.6 Bristol Music Trust offer a diversity and variety programme aimed at attracting a wide demographic from the local area, they also provide the Bristol Plays Music service which provides Music education across the city to all school aged children and has recently been involved in the "A New Ambition for Inclusive Excellence" programme. This programme aims to develop a sustainable and long-term strategy that delivers a high-quality, inclusive music offer to those in most need, setting a new standard of excellence for all young people's music education in the Greater Bristol area and providing a blueprint for inclusive practice for Children and Young People, Workforces and the sector as a whole. Over the past few years

Bristol Music Trust have developed a wide range of project aimed at increasing access including their Fast Forward programme and the programme of free music events which they programme in their foyer space.

4.7 Their development project will:

- Construct lifelong learning spaces for Bristol Plays Music, including new classrooms and a technology lab, to inspire and educate 30,000 children of all abilities and backgrounds every year
- Provide the only fully accessible and dedicated learning environment and performing space in the South West for children with special educational needs and disabilities
- Establish Bristol as the UK capital of young people's music by 2020 and set a benchmark for other music hubs across the UK.

## 5 Bristol Music Trust (BMT)

5.1 On 22nd July 2010 Cabinet agreed to establish an Arm's Length Trust to develop music across the city and manage Colston Hall in accordance with the ACE aspirations and grant funding conditions. On 3<sup>rd</sup> March 2011 Cabinet agreed to enter into agreements with Bristol Music Trust (BMT).

5.2 BMT is a company, limited by guarantee and a registered charity. It has eight Trustee Board members with a wealth of commercial, financial, legal and music experience between them. BMT has an agreed set of Memorandum and Articles which sets out the objects of BMT are to promote the arts, advancing education in the arts, and running a concert hall.

5.3 **Bristol Music Trust Service Level Agreement:** In 2011 the Council entered into an Entrustment Agreement ('the agreement') with BMT to run the Colston Hall and provide cultural, educational and heritage conservation services. Appended to the agreement, which runs until March 2036 is a Service Level Agreement ('SLA') relating to the provision of 'cultural development and education services'. The service level agreement included the Key Performance Indicators.

5.4 The original SLA ran from 28th April 2011 to 31 March 2014, this has not been renewed. Since 2014 the Music Trust have continued to report against the objective set out in the original SLA and the council has monitored their performance through participation on the Board of Trustees.

5.5 **Bristol Music Trust Grant Funding Agreement:** A funding agreement was also reached with BMT in 2011. A net allocation for the following 3 years was agreed as follows:

2011/12 £1,176,000

2012/13 £1,076,000

2013/14 £ 976,000

5.6 In 2011 BMT requested that the pattern of reduction in payments outlined in the Cabinet Report of 3 March 2011 was delayed to £50k reduction in 2013/14, £100k reduction in 2014/15, £150k reduction in 2015/16 to allow BMT time to grow the business. This was approved but wasn't formally logged as a change to the agreement. Any further reduction was to be negotiated when a new SLA was agreed. It is proposed BMT continue to have a

reduction of £150K per year until they vacate Colston Hall and the new compensation amount is agreed with the new SLA at this time.

## **6. Lease Agreement**

- 6.1 The Council has retained the freehold of the buildings. In 2011 it entered into a lease with BMT for the new foyer building and existing (old) building at a peppercorn rent for 25 years. The lease was granted in exchange for the Trust providing certain cultural, educational and heritage conservation services, ensuring the Council meets its obligations to obtain best value.
- 6.2 As Landlord, the Council continues to have an obligation to maintain the structure and main services of the existing (old) building. Under the lease agreement BMT are responsible for the day to day maintenance and are able to generate additional sources of income to cover these costs.
- 6.3 The Council's current outstanding repair and maintenance (R&M) liability is estimated to be £2.5m. This figure is just to maintain the building in its current state with no enhancement. BMT are responsible for the repair and maintenance of the New Foyer Building.
- 6.4 Upon vacating the old building to facilitate the delivery of the project BMT will relinquish their 25 year lease. Upon completion of the project, the Council will enter into a new full repair and maintenance lease with BMT to run and operate the Colston Hall. The terms of the agreement for lease will be agreed with the Strategic Director Place prior to BMT vacating the building. BMT will need to ensure this is considered and reflected in their 25year business plan.

## **7. New 3 year Service Level Agreement and Grant Funding Agreement:**

- 7.1 The previous SLA and Grant Funding Agreement ended in 2013/14. Advice from our legal team is that we agree a 'variation' agreement with BMT to cover the period between 2015/16 to 2017/18 (or when BMT move out of Colston Hall) The baseline standards and KPI's would largely remain the same although some have been updated and the level of compensation is within the lines of the current agreement. (Please refer to Appendix 2)
- 7.2 The reason for the variation agreement is due to the fact that the responsibility for leading the negotiations rests with the Council and the SLA suggests that these negotiations should be progressed no later than 15 months before the end of the previous agreement. Negotiations regarding the Service Level Agreement for the closed period will commence imminently.

## **8. Project Delivery; The Current position**

- 8.1 An OJEU compliant procurement process was undertaken to procure an architecturally led design team to undertake the production of detailed proposals for Phase 1, 2 & 3 of the development of the Colston Hall Bristol. A design team led by LBA were appointed and delivered Phase 1.
- 8.2 To date, the project costs have been met by an R&M budget of £750k, which was set aside to keep the building open for trading from the inception of BMT to completion of the redevelopment project. It is no longer sustainable to fund the project from the R&M budget

as this will expose the Council to risk should any major maintenance defects occur to the building.

8.3 The total project cost is estimated to be circa £50,000,000. The total project cost assumptions will be tested and confirmed during the design development process.

## 9. Project Funding

9.1 BMT are currently preparing a 25 year business plan confirming how they would run the Colston Hall with no grant subsidy from the Council once the project is completed.

9.2 BMT have developed a funding strategy to support the delivery of the project. A summary of the funding strategy, based on the total project costing 8.3 above, is set out below;

Sources of funds	£m
Borrowing	5.0
Naming Rights	3.3
Bristol City Council (Tier 2)	10.0
Government	10.0
Corporates	0.5
Individual & Events	2.2
Trust & Foundations	3.0
Heritage Lottery Funding (HLF)	4.8
Arts Council England (ACE)	10.0
<b>Total</b>	<b>£48.8</b>

9.3 Since BMT developed their funding strategy the anticipated total project cost has increased to circa £50m due to construction inflation.

9.4 In the 2015 Government's Autumn Spending Review confirmation of £5m funding for the project was announced. BMT are continuing to fundraise to seek an additional £5m investment from central government.

9.5 On 5th January 2016 ACE confirmed a £401,913 Development Grant. ACE also invited BMT to apply to make a Stage Two application for the Capital Project up to £9,598,087. This funding is based on an assumed £10m capital investment from the Council.

9.6 Colston Hall Phase II is currently a Tier 2 Project within the Council's Capital Programme. As a Tier 2 project, it is not currently included in the medium or long term financial plan for the Council. At present rates, £10m over 25 years would have an annual revenue cost of £570k to the Council.

9.7 The Stage Two ACE application is predicated on progressing the design to RIBA Stage 3. The £1,600,000 investment from the Council will allow the design to progress to RIBA Stage 3, a



detailed planning application to be submitted and a Stage Two ACE application. This forms part of the Council's total £10m contribution to the project and would not be repaid. There is a risk the Council could invest £1,600,000 in the project and it does not progress because the necessary funding is not secured. However not investing in the project now would increase the risk of failing to secure further external funding.

9.8 A full business case to confirm and support the Council's total investment in the project is still under development. This will be presented to Cabinet no later than May 2017 for approval once clarification of other external funding has been secured to support the Stage Two ACE Application. The business case will be predicated on the assumptions set out at Appendix 3.

## **10. Project Governance**

10.1 As the freeholder of the building, the Council will lead and be responsible for delivering the project.

10.2 The project governance arrangements are summarised at Appendix 4.

### **Consultation and scrutiny input:**

#### **a. Internal consultation:**

Mark Williams – Human Resources  
Mike Allen – Finance  
Eric Andrews – Legal Services  
Michael Bonnicks – Legal Services  
Robert Orrett – Property Services  
Laura Pye – Culture

#### **b. External consultation:**

Bristol Music Trust  
English Heritage  
Arts Council England  
20<sup>th</sup> Century society  
Theatres Trust  
Stakeholders – including key promoters and orchestras

### **Other options considered:**

#### **Do Nothing;**

The Council could wait for confirmation of identified external funding sources and secure approval for a full business case prior to investing additional money in the project. This would mean design work could not progress in line with the project programme and result in additional inflation uplift on the estimated construction costs potentially compromising project delivery. In addition BMT would not have the necessary information to progress a Stage 2 bid to ACE.

**Secure Approval for £10m Investment and ongoing revenue grant funding;**

The Council could agree to invest £10m in the project now and commit to an annual funding revenue contribution. However a full business case has not been developed to support the requested level of capital or revenue investment in the project. The full business case may identify an alternative investment package is recommended.

**Risk management / assessment:**

<b>FIGURE 1</b>							
<b>The risks associated with the implementation of the (subject) decision :</b>							
No.	RISK  Threat to achievement of the key objectives of the report	INHERENT RISK (Before controls)		RISK CONTROL MEASURES  Mitigation (i.e. controls) and Evaluation <i>(i.e. effectiveness of mitigation)</i>	CURRENT RISK (After controls)		RISK OWNER
		Impact	Probability		Impact	Probability	
1	There is a risk the Council could invest £1,600,000 in the project and it does not progress because the necessary funding is not secured	High	High	A cost benefit analysis will be undertaken to align BMT business case with facilities requirements. If the scope for the scheme needs to be reduced to align with a new project budget (because the anticipated additional external funding is not secured). The cost benefit analysis will be used to revise the scope of the project to a revised project budget clearly identifying any implications on BMT's business case.	Med	Med	Bristol City Council
2	There is a risk the external funding is not secured and there is not enough funding available to deliver the project to the agreed anticipated scope.	High	High	A cost benefit analysis will be undertaken to align BMT business case with facilities requirements. If the scope for the scheme needs to be reduced to align with a new project budget (because the anticipated additional external funding is not secured). The cost benefit analysis will be used to revise the scope of the project to a revised project budget clearly identifying any implications on BMT's business case.	Med	Med	Bristol Music Trust

<b>FIGURE 2</b>							
<b>The risks associated with <u>not</u> implementing the (subject) decision:</b>							
No.	RISK  Threat to achievement of the key objectives of the report	INHERENT RISK (Before controls)		RISK CONTROL MEASURES  Mitigation (i.e. controls) and Evaluation <i>(i.e. effectiveness of mitigation)</i>	CURRENT RISK (After controls)		RISK OWNER
		Impact	Probability		Impact	Probability	
1	There is a risk the total project costs will increase due to additional inflation on construction costs associated with programme delay. BMT funding strategy will not cover the additional costs making the project unviable	High	High	A request for development funding at risk as be made to progress design works to RIBA Stage 3.	High	Medium	Bristol City Council
2	There is a risk BMT will not be able to submit a Stage Two application to Arts Council England as they will not have the design and cost	High	High	A request for development funding at risk as be made to progress design works to RIBA Stage 3.	High	High	Bristol City Council

**Public sector equality duties:**

A full equality impact assessment is not needed. The project will significantly improve access for disabled people and usability for young people. However given the size of the funding and reputational importance of the building, the detailed design needs to be checked by a qualified consultant in access issues.

**Advice given by**      **Wanda Knight / Equalities and Community Cohesion officer**

**Date**                      **12th May 2016**

**Eco impact assessment**

This proposal concerns project initiation and development to design stage, ready for submission of a planning application. Whilst there are no significant environmental impacts arising at this stage, there will be highly significant issues related to the proposed works. Mitigation measures will be outlined in a future Cabinet report.

**Advice given by**      **Giles Liddell/ Environmental Programme Manager**

**Date**                      **13<sup>th</sup> May 2016**

**Resource and legal implications:*****Finance*****A. Financial (revenue) implications:**

The current proposal is for £1.6m of new money to facilitate a more certain view of the cost of the proposed Colston Hall refurbishment. The investment of such a sum will also allow time to research and recommend the funding resources required for a £50m project. The £1.6m would form part of the proposed £10m investment from the council as match funding which is required if ACE is to provide £10m of grant funding.

The key risk, as noted above, is that in the event of the project not proceeding, this would become an immediate revenue cost, rather than being capitalised as part of the overall project costs.

**Advice given by**      **Mike Allen / Finance Business Partner**

**Date**

**B. Financial (capital) implications:****Colston Hall**

The funding strategy set out above includes sources of funds which are “at risk” including those

from Corporate, Individual donors and Trusts. Any uncertainty over funding may require the council to underwrite these sources of funding as well as committing to providing the £10m of match funding to facilitate the ACE grant.

£10m of council funding would need to be from prudential borrowing. This has not been incorporated into the MTFP at this time.

The funding strategy from BMT includes further “borrowing” of £5m which would be paid for out of surpluses generated by BMT whilst operating Colston Hall. An initial review of potential sources of funding secured in this way suggests that they would not offer value for money and would be considerably more expensive than the cost of council borrowing. If this source of funds is not considered appropriate for this project, which is my advice at this time, a source for £5m of funding will need to be identified.

Further review of funding options will be carried out whilst the work to achieve RIBA Stage 3 is underway, in conjunction with BMT and council officers. The aim will be to ensure that funding proposals offer VFM, fit with BMT business plan proposals and is affordable. A recommendation on funding will form part of the proposed Cabinet Report for June 2017.

### **Bristol Old Vic and St Georges Hall**

Redevelopment of these cultural venues are subject to successfully concluding fund raising. This fund raising includes certain thresholds needing to be reached to trigger key funding from the Arts Council England. In order that these cultural venues can go ahead with the works required as soon as possible and secure ACE funding, it is proposed that the council will underwrite the funding such that the thresholds are reached. With regards to Bristol Old Vic, the record of fund raising to date provides comfort to the council that the risk of actually having to supply funding in the long term is low, the main risk may be the need to provide a short term loan on a cash flow basis whilst additional funds are raised to pay the council back. St George’s will require either a grant or long term loan.

The choice of support for St George’s depends upon the impact of that choice on the ACE grant and the impact upon the council’s medium term financial plan. A loan would clearly need to comply with the requirements of the ACE grant. The other option is to provide a grant. A grant of £600k as suggested would either need to be funded as a one off cost to the Council or come from borrowing. The cost of borrowing over 25 years is in the region of £35k per year. Were a grant to be provided, guidance would be required from Corporate Finance on its preferred option and for it to be incorporated into the council’s overall financial plan

**Advice given by**        **Mike Allen / Finance Business Partner**  
**Date**                    10/6/16

### **Comments from the Corporate Capital Programme Board:**

The paper is going to Corporate Capital Programme Board for approval on 24<sup>th</sup> May 2016.

### **c. Legal implications:**

In respect of the Colston Hall project the principal legal risks are, firstly, that BMT will fail to meet their obligations for fundraising under the proposed Collaborative Agreement and leave the Council committed to underwriting BMT's funding commitment as well as its own.

Secondly, given the proposed length of the lease, the risk that BMT year on year will fail to ensure that Colston Hall operates without additional financial burden on the Council.

It is anticipated that both of these risks can be substantially mitigated in the detailed drafting of the Collaborative Agreement, although as with any contractual arrangement where total funding is not secured at the outset, risk cannot be eliminated entirely.

In respect of the Old Vic and St Georges projects, the Council is providing separate legally binding undertakings of financial support, (ie underwriting any shortfall in project funding). The Councils exposure under each of these is wholly dependent on the success of the respective organisations fund raising activities and securing funding from other sources. The report sets out the potential maximum exposure. In the event that there is any call on the Councils undertakings consideration will have to be given to the potential impact of state aid rules.

**Advice given by** Eric Andrews / Solicitor & Michael Bannock / Legal Officer  
**Date**

**d. Land / property implications:**

Old Vic – property implications are limited to the Council owning the freehold reversion to the part of the theatre buildings known as Cooper's Hall. This is already subject a lease to 2070 to Old Vic with a rent of £1. It is intended to transfer this freehold to Old Vic in return for the Council ending its repair obligations.

St George's – there is no land/property involvement for the Council.

Colston Hall – is owned freehold by the Council. There is an existing lease at a peppercorn to Bristol Music Trust, which excludes the trust from responsibility for any major repairs. Either party may end the lease if repair issues are not capable of resolution. Having regard to the existing condition, listing and use it is considered that the Council's current property interest has nominal value. The terms including rent of any future lease will need to be negotiated in light of the business case and funding.

**Advice given by** Robert Orrett / Service Director: Property  
**Date** 9/6/16

**e. Human resources implications:**

There are no HR implications arising from the recommendations.

**Advice given by** Mark Williams/ HR Business Partner  
**Date:** 17th February 2016

**Appendices:**

St Georges and Bristol Old Vic Project Support – Key Principles and Terms	Appendix 1
Bristol Music Trust Deed of Variation	Appendix 2
Colston Hall Phase II Business Case Commercial Assumptions	Appendix 3
Colston Hall Phase II Project Governance	Appendix 4

**Access to information (background papers):**

Cabinet Report: Bristol Music Trust 3rd March 2011  
Cabinet Report: Colston Hall Governance Options 22nd July 2010

## Appendix 1

### St George's & Bristol Old Vic Capital Project Support – Key Principles & Terms

1.1 Arts Council England (ACE) is the biggest supporter of Cultural capital projects and has over the years been very supportive in Bristol. They have confirmed funding for Bristol Old Vic and St Georges but a condition of this funding is that those organisations have secured 90% of the project cost before ACE will release their funding.

1.2 For Bristol Old Vic and St Georges ACE requires this confirmation by the end of June 2016. If the organisations are unable to prove this then the Art Council funding will be withdrawn.

#### 2. Underwriting of Capital projects

2.1 Bristol City Council ('the Council') will underwrite the shortfall in the capital projects for Bristol Old Vic and St Georges in order to allow these projects to draw down their ACE funding and move forward with the delivery of their capital projects.

2.2 Both venues will still continue to fundraise for their projects in order to reduce / avoid any financial contribution from the Council.

2.3 The Council will underwrite the gap from their current confirmed funding position up to 90% of the total project costs as identified below in order for them to release their ACE funding. The remaining 10% and any additional project costs incurred will not be underwritten by the Council and are at the risk of the respective organisations.

#### 3. Capital Project Costs;

	Total Project Costs	Amount required to release ACE funding	Amount requested from BCC as underwrite
St George's	£5.5m	£5.145m	£600,000
Bristol Old Vic	£12.9m	£12.1m	£948,000

#### 4. Terms of agreement

4.1 BCC would provide a written undertaking to St George's and Bristol Old Vic to underwrite the gap in funding highlighted above

4.2 The written undertaking can be use by each organisation with ACE to secure the release of ACE funding.

- 4.3 Any funding drawn down would be in the form of a grant/interest free loan to the organisations. The terms of the interest free loan agreement will be agreed with the Chief Finance Officer/Section 151 Officer. The Grant / interest free loan could potentially be interpreted as State Aid, unless it falls within the de minimis provision. Further and more detailed analysis will be carried out at the appropriate time.
- 4.4 With regard to BOV the record of fund raising to date provides comfort to the council that the risk of actually having to supply funding in the long term is low, the main risk may be the need to provide a short term loan on a cash flow basis whilst BOV access Heritage Lottery Funds, and further donations for which they have applied.
- 4.5 The Council owns the freehold reversion to the part of the BOV theatre buildings known as Cooper's Hall. This is already subject a lease to 2070 to BOV with a rent of £1. It is intended, as part of this agreement, to transfer this freehold to Old Vic in return for the Council ending its repair obligations.
- 4.6 With regard to St George's, the Arts Council have commented that their own Capital funding programme is focused on making National Portfolio Organisations more resilient and sustainable, they would prefer it if St. George's could secure a grant since a loan would not contribute to longer-term resilience. If however the City Council did decide to make a loan, ACE would need to understand the terms and conditions of repayment and how this affects St. George's financial health in the medium to long term before they would accept it as part of the 90% fundraising condition.



**DATED**

**2016**

**DEED OF VARIATION No. 1**

**TO SERVICE LEVEL AGREEMENT REFERRED TO IN ENTRUSTMENT  
AGREEMENT**

**BETWEEN**

**THE CITY COUNCIL OF BRISTOL**

**AND**

**BRISTOL MUSIC TRUST**

**RELATING TO THE PROVISION OF CULTURAL DEVELOPMENT AND  
EDUCATION SERVICES**

THIS DEED is dated

2016

Between

**PARTIES**

- (1) The City Council of Bristol of City Hall, College Green, Bristol BS1 5TR (“the Council”).
- (2) Bristol Music Trust, a company registered in England and Wales with company number 7531978 and registered charity number 1140898 whose registered office is at Colston Hall, Colston Street, Bristol BS1 5AR (“the Trust”)

**BACKGROUND**

- (A) The Council and the Trust are party to an Entrustment Agreement (“the Entrustment Agreement”) for the provision of cultural development and education services dated 28 April 2011, which has supplemental to it a Service Level Agreement also dated 28<sup>th</sup> April 2011 (“the SLA”), copies of which are attached at the Schedule 1 and 2 to this deed.
- (B) The SLA contains details of the compensation payable by the Council to the Trust for provision by the Trust of Entrusted Services in accordance with clause 7.2.1 of the Entrustment Agreement (and subject to the provisions of clause 4.9 of the SLA and clauses 6,7 and 8 of the Entrustment Agreement as regards the cost associated with the provision of the Entrusted Services, the ability of the Trust to earn a reasonable profit from the provision of the Entrusted Services and the review and control of Compensation) during the First Funding Period for the years 2011/12, 2012/13 and 2013/14. “Funding Period” is defined as each period of 3 consecutive years during the Term. The parties now wish to amend the SLA to record the compensation to be payable by the Council to the Trust for the provision by the Trust of Entrusted Services for a Second Funding Period for the years 2014/15, 2015/16 and 2016/17. Consequently, the parties wish to amend the SLA as set out in this deed with effect from 1 April 2014 (**Variation Date**).

**AGREED TERMS**

**1. TERMS DEFINED IN THE AGREEMENT**

In this deed, expressions defined in the Entrustment Agreement and the SLA and used in this deed have the meaning set out in the Entrustment Agreement and the SLA. The rules of interpretation set out in the Entrustment Agreement and the SLA apply to this deed.

**2. VARIATION**

2.1 With effect from the Variation Date the Parties agree the following amendments to the SLA:

Clause 4.1	Delete reference to the “first Funding Period” and insert “second Funding Period”.
Clause 4.1.1	
Clause 4.1.2	Delete and insert the following: £1,076,000 in respect of the first Year (2014/15).

	<p>Clause 4.1.3</p> <p>Schedule 2</p>	<p>Delete and insert the following: £1,026,00 in respect of the second Year (2015/2016)</p> <p>Delete and insert the following: £976,000 in respect of the third year (2016/2017)</p> <p>Delete the measurable outcomes in schedule 2 to of the SLA and replace them with the measurable outcomes set out at schedule 3 to this deed.</p>
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In witness whereof this Agreement has been executed as a deed by the parties to it on the date stated at the beginning.

The Common Seal of  
The City Council of Bristol  
was hereto affixed in the  
presence of:

.....  
Authorised signatory

Signed as a Deed by Bristol Music  
Trust, a company limited by guarantee,  
acting by two directors

.....  
Signature of director

.....  
Signature of director

**SCHEDULE 1 - ENTRUSTMENT AGREEMENT DATED 28 APRIL 2011**

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**SCHEDULE 2 - SERVICE LEVEL AGREEMENT DATED 28 APRIL 2011**

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**SCHEDULE 3 – MEASURABLE OUTCOMES**

**BRISTOL MUSIC TRUST – MEASURABLE OUTCOMES**

	<b>ENTRUSTED SERVICE</b>	<b>OUTCOME MEASURE</b>	<b>KEY PERFORMANCE INDICATOR</b>	<b>ANNUAL TARGETS / ACTIVITIES</b>	<b>OTHER PERFORMANCE MEASURES &amp; MONITORING</b>
<b>1</b>	<b>To facilitate all communities of Bristol to engage with music on many levels as performers, composers and audiences; and to underpin our activities with a commitment to inclusion and diversity.</b>	Attract diverse audiences to Colston Hall	<p>Number of events programmed to appeal to a diverse community</p> <p>Number of events developed for children</p> <p>Number of tickets sold with concessions</p> <p>BMT Equality &amp; Diversity Policy and Plan</p> <p>Monitoring in place to provide meaningful equalities data</p> <p>Audience Development targets</p> <p>Audience Development Spending targets</p>	<p>Programme at least XX new events to appeal to a diverse community</p> <p>Develop at least x1 BMT and x1 collaborative event for children</p> <p>XX number of tickets sold with concessions</p> <p>Audience Development targets</p> <p>Audience Development Spending targets</p>	<p>Annual audience diversity survey</p> <p>BMT Equality &amp; Diversity Policy operates in all activities and is underpinned by the BMT Code of Conduct</p> <p>Audience Development Plan</p>
<b>2</b>	<b>To operate Colston Hall as a concert hall for people in Bristol.</b>	<p>Growing audiences at Colston Hall</p> <p>High customer satisfaction levels</p>	<p>Number of tickets sold</p> <p>Number of free and low price events</p> <p>Number of community and city events</p>	<p>Number of tickets sold &gt;240,000</p> <p>Number of free events</p> <p>Estimated visitors to free events</p> <p>Host at least x4 city events</p>	<p>Analysis of % ticket buyers with Bristol postcode</p> <p>Regular audience satisfaction surveys</p> <p>Customer Service Excellence Award assessment</p> <p>Collation of customer feedback</p>

					from across all media
3	<b>To enable partnerships that support Bristol musicians and music to flourish locally, nationally and internationally.</b>	New partnerships with the music industry	Number and range of partnerships	XX events featuring Bristol based musicians at Colston Hall  XX community performances	Media coverage of events featuring Bristol based musicians at Colston Hall.  Evidence that paying artists fairly
4	<b>To offer a world class programme of performances in all genres of music.</b>	Performances by world-class musicians  A varied programme of events across all genres of music  To promote a high quality international classical season  To grow BMT curated events/promotions as part of the overall programme	Number of events and festivals across different genres  Number of own promotions and curated collaborations	XX events and festivals across different genres  XX own promotions and curated collaborations	Annual Programme of activity  Regular audience satisfaction surveys  Customer Service Excellence Award assessment  Collation of customer feedback from across all media  Coverage in local, national and international media
5	<b>To support BMT's artistic vision with a strong commercial approach across all activities.</b>	To support growth in BMT curated events/promotions through rentals and other commercial activity.  To meet strategic and budget objectives agreed by Trustees in the	Annual Budget & 3 Year Business Plan  Number of rentals and average income per rental  Net profit gift-aided to BMT from BMT Enterprises Ltd  Development of new corporate partnerships	Annual Budget targets  XX rentals and X average income per rental  XX net profit gift-aided to BMT from BMT Enterprises Ltd  Development of x5 new corporate partnerships per	Benchmarking of commercial activities against comparable venues  Ensuring effective governance and financial controls are in place e.g. BMT Board, Audit, Risk and Resource Committee (ARRC), Senior Management Team; BMT Board Papers

		BMT (including BPM) Business Plan.	Funds raised from Public Bodies, Trusts & Foundations, Corporate Sponsorship and Individual Donations	annum XX budgeted funding targets raised as from Public Bodies, Trusts & Foundations, Corporate Sponsorship and Individual Donations	
6	<b>To ensure that music is at the heart of education in Bristol; to deliver as the music education hub for Bristol and reflect changing National Curriculum and music education requirements in all our services.</b>	<p>Engagement with schools to deliver the core and extension roles of the National Plan for Music Education.</p> <p>Offering FAST4MUSIC first access free music tuition in eligible schools.</p> <p>Offering progression routes including music centres and ensembles</p> <p>Delivering the Singing Strategy for Bristol</p> <p>Finance &amp; Business Management</p> <p>Increased participation in music by young people.</p> <p>Produce and commission high quality original</p>	<p>Number of pupils in each school receiving individual and small group instrumental tuition.</p> <p>Number of schools with at least one programme (one year/one term).</p> <p>Number of children involved in Music Centres and other ensembles broken down by key stage.</p> <p>Number of concerts and performances of ensembles per year.</p> <p>Number of performances in regional/national events or festivals</p> <p>Number of teachers/young people (by key stage) involved in Singing Strategy</p> <p>Number of</p>	<p>XX pupils in each school receiving individual and small group instrumental tuition.</p> <p>XX schools with at least one programme (one year/one term).</p> <p>XX children involved in Music Centres and other ensembles broken down by key stage.</p> <p>XX concerts and performances of ensembles per year.</p> <p>XX performances in regional/national events or festivals</p> <p>XX teachers/young people (by key stage) involved in Singing</p>	<p>Partnerships with other relevant organisations</p> <p>Music leader evaluations, participant feedback</p> <p>Business Plan expectations working closely with BAMS</p> <p>Annual Programme of activity</p> <p>School Music Education Plans</p> <p>Peer Development Programme participation data</p>



		<p>music education programmes, events and festivals</p> <p>Increased involvement of Bristol schools across our services</p> <p>Support ongoing professional development to music teaching staff and ensure high quality of teaching</p>	<p>concerts and performances per year</p> <p>Number of performances in regional/national events or festivals</p> <p>BPM Annual Budget &amp; 3 Year Business Plan / Income &amp; Expenditure</p> <p>Income raised from schools, parents, and other non-public funds to support BMT music education activities in Bristol</p> <p>Number of workshops delivered and participants in education activities.</p> <p>Number of events and festivals</p> <p>Number of schools and education events incorporated into the Colston Hall programme</p> <p>Number of CPD events offered</p> <p>Number of Music Tutors achieving Good or Outstanding in lesson observations</p>	<p>Strategy</p> <p>Number of concerts and performances per year</p> <p>Number of performances in regional/national events or festivals</p> <p>Annual Budget targets</p> <p>Income raised from schools, parents, and other non-public funds to support BMT music education activities in Bristol per budget</p> <p>XX workshops delivered and participants in education activities.</p> <p>XX events and festivals</p> <p>XX schools and education events incorporated into the Colston Hall programme</p> <p>XX CPD events offered</p> <p>XX Music Tutors achieving Good or Outstanding in lesson</p>	
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				observations	
7	<b>To nurture partnerships with local, regional, national and international organisations to provide all aspects of our services</b>	<p>Building valuable partnerships with local, regional, national and international organisations.</p> <p>Playing an active part in the city and elsewhere, adding value to the city through cultural leadership.</p>	<p>Number of bodies with whom we have partnerships</p> <p>Number of bodies of which we are a member</p>	<p>XX bodies with whom we have partnerships</p> <p>XX bodies of which we are a member</p>	<p>Increasing number of collaborations</p> <p>Partnership agreements</p>
8	<b>To contribute to supporting Bristol's approach to an economically, socially and environmentally sustainable future, and to stimulating Bristol's unique and vibrant identity.</b>	<p>Contribution to the local economy – direct and indirect</p> <p>Contribution to the cultural economy – direct and indirect</p> <p>Development of a skilled workforce and routes to paid for employment</p> <p>Support of creative learning and skills development in work with young people</p> <p>Partnerships with schools, colleges, universities, business and</p>	<p>Number of staff employed directly and indirectly.</p> <p>Total audience</p> <p>Estimated footfall</p> <p>Environmental Policy and Plan</p> <p>Income &amp; Expenditure</p> <p>Number of programmes aimed at work skills development</p> <p>Number and range of partnerships</p>		

		public agencies			
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### **Appendix 3**

#### **1. Key Principle:**

- 1.1 As Landlord of the building (subject to the lease to BMT) Bristol City Council ('the Council') will lead and be responsible for delivering Colston Hall Phase II ('the project') to create a music venue for the 21st Century and enhance the cultural offer of the City.
- 1.2 The full project business case to confirm and support the Council's total investment in the project will be presented to Cabinet once clarification of other external funding has been secured. The business case will include a do nothing option of the Council investing an estimated £2.5m in its asset to complete essential repairs and repaying the ACE Phase I Investment of £7m as the associated grant conditions would not have been met.

#### **2. Project Assumptions:**

- 2.1 The total project cost is estimated to be circa £50,000,000. The total project cost assumptions will be tested and confirmed during the design development process.
- 2.2 The Entrustment Agreement the Council entered into with Bristol Music Trust (BMT) to run the Colston Hall and provide cultural, educational and heritage conservation services will run until March 2036.
- 2.3 Upon vacating the old building to facilitate the construction phase of the project BMT will relinquish their current 25 year lease.
- 2.4 BMT will develop a 25year business case addressing the running of the Colston Hall once the project is complete with no grant subsidy from the Council.
- 2.5 BMT will continue to fundraise and secure circa [£43m] investment to finance the project. There is a risk the Council could invest £1,600,000 in the project and it does not progress because the necessary funding is not secured.
- 2.6 The Council will undertake a cost benefit analysis (in partnership with BMT) at the beginning of RIBA Stage 2 to connect the existing business case with the technical requirements for the Project and produce a set of Facilities Requirements.
- 2.7 The Facilities Requirements will set out the design, technical and architectural requirements that the project must realise to enable BMT to successfully operate the building in accordance with their 25 year business plan.
- 2.8 The Council and BMT will be enter into a Collaboration Agreement.
- 2.9 The Council will be contractually required to achieve the Facilities Requirements through a Collaboration Agreement. BMT will be contractually required to meet agreed fundraising target through the Collaboration Agreement. If BMT fail to achieve their fund raising target the agreement will allow for the Council to break the agreement for lease.
- 2.10 The Council will enter into a new full repair and maintenance lease or operating lease (to be

agreed) with BMT to operate the Colston Hall upon completion of the project. BMT will need to ensure this is reflected in their 25year business plan. The form and term of the agreement will be agreed between BMT and the Strategic Director Property prior to BMT vacating the building.

- 2.11 The cost of providing a temporary venue during the construction period is not confirmed. A temporary venue has not yet been agreed. The Council are not responsible for providing a temporary venue but will support BMT in identifying and securing a temporary venue. Currently a provisional sum of £1.4m has been allocated within the cost plan for the provision of the temporary venue.

## **2. Forms of Agreement**

- 2.1 Collaboration Agreement: The Council intends to enter into a collaboration agreement with BMT for works up to and including securing planning permission and subsequently for the full development to completion.. This would be an overarching document (at the head of all the other agreements and licences making up the legal vehicle for project delivery), and would reference the lease agreement, the construction contracts ( appropriate if BMT are to be consultees in the construction process), any licences to occupy and their respective durations, together with agreed arrangements for project governance and monitoring the whole agreement, outcomes, and appropriate remedies in the event of non-performance or default by either party.
- 2.2 Funding Agreement: The Council and BMT will enter into a form of 'funding agreement' which will allow the transfer of funds from BMT to the Council to fund the delivery of the project. The Council will need to approve or be party to all third party grant funding conditions.

## **3. Capital Project Principle**

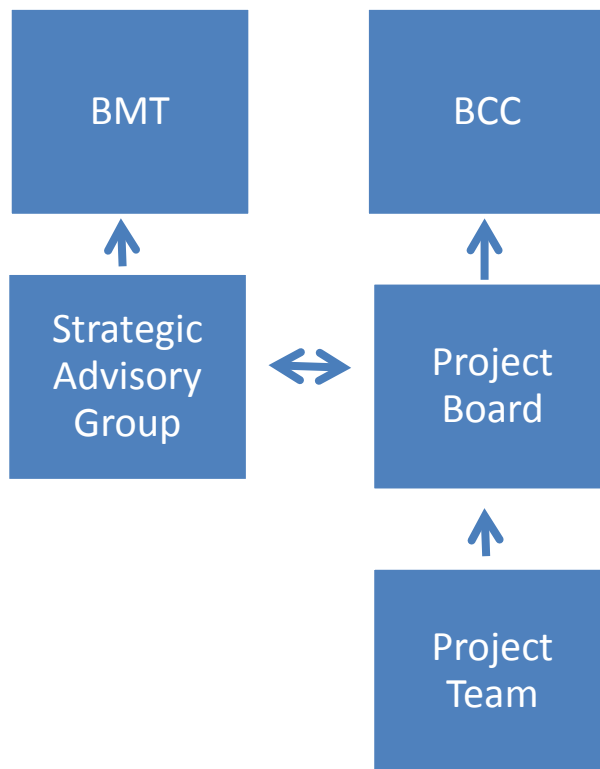
- 3.1 BMT would be required to transfer all external funding secured to deliver the project to the Council. The Council must approve or be party to all grant funding conditions in accordance with the term of the Funding Agreement.

**Appendix 4**  
**Project Governance**

**1. Key Principle:**

1.1 As freeholder of the building (subject to the lease to BMT) Bristol City Council ('the Council') will lead delivery of the Colston Hall Phase II ('the project') to create a music venue for the 21st Century and enhance the cultural offer of the City.

**2. Governance Structure**



### **3. Colston Hall Project Board**

- 3.1 *Accountability*: The Project Board is accountable to the Senior Leadership Team (SLT) through the PPP board for the effective delivery of the project to high quality, in accordance with agreed objectives, to time and within budget.
- 3.2 *Responsibility*: The Project Board is responsible for driving, leading and co-ordinating the project as a whole in accordance with the Facilities Requirements and agreed project objectives.
- 3.3 *Membership*: The Project Board is chaired by the Senior Responsible Officer, and should consist of a maximum of five additional managers, including a Senior User, Senior Supplier, a Finance Officer and other stakeholders depending upon the key risks and issues facing the project. The Project Manager reports to the Project Board.
- 3.4 *Senior Responsible Officer (SRO)*: Service Director Economy – The SRO is responsible for the effective delivery of the project to a high quality in accordance with the Facilities Requirements, agreed objectives, to time and within budget. The SRO is also responsible for ensuring that the project is prioritised across the Council, and that the necessary resources for delivery are made available.
- 3.5 *Senior User*: Head of Culture and Chief Executive of BMT- The Senior User represents the interests of all those who will use and benefit from the project to ensure it delivers a music venue for the 21st Century and realises the Council’s cultural objectives. The Senior User will be responsible for agreeing any changes to the Facilities Requirements with BMT and other cultural organisations that have funded or have an interest in the project through the Strategic Advisory Group.
- 3.6 *Senior Supplier*: Head of Major Projects - The Senior Supplier(s) is accountable for the quality of products delivered by the project and is responsible for the technical integrity of the project according to the Facilities Requirements approved by the senior user, BMT and the cultural advisory group.
- 3.7 *Finance Officer*: Place Business Support – The finance office is responsible for scrutinising and monitoring the forecasted and actual capital and revenue spend on the project to ensure the project is delivered on budget and any financial benefits are realised.
- 3.8 *Arts Council England (ACE)*: – As a key funder an ACE representative will be invited to attend the project board.
- 3.9 Other stakeholders may be invited to attend the project board depending upon the key risks and issues facing the project. For example representatives from Planning, English Heritage, and Transport could be invited to attend the board as required. (Legal representation?)
- 3.10 *Terms of Reference*
- To approve the project objectives, collaboration agreement, Facilities Requirements, scope, business case and Stage Plans
  - To sign off all documentation to be considered by PPP, Senior Leadership Team and Cultural Advisory Group in accordance with the gateway review process

- To approve communication and stakeholder strategies for the project
- To subsequently ensure appropriate stakeholder engagement for the project
- To approve all major plans and resources within specified tolerances
- To authorise any deviations that exceed or forecast to exceed stage tolerances
- To agree, monitor and consider variations to the project budget and timelines
- To manage project risks and ensure the project risk and issue log remains up to date
- To escalate issues to PPP or SLT as appropriate
- To manage progression of project through the gateway review process

#### **4. Strategic Advisory Group**

4.1 *Accountability:* The Strategic Advisory Group is accountable to the BMT Board for monitoring the delivery of the project in accordance with the terms of the Collaboration Agreement and Facilities Requirements.

4.2 *Membership:* The Strategic Advisory Group is chaired by the BMT Chair, and should consist of a maximum of five additional members, including BMT Chief Executive, BMT Finance Officer, Senior User, ACE Representative, HLF Representative and other stakeholders depending upon the key risks and issues facing the project. The Senior User is the strategic link between the Cultural Advisory Group and the Project Board.

#### *4.3 Terms of Reference*

- To champion the Project within the City and Cultural Sector
- To be responsible for securing funding in accordance with the project fundraising strategy and terms of the collaboration agreement
- To be responsible for agreeing the Grant Funding Conditions with the Council in accordance with the terms of the collaboration agreement
- To be responsible for agreeing the Facilities Requirements at RIBA Stage 2
- To review and comment on change control requests (to the Facilities Requirements) and highlight any risks and issues to the Project Board in accordance with the terms of the collaboration agreement
- To review progression of the project through the gateway review process and escalate issues to BMT Board as appropriate