

Cheltenham Borough Council
Cabinet
17th March 2015
Scrutiny Task Group Review – Public Art Panel
Cabinet Member Response

Accountable member	Councillor Rowena Hay – Cabinet Member Healthy Lifestyles
Accountable officer	Wilf Tomaney – Townscape Manager
Executive summary	<p>At its meeting on 10th February Cabinet considered a report from an Overview and Scrutiny Task Group regarding Public Art Panel. It was established to review the governance of the panel.</p> <p>At the meeting the Cabinet Member Healthy Lifestyles generally welcomed the recommendations of the Group, but indicated some concerns over some of the recommendations and agreed to report back to this meeting of Cabinet.</p> <p>This report sets out the Cabinet Member’s response to the findings.</p>
Recommendations	<p>That Cabinet:</p> <p>i. Approves the recommendations of the Public Art Panel Scrutiny Task Group with the specific exception of the following:</p> <p>a <u>Recommendation ii – Public Art Panel Terms of Reference</u> Terms of Reference are amended under the “Membership” heading to allow three co-optees to the Panel at any one time.</p> <p>b <u>Recommendation v – Public Art Strategy</u> Amended to suggest that officers seek opportunities to fund the development of a Public Art Strategy from within existing or future Public Art funding.</p> <p>c <u>Recommendation ix – Reporting</u> Amended to require reporting through the Member Briefing is on a quarterly basis.</p>

Financial implications	<p>The public art strategy is likely to cost in the region of £6k which officers will look to finance through either existing or future public art funding.</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
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<p>Legal implications</p>	<p>Section 106 contributions are provided in order to mitigate the impacts of development and they may only constitute a reason for granting planning permission if they are (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.</p> <p>Contributions in respect of the provision of public art have been sought from developers by way of section 106 contributions and the Council is holding contributions which have been paid to it in respect of the same.</p> <p>It would be questionable going forward whether requiring contributions towards the Council undertaking a revision of its Public Art Strategy are going to fall within the tests outlined above, as opposed to the provision of public art itself.</p> <p>Developers which have already provided contributions towards public art may agree to the use of such monies towards the revision of the Public Art Strategy. However, there would be no legal obligation on the developer to do so and they may instead, should it be that the monies will not be used for the purpose for which they were paid, ask for repayment of the unspent contribution.</p> <p>Contact officer: shirin.wotherspoon@tewkesbury.gov.uk, 01684 272017</p>
<p>HR implications (including learning and organisational development)</p>	<p>No direct HR implications arising from the content of this report.</p> <p>Contact officer: Julie McCarthy email: julie.mccarthy@cheltenham.gov.uk,</p>
<p>Planning implications</p>	<p>S106, as clearly set out in national planning guidance may be negotiated if they “mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind”. In the past we have discussed with One Legal top slicing S106 but this wasn’t supported. In the context of the guidance on S106 should the Council progress on top slicing, then it would need to clearly demonstrate that the tests have been met.</p> <p>Secondly, the Council is currently undertaking the work to progress a community infrastructure levy (CIL). This is being led by the Planning and Liaison Member Working Group. However, given the costs involved in preparing a public art strategy, I would suggest that if One Legal support the principle of top slicing then this should be progressed on the funds already committed to public art via S106 thereby negating any need to negotiate any sums via CIL.</p> <p>Tracey Crews, Head of Planning, tracey.crews@cheltenham.gov.uk 01242 264168</p>
<p>Key risks</p>	<p>As set out in the report</p>

Corporate and Community Plan implications	Strengthening our communities
Environmental and climate change implications	None.
Property/Asset Implications	None.

1. Background

- 1.1** The Overview and Scrutiny Committee were requested to set up a scrutiny task group to review the governance of the Public Art Panel. Its recommendations were reported to the 10th February 2015 Cabinet where the Cabinet Member Healthy Lifestyles indicated that she would respond to this meeting.
- 1.2** The Cabinet Member has welcomed the report (which is reproduced at Appendix B) and the majority of its recommendations. She commends all the recommendations to the Cabinet with the exception of the following:

Recommendation ii – Terms of Reference

The Terms of Reference as drafted (under “Membership”) would allow the Public Art Panel to appoint a maximum of two co-optees to serve a term of up to three years to enable specialist or community representation. It is recommended that the maximum is raised to three co-optees this will allow greater flexibility in the Panel’s operation.

Recommendation v – Public Art Strategy

The value of having an up-to-date strategy in place is acknowledged. However, given current budgetary constraints it is suggested that officers seek funding from within the existing or future public art budget – which is ring-fenced through S106 funding.

Officers are currently negotiating with a developer on the possibility of releasing S106 funds for this purpose.

Recommendation ix – Reporting

The reporting mechanisms suggested are supported, but it is suggested that reporting through the Member Briefing is on a quarterly basis.

- 1.3** Progress has already been made in implementing other recommendations:

Recommendation iii – Cheltenham Trust

Julie Finch CEO of the Trust has agreed to act as its representative on the Panel.

Recommendation vii – Project Management

Discussions with the Council’s Business Development Manager suggest that project management arrangements in place for the delivery of public art are broadly satisfactory. A meeting between the Panels Project Management Pool and the business development team will take place in the next few months to clarify issues.

In the meantime, it has been agreed that each project will be subject to a Project Initiation Document as it commences.

Recommendation ix – Decision Making

Following a discussion with OneLegal and Democratic Services, a decision making protocol has been agreed which establishes that most projects will have two points at which a formal Cabinet Member decision will be required – project initiation and artist selection. Regular Cabinet Member briefings are to be held and the Cabinet Member Healthy Lifestyles has an open invitation to attend Panel meetings as an observer to help inform her decisions.

2. Reasons for recommendations

- 2.1 The recommendations are made in order to “fine-tune” some of the Task Group’s own recommendations prior to implementation.

3. Alternative options considered

- 3.1 There are a number of options and these are set out in the Task Group’s report.

4. Consultation and feedback

The Cabinet Member Healthy Lifestyles and the Public Art Panel were involved in the review. The Cabinet Member indicated at the O&S meeting on 12 January that she was very pleased with the task group report and the recommendations as set out would give the process the transparency in decision making she felt had been lacking. The Public Arts Panel considered the report at its meeting on 21 January and was happy with the recommendations.

5. Performance management –monitoring and review

- 5.1 The Cabinet Member will continue to monitor the success of the new arrangements. O&S have suggested an Annual Report on the work of the Public Art Panel.

Report author	Contact officer: Rosalind Reeves, Democratic Services Manager, Rosalind.reeves@cheltenham.gov.uk, 01242 77 4937
Appendices	A. Risk Assessment B. Cabinet Report – 10th February 2015 with attachments
Background information	None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the governance arrangements for the panel are not made clear there may be confusion about the accountability for the delivery of public art and potential damage to the council's reputation if they are not delivered effectively	Wilf Tomaney	1/12/2014	2	3	6	Reduce	Get agreement to the revised terms of reference		RR	

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close

Cheltenham Borough Council
Cabinet
10 February 2015
Scrutiny Task Group Review – Public Art Panel
Covering Report

Accountable member	Councillor Tim Harman, Chair of the Overview and Scrutiny Committee
Accountable officer	Rosalind Reeves, Democratic Services Manager
Executive summary	<p>At its meeting on 3 November 2014 Overview & Scrutiny Committee requested that a workshop be set up where scrutiny members could meet with members of the Public Art Panel to review the governance of the panel. Their findings and recommendations are set out in detail in the attached Scrutiny Task Group Report.</p> <p>Their report was considered by the O&S committee at their meeting on 12 January 2015 when they endorsed the recommendations from the task group and agreed to forward them to Cabinet for their consideration. They were happy with the report and noted the achievements of the panel and that public art projects could sometimes be difficult to draw together and achieve a successful outcome. They suggested that an Annual Report of public art achievements in Cheltenham would help promote the work of the panel and requested that ward members should always be kept informed of work going on in their area.</p>
Recommendations	<p>That Committee endorses the recommendations set out in the Scrutiny Task Group Report and recommends that Cabinet :</p> <ul style="list-style-type: none"> ii. Commends the achievements of the Public Art Panel to date in the support of Public Art in the borough. iii. Approves the revised terms of reference for the Public Art Panel as set out in the Appendix for adoption by the Public Art Panel at their next meeting and that the revised Terms shall be communicated to the organisations represented on the Public Art Panel. iv. Agrees that a representative from the Cheltenham Trust be invited to the Public Art Panel and if accepted, that the membership of the Public Art Panel be extended accordingly. v. Agrees that the non- councillor membership of the Public Art Panel be formally appointed at the next meeting of the Public Art Panel and a review date set for 3 years hence in 2018 vi. Allocates a sum not exceeding £6000 to enable the Director of Environmental & Regulatory to carry out a refresh of the Public Art Strategy. vii. Agrees that the Public Art Panel should be consultees on the

Community Infrastructure Levy project.

- viii. **Requests officers to review the project management process for Public Art with the council’s business development team.**
- ix. **Request Officers supporting the Public Art Panel to work with Democratic Services and One Legal to agree when and by whom decisions are being taken and which decisions should be published as part of the democratic process.**
- x. **Requests the Townscape Manage to use the Members Briefing following the Public Art Panel meetings to provide an update to all Councillors and make minutes of the Public Art Panel available on the intranet subject to any confidentiality and to produce an Annual Report on behalf of the panel.**

<p>Financial implications</p>	<p>A review of the Public Art Strategy will cost in the region of £5000 to £6000. This may be funded by top slicing Section 106 receipts with the consent of the developers. If it cannot be financed from existing budgets, a request for additional funding will need to be made and approved by Cabinet.</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
<p>Legal implications</p>	<p>As an advisory body to the authority, the governance and decision making provisions applicable to the Public Art Panel are set out in the Council’s constitution. The decision maker in respect of public art matters will vary depending on the circumstances under consideration. To assist the Public Art Panel, the report of the scrutiny task group identifies some important decision points within a project and suggests appropriate decision makers.</p> <p>Contact officer: shirin.wotherspoon@teWKesbury.gov.uk, 01684 272017</p>
<p>HR implications (including learning and organisational development)</p>	<p>The report recommends publishing Public Art decisions so this may mean additional work for the officer who supports the Public Art Panel.</p> <p>Contact officer: Julie McCarthy email: julie.mccarthy@cheltenham.gov.uk,</p>

<p>Planning implications</p>	<p>S106, as clearly set out in national planning guidance may be negotiated if they “mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind”. In the past we have discussed with One Legal top slicing S106 but this wasn’t supported. In the context of the guidance on S106 should the Council progress on top slicing, then it would need to clearly demonstrate that the tests have been met.</p> <p>Secondly, the Council is currently undertaking the work to progress a community infrastructure levy (CIL). This is being led by the Planning and Liaison Member Working Group. However, given the costs involved in preparing a public art strategy, I would suggest that if One Legal support the principle of top slicing then this should be progressed on the funds already committed to public art via S106 thereby negating any need to negotiate any sums via CIL.</p> <p>Tracey Crews, Head of Planning, tracey.crews@cheltenham.gov.uk</p> <p>01242 264168</p>
<p>Key risks</p>	<p>As set out in the report</p>
<p>Corporate and Community Plan implications</p>	<p>Strengthening our communities</p>
<p>Environmental and climate change implications</p>	<p>None.</p>
<p>Property/Asset Implications</p>	<p>None.</p>

1. Background

1.1 As set out in the report

2. Reasons for recommendations

2.1 The Overview and Scrutiny Committee were requested to set up a scrutiny task group to review the governance of the Public Art Panel.

3. Alternative options considered

3.1 There are a number of options and these are set out in the report.

4. Consultation and feedback

The Cabinet Member Healthy Lifestyles and the Public Art Panel were involved in the review. The Cabinet Member indicated at the O&S meeting on 12 January that she was very pleased with the task group report and the recommendations as set out would give the process the

transparency in decision making she felt had been lacking. The Public Arts Panel considered the report at their meeting on 21 January and were happy with the recommendations.

5. Performance management –monitoring and review

5.1 The Cabinet Member will continue to monitor the success of the new arrangements. O&S have suggested an Annual Report on the work of the Public Art Panel.

Report author	Contact officer: Rosalind Reeves, Democratic Services Manager, Rosalind.reeves@cheltenham.gov.uk, 01242 77 4937
Appendices	a. Risk Assessment b. Task Group report
Background information	None

Previous Report

Risk Assessment

Appendix 1

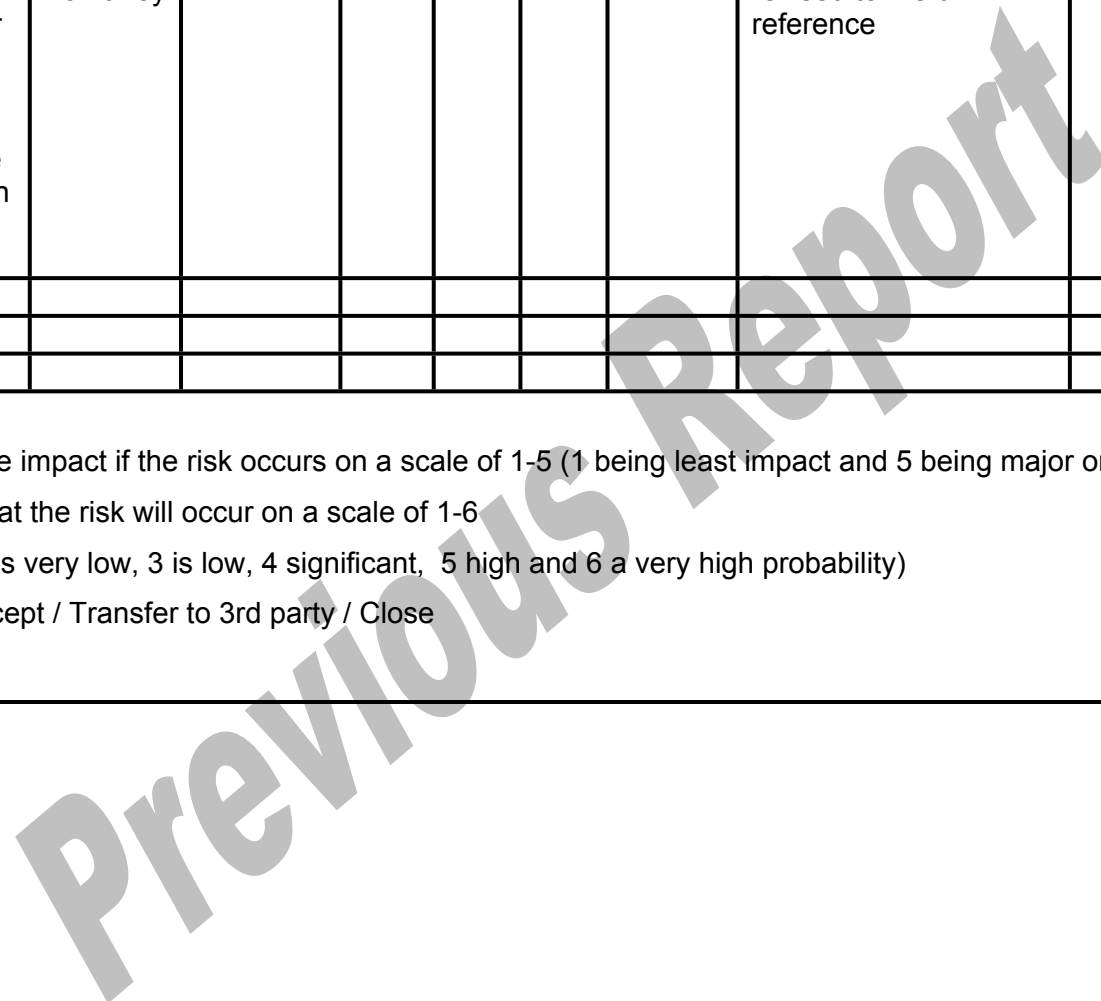
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Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
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Explanatory notes

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SCRUTINY TASK GROUP REPORT

PUBLIC ART PANEL

DECEMBER 2014

1. INTRODUCTION

- 1.1 The Cabinet Member Healthy Lifestyles, Councillor Rowena Hay, first suggested that the governance and accountability of the Public Art Panel was a suitable topic for scrutiny. A discussion paper was brought to the Overview and Scrutiny Committee on 8 September 2014 setting out the history of the panel and the findings of a previous review carried out by the Social and Community O&S Committee in 2011. The recommendations from that review were agreed by Cabinet at the time and good progress subsequently made in implementing them. These are available in the report which went to Overview and Scrutiny Committee in September 2014 if any member wishes to read the details.
- 1.2 These recommendations included the appointment of an independent lay member chair, agreed membership of the panel and a regular programme of meetings within the council's municipal calendar. Under these new arrangements the panel has gone on to demonstrate a successful track record in its support for the delivery of public art within the borough
- 1.3 At the O&S meeting in September, the Cabinet Member was keen to recognize the contribution made by the panel and emphasise that in her view it was working effectively. Her main concern was that as she had been designated as the Cabinet Lead Member for Public Art, she needed to understand the process for selecting and appointing panel members and have clarity with regard to the lines of authorisation for the spending decisions it reached. This was particularly relevant due to the level of section 106 funds earmarked for public art at any one time with total amounts typically in the order of £300,000, a considerable sum.
- 1.4 The O&S committee agreed that the best way to progress these governance issues would be to hold a joint workshop with members of the panel and scrutiny. Councillors Harman, Payne, Colin Hay and Ryder were nominated as the scrutiny members who would be invited to attend.
- 1.5 This workshop was held as the first item on the agenda of the Public Art Panel meeting on 12 November 2014. It was facilitated by the Democratic Services Manager, Rosalind Reeves. Two scrutiny members, namely Councillors Payne and Ryder were in

attendance and the Townscape Manager, Wilf Tomaney was present to answer any questions and give guidance on the process.

- 1.6 There was further follow-up after the meeting with officers particularly with regard to the governance issues and decision-making process and Shirin Wotherspoon from One Legal gave guidance on the Constitution.
- 1.7 This report summarises conclusions from this work and makes a number of recommendations which can be forwarded to Cabinet.

2. MEMBERSHIP AND TERMS OF REFERENCE

- 2.1 Membership of the task group:-
 - Councillor John Payne
 - Councillor Chris Ryder

And with officer support from:

Rosalind Reeves, Democratic Services Manager

- Wilf Tomaney, Townscape Manager
 - Shirin Wotherspoon, Solicitor One Legal
- 2.2 Terms of reference
 - To review the governance arrangements for the Public Art Panel with particular reference to the appointment and membership of the panel and its decision-making
 - To make recommendations to Cabinet as appropriate via O&S Committee

3. OUR FINDINGS

The Achievements of the Public Art Panel

- 3.1 When the scrutiny members attended the meeting of the Public Art Panel we were impressed by the enthusiasm and commitment of the panel members. They give up their time on a voluntary basis to support Public Art in Cheltenham and have a successful track record of delivery. We commend them for their hard work and their contribution should be recognized by the Council.

Selection and Election of Panel Members

- 3.2 The terms of reference for the panel were set some time ago and we think they would benefit from a refresh. In particular the membership of the panel should be clearly set out and terms of office included. We have worked with officers to draft some revised terms of reference and these are attached as Appendix 1 to this report.

- 3.3 We welcome the continuation of a non-elected/councillor representative as chair to ensure some continuity but we suggest in the terms of reference that they are re-elected every three years. Ideally a new chair would then be elected but the existing chair could be re-elected for one further term before they must stand down as chair, though they could continue to remain on the panel as a representative of their organisation. Similar conditions should also apply to co-optees. This will ensure that the panel is kept fresh with new ideas.
- 3.4 In particular we would draw attention to the fact that the majority of the membership are representatives from organisations. It is up to the organisations who they put forward but we suggest they refresh their membership every three years and the panel should consider implementing a system of suitable substitutes.
- 3.5 The terms of reference lists the organisations that are currently represented on the panel. If at any point the panel felt they would benefit from additional representation they could appoint an individual from an organisation as an additional co-optee. It is suggested that the number of potential co-optees be increased from 2 to 3.
- 3.6 The Cheltenham Trust has now been commissioned by the Council to deliver sports and leisure services for the borough. Although their brief does not specify public art as one of their deliverables we think the Trust could use Public Art to support some of their objectives in promoting awareness and understanding of visual arts. As a major organisation for arts in the town we think they should be invited to nominate a member to join the panel as their expertise could be very valuable.

The role of the panel in projects

- 3.7 As mentioned the panel is an 'advisory' panel. This is true in terms of their role in advising the Cabinet Member with responsibility for Public Art or any organisation wishing for advice and guidance in this field. However we do feel that the panel performs a wider role in that it assists the Director of Environmental & Regulatory Services with commissioning project managers to carry out public art projects and subsequently receiving progress updates and managing issues arising. We feel this important role needs to be made clear in the terms of reference.

Project Sponsors/ Budget holder and stakeholders

- 3.8 In performing this project review role, it is also important that the panel have a mechanism for reporting back progress to project sponsors, budget holders and stakeholders.
- 3.9 We are advised by one of the project managers from the Public Art Pool that they followed a project management process. We were keen to ask the panel what decisions they made on projects. In response the panel did not feel there were specific decision points but projects followed a due process and therefore evolved over the project life cycle.
- 3.10 Members familiar with the Prince2 methodology adopted within the authority, highlighted that this methodology would have key decision points along the way and a formal process for reporting to project sponsors. This would be set out in the project initiation

document. We did not go into the detail of the project management methodology used in managing the public art projects but there should be similar decision points and key milestones which could be identified.

- 3.11 We feel it would be beneficial for some officers from the council's business development team to sit down with a representative from the Public Art Pool to better understand the project management structure adopted for Public Art projects and assist in identifying the milestones and decision points.
- 3.12 We think there is also an issue about accountability for the successful delivery of a public art project. Clearly the project manager has a contractual responsibility because they are being paid to deliver the project. We were keen to ask the panel the question "If a project got into trouble and the media started to ask questions who would be the individual who would stand up and be accountable?"
- 3.13 The panel responded that there was always likely to be a difference in public opinion on a particular piece of public art. That may be so but the question we were asking was relating to a more serious problem, for example if a project went seriously over budget, or the contracted artist went out of business for example. Who would be accountable in that case?
- 3.14 The scrutiny members were of the view that in this case it would be the project sponsor or budget holder that would need to be kept fully aware and would ultimately be accountable. This could be the Cabinet Member/Director of Environmental & Regulatory Services responsible for public art or the budget holder/Director.
- 3.15 This reporting mechanism needs to be made clear in the project initiation document which is then jointly agreed before work on the project commences. We feel this is essential to the successful management of a project.

Decision making

- 3.16 Within the authority there is a specific decision-making process which is set out in the Council's Constitution. The schemes of delegation set out which decisions must be made by Council, by Cabinet, those which can be taken by a Cabinet Member and those which are delegated to Directors/officers. There is a statutory requirement to publish Executive decisions made by the Cabinet or a Cabinet Member and there is also a statutory requirement to publish certain types of officer decision.
- 3.17 The first point to establish is that any decisions relating to public art projects which are being delivered on behalf of the authority would need to follow these procedures.
- 3.18 One Legal were very clear in their advice that decision making in respect of the Public Art Panel should be one of the following:

Cabinet	In respect of Key Decisions
Cabinet Member Healthy	Who has been delegated authority by the Leader to be the Cabinet Member for Public Art

Lifestyles	
The Director of Environmental & Regulatory Services	Who is the relevant Executive Board Lead Officer for the Public Art Panel
Officers	To whom the Director has sub- delegated authority. These decisions would be likely to be taken by the Townscape Manager who has responsibility for the budget for the section 106 money.

3.19 The authority has a statutory requirement to publish such decisions and they would need to be supported by the appropriate documentation, typically a report.

3.20 The challenge is deciding at which points in the life cycle of a public art project, these decisions need to be taken and formally recorded. We would suggest as a the minimum the following decision points could be designated and the decision maker is indicated in brackets:

- i) Define the key roles and responsibilities i.e panel members, stakeholder, budget holder, relevant officer who will be consulted on and named in the project initiation document (Director/Officer)
- ii) Agreement of a project initiation document which would set out roles and responsibilities and budget and authorises the project to proceed (Cabinet Member)
- iii) Appointment of a project manager (Officer)
- iv) Agreement of the project brief for potential artists prepared by the Project Manager (Director/Officer)
- v) Selection of artist (Director/Officer)
- vi)) Tenders and contracts (as required by the Contract Rules)

3.21 We are keen to stress that we do not want to create a burden of administration for the officers, project managers or the panel but we do feel it is essential to maintain a proper audit trail and indeed this is a statutory requirements where the authority's monies are being spent.

Dissemination of Information

3.22 We have already mentioned the need to keep project sponsors and budget holders updated on projects. We also think it is important for the Public Art Panel to promote their achievements to the wider group of Councillors. This could easily be achieved by officers supporting the panel including an update on the Members Briefing after each panel meeting.

3.23 Members could also request to have a copy of the minutes of the Panel or view the minutes on the intranet link.

Public Art Strategy

- 3.24 The Public Art Strategy forms a valuable document within the authority and for the panel, project managers and potential developers and sponsors. It was produced in 2004 and has not been updated since then and the panel are very keen that it should be updated with the involvement of the Public Art Pool. We think the authority should undertake this valuable piece of work by providing some resource and budget for the task. Officers have previously obtained estimates from individuals or organisations who could carry out the work at a cost of £5000 or £6000 hence the need for £6000 of funding for this work. We understand that some councils have top sliced the section 106 funding to fund this sort of work. One Legal has confirmed that top slicing sums may be possible for future s106 agreements but it is not part of the current Public Art SPG policy. In those circumstances, owner/developers may not accept the obligation as a valid requirement.

Community Infrastructure Levy

- 3.25 The Government is introducing changes which will allow councils to develop a charging structure for a Community Infrastructure Levy which could replace Section 106 agreements. We understand that Cabinet has agreed in principle to ask officers to investigate the feasibility of charging such a levy. We have not gone into this in any detail but this may be an opportunity to change the way developers provide funding for public art. Therefore public art requirements should be considered as part of this feasibility study and the Public Art Panel should be consulted on the project although it was accepted that such contributions are likely to be at the lower end of the list of levies.

4. CONSULTATION

- 4.1 During the course of this review we have consulted with officers involved in this issue. The Cabinet Member Healthy Lifestyles attended the meeting of O&S when this review was initiated and had the opportunity to review our draft report. We also met with members of the panel and sent out our report to members of the Public Art Panel for their comment.

5. RECOMMENDATIONS

- 5.1 Taking all our findings into consideration, the task group agreed a number of recommendations to Cabinet, namely that :
- i. **The Public Art Panel are commended for their achievements to date in the support of Public Art in the borough.**
 - ii. **The revised terms of reference for the Public Art Panel as set out in the Appendix be approved and adopted by the Public Art Panel at their next meeting and communicated to the organisations represented on the Public Art Panel.
A representative from the Cheltenham Trust be invited to the Public Art Panel and if accepted, that the membership of the Public Art Panel be extended accordingly.**
 - iii. **The non-councillor membership of the Public Art Panel be formally appointed at the next meeting of the Public Art Panel and a review date set for 3 years hence in 2018.**
 - iv. **A sum not exceeding £6000 be allocated to enable the Director of Environmental & Regulatory to carry out a refresh of the Public Art Strategy.**

- v. **The Public Art Panel should be consultees on the Community Infrastructure Levy project.**
- vi. **The project management process for Public Art is reviewed with the council's business development team.**
- vii. **Officers supporting the Public Art Panel work with Democratic Services and One Legal to agree when and by whom decisions are being taken and which decisions should be published as part of the democratic process.**
- viii. **The Members Briefing following the Public Art Panel meetings is used to provide an update to all Councillors and minutes of the Public Art Panel are made available on the intranet subject to any confidentiality.**

6. PROGRESSING THE SCRUTINY RECOMMENDATIONS

- 6.1 The scrutiny task group will report to O&S on 12 January 2012 and to Cabinet in February.
- 6.2 In conclusion the task we are confident that we have met our terms of reference are and commend our recommendations to the Overview and Scrutiny Committee.

Report author	Councillor, Chair of the scrutiny task group Contact officer: Rosalind Reeves, Democratic Services Manager, Rosalind.reeves@cheltenham.gov.uk, 01242 77 4937
Appendices	a. The Public Art Panel revised terms of reference
Background information	1. Meeting of O&S 8 September 2014

PUBLIC ART PANEL
TERMS OF REFERENCE

The Public Art Panel was originally set up to encourage the provision of public art within the borough by setting up an advisory group in which officers, Members and representatives of relevant organisations within the borough can meet to provide a consultation and discussion forum.

<p>Role</p>	<ol style="list-style-type: none"> 1. To provide appropriate direction and advice regarding the disposal of public art funding received via the Section 106 process; 2. To make recommendations to the appropriate Cabinet Member Director/Officer where Executive decisions are required as part of the Democratic process. These will then be formally published on the Council's website in the interests of transparency; 3. To subsequently keep the Cabinet Member informed of progress in implementing those decisions and bringing to their attention any key issues; 4. To provide guidance and support to anyone involved in projects containing elements of public art within the borough; 5. To undertake activity aimed at encouraging understanding and appreciation of public art through advocacy, education, training and promotional activity; 6. To encourage wider community involvement in terms of the siting and development of public art projects; 7. To advise on the choice of artists and the broad direction that the public art should take in order to maintain quality; and. 8. To advise the Director of Environmental & Regulatory Services on the commissioning of project managers or community groups to carry out public art projects with the panel acting as a project review board and keeping the relevant stakeholders, sponsors and budget holders up to date with progress.
<p>Status</p>	<p>An advisory group which assists the Director of Environmental & Regulatory Services with his public art commissioning and programme management responsibilities but has no budget of its own.</p>
<p>Membership</p>	<ul style="list-style-type: none"> • Two Cheltenham Borough Councillors - one should be a Member of the Planning Committee

	<p>- one should be a Councillor with an interest in art and culture (ideally the Councillor representation should be cross party but this is not essential)</p> <p>One representative from each of the following organisations:</p> <ul style="list-style-type: none"> • University of Gloucestershire Art department • Cheltenham Arts Council • Civic Society • GAVCA • Cheltenham Trust (to be invited) <p>Up to 3 co-optees which the panel may wish to appoint for a period of up to three years because of their specialist expertise or community representation. Co- optees may be re-appointed for a further 3 year term thereafter.</p> <p>The members representing an organisation may be changed at any time by the organisation notifying the administrator of the panel. Each organisation may also nominate a substitute to attend the panel if their nominee cannot attend. Generally the panel will encourage organisations to nominate an individual for a period of at least three years but will welcome new nominees after that period in order to bring fresh ideas to the group.</p>
Chair	<p>The members of the panel will appoint a chair from its membership excluding the elected Members. They could be elected for a period of three years but will be eligible for re-election for a further three-year term after which they will retire.</p> <p>Although standing down as chair, the representative could, if their organisation agreed, continue to sit on the panel as a representative of their organisation.</p>
Officer support	<p>This will vary but the core support will be provided by</p> <ul style="list-style-type: none"> • Townscape Manager, E&RS • Parks development team, E&RS • Planning Administration, E&RS.
Public Art Pool	<p>A group of project managers with experience in delivering public art projects who are appointed by authorised officers of the council. They are available to the Public Art Panel to recommend to the Director of Environmental & Regulatory Services or Cabinet Member for selection for specific</p>

	<p>public art projects and any remuneration will be paid from the funds available for the project.</p> <p>A member of the pool cannot be a member of the Public Art Panel but they can attend meetings of the panel by invitation, typically to update the panel on any projects they are working on.</p>
Cabinet Member	The Cabinet Member with responsibility for Public Art will receive agendas and minutes of the meeting and can attend meetings of the panel by invitation or with prior notification to the chair as an observer.
Budget holders	<ul style="list-style-type: none"> • Director of E&RS is the budget holder for the section 106 money and the S106 agreements are worded to the effect that public art must be provided to the satisfaction of the director E&RS. • Cheltenham Development Task Force MD is the budget holder and the Cabinet Lead is the Cabinet Member Built Environment. • Cheltenham organisations seeking guidance from the panel e.g. Civic Society. • Other groups: bids for funding from various community groups are agreed by Cabinet and these groups may then ask the panel for assistance and advice.
Accountability	<ul style="list-style-type: none"> • Accountability to the Cabinet Member with responsibility for public art. • Accountability to the budget holder who has commissioned a work of public art through the panel.
Meetings	<ul style="list-style-type: none"> • Bi-Monthly . • Structured agendas, to include progress reports on the programme of projects. • Notes to be taken and action points monitored • Appropriate follow-up communications after the meeting to interested parties.
Conflicts of Interest	<ul style="list-style-type: none"> • Members must declare any interests or conflicts of interest in the business of the panel. • Where conflicts exist, panel members may be asked to leave the meeting for the agenda item.