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To: Councillor McLellan, Convener; Councillor Yuill, Vice Convener; and Councillors Cooke, Fairfull, Farquhar, Grant, Greig, Houghton, Hutchison, Macdonald, Nicoll, Radley and Watson.

Town House,
ABERDEEN 06 December 2022

FINANCE AND RESOURCES COMMITTEE

The undernoted items are circulated in connection with the meeting of the **FINANCE AND RESOURCES COMMITTEE** to be held here in the Town House on **WEDNESDAY, 7 DECEMBER 2022 at 10.00 am.**

JENNI LAWSON
INTERIM CHIEF OFFICER - GOVERNANCE

BUSINESS

SERVICE DELIVERY

- 10.2 Public Art Guidance and Panel - COM/22/268 – Terms of Reference appendix 4 (Pages 3 - 12)

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Public Art Panel Aberdeen (PAPA)

Terms of Reference

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1. Introduction

- 1.1 The Public Art Panel Aberdeen (PAPA) will support the City Council in delivering the Council's Public Art Guidance. The guidance describes best practice, and recommendations when considering the commissioning and caretaking of public art in Aberdeen.
- 1.2 This means that any applicant (Council, community or individual), who wishes to commission public artwork intended for Aberdeen City Council land, buildings, spaces or adopted roads need to apply to the PAPA panel and follow the process laid out which is to follow the recommendations by the panel.
- 1.3 The PAPA panel will also provide guidance on any development proposals submitted to the planning authority which include public art provision.
- 1.4 In addition, any party wishing to deliver public art in the urban realm in Aberdeen City can be given advice and guided by the PAPA panel.
- 1.5 Public art proposals which request common good funding from the Council will go through the PAPA process prior to application, the applications will be considered at the full budget meeting
- 1.6 Public art proposals which request funding from the Council, other than Common Good Funding, will go through the PAPA process and a report will go to the Aberdeen City Council Finance and Resources Committee.
- 1.7 For public art proposals that require planning permission and/or listed building consent, the applicant will be required to go through the usual planning application process.
- 1.8 For public art proposals that require licenses, road closure and permits, the applicant will be required to go through the usual Aberdeen City Council process to apply for these.

2. Role of the Panel

- 2.1 The role of PAPA is to provide guidance, advice and make recommendations regarding public art proposals, to support the best practice and quality of the project. The PAPA will operate in accordance with this statement and keep and make available as appropriate records of its activities in order that it effectively carries out this function and to ensure the transparency of decision making.

PAPA roles:

- 2.1.1 To review public art proposals and applications.
- 2.1.2 To provide guidance, advice and recommendations on public art proposals against the criteria.
- 2.1.3 To advise on the development of public art policy and guidance.
- 2.1.4 To (where appropriate), manage the commission process for Council led projects.

3. Panel roles and responsibilities

3.1 The PAPA members will:

- 3.1.1 Review the information provided by the applicant/developer and advise on the proposal, in relation to the recommendations in the Public Art Guidance.
- 3.1.2 Advise the applicant which relevant legislation; planning, licensing and/or health and safety may need to be considered or applied for in relation to the proposed public artwork.
- 3.1.3 Provide a forum within which Aberdeen City Council and other partners develop a coordinated approach to public art policy, guidance and commissioning.
- 3.1.4 Advise applicants, when required, to co-operate with emergency services in relation to operational consistency and public safety.
- 3.1.5 Share good practice with applicants/developers.

There shall also be a **PAPA Core Group** who will

- 3.1.6 Determine the criteria for public art proposals which will be invited to undertake the PAPA process.
- 3.1.7 Identify new public art proposals which should be covered by the PAPA process.
- 3.1.8 Declare any conflicts of interest in relation to any proposal put before the PAPA Group e.g., if a member of the PAPA panel is involved with the commissioning of a public art project under review.
- 3.1.9 Identify the relevant stakeholders to invite to each PAPA meeting.
- 3.1.10 See section 5.0 for Core group membership.

3.2 The Chair of the PAPA will:

- 3.2.1 Be a senior officer from Aberdeen City Council with relevant experience in Public Art.
- 3.2.2 Ensure that the PAPA properly discharges its responsibilities by ensuring that all public art proposals which meet the criteria identified by the PAPA Core Group are subject to the PAPA process.
- 3.2.3 Ensure that the membership of the PAPA has the relevant expertise and qualifications to robustly perform their duties in reviewing proposals put forward.
- 3.2.4 Ensure that due account is taken of the views of all members of the PAPA, including those attending by invitation.

- 3.2.5 Keep an overview of all proposals and plans to facilitate a consistent and coordinated approach.
 - 3.2.6 To act as the conduit between the PAPA and the applicant/developer in relation to PAPA matters.
 - 3.2.7 To ensure a debrief of the public artwork is undertaken to ensure compliance with proposals and plans.
 - 3.2.8 Will ensure that agendas are published in advance of the meeting and that minutes are recorded and circulated to all PAPA members and other parties (14 days before and 14 days after meetings).
 - 3.2.9 Ensure that the applicant/developer is informed of the Panel's decision and recommendations upon conclusion of the review by writing within 14 days of the meeting.
 - 3.2.10 Ensure the confidentiality of a proposal and any intellectual property is maintained through the PAPA process.
- 3.4 **Local authority officers in attendance will:**
- 3.4.1 Attend any PAPA meetings as required or send an informed deputy in his/her place.
 - 3.4.2 Act in a coordinating role to the PAPA process on all matters relating to Aberdeen City Council and provide relevant technical advice to the Applicant/Developer to ensure that the proposal meets the minimum standards set out in the Public Art Process.
 - 3.4.3 Review documents submitted by the Applicant/Developer relating to public and participant safety and wellbeing and inform the PAPA of any implications arising requesting additional information where this is deemed necessary to allow an informed position to be taken by the PAPA.
 - 3.4.4 To advise the applicant/developer on any relevant legislation and/or council procedures and provide advice in consultation with members of the PAPA group.
- 3.5 **The applicant/developer will:**
- 3.5.1 Supply within a reasonable time any information it may reasonably request in relation to the application (section 6).
 - 3.5.2 Notify the PAPA about any material/significant changes to an application which has previously been considered by the PAPA process.
 - 3.5.3 On being given reasonable notice attend PAPA meetings as required or in their absence ensure that an informed deputy attends in his/her place .
 - 3.5.4 Ensure all relevant and appropriate permissions, permits and licenses are applied for in

advance of their commission and shall not proceed unless all have been granted by the appropriate body.

- 3.5.5 Provide information commensurate with the nature of the proposal as set out in in Section 6.
- 3.5.6 Ensure they have adequate and competent resources to ensure public safety and wellbeing.
- 3.5.7 Once the Public Art is installed any applicant or developer should retain full responsibility for the Public Artwork, including any ongoing maintenance.

Please Note: The Council may ask the artist/architect/agent of proposals to give a brief presentation to the Panel. In such cases, the presentation will be allotted a time. The applicant will then answer any questions and be asked to leave the meeting before discussion on the merits of the scheme take place.

4. PAPA Group Membership

- 4.1 The **PAPA core group** will comprise of Senior Officers from the following:
 - Aberdeen City Council, External Partnerships Cultural Policy and Partnerships Team
 - Aberdeen City Council, Aberdeen Archives, Gallery and Museums
 - Aberdeen City Council, Corporate LandlordAnd subject to agenda:
 - Aberdeen City Council, City Events Team
 - Aberdeen City Council, Planning
 - Aberdeen City Council, Parks
 - Aberdeen City Council, Roadworks coordination
- 4.2 The Panel will comprise of individuals with established expertise and skills in art, and art commissioning. Also, individuals with skills in related disciplines may be invited to join the Panel.
- 4.3 Organisations like, the Robert Gordons University and Grampian Health Arts Trust, will be invited to nominate members with skills in public art or art commissioning who can attend meetings that will be organised to meet on a case by case basis.
- 4.4 The Chair of the Panel can invite further members to join the established panel to give their expert advice, on a case by case basis where their relevant skills and knowledge are required. These may include practicing artists. Any final recommendations will be by the panel.
- 4.5 Panel members are asked to send their apologies to the Chair of the PAPA when they are unable or do not wish to attend. Panel members unable to attend but wishing to make comments on an item should submit brief notes of their views about up-and-coming agenda items at least 1 day in advance.
- 4.6 When appropriate the public art applicant will attend the PAPA meeting scheduled to review the proposal or ensure that they are represented by a person who has their full authority to implement any agreed actions.

- 4.7 Council Elected Members can attend Panel meetings to observe the proceedings, they should give the Chair of the group two weeks' notice prior to their attendance.
- 4.8 Sub groups may be set up to consider applications of particular specialist interest, for example a subgroup may be required to consider matters related to public art proposals submitted as part of large-scale developments. Where relevant, specialist groups may be invited to attend the Panel or to give advice prior to a meeting.

5. Decision Making

- 5.1 Panel members should consider proposals against the criteria on the basis of sound public art principles and policy guidance. They should identify, with objective but detailed critical observations, the positive and negative features of schemes.
They should consider:-
- 5.1.1 The proposed work is of high artistic quality and of long-term merit.
 - 5.1.2 The work is sensitive in its approach to subject matter and appropriate to its location.
 - 5.1.3 The art works are integrated into a broad design policy that supports its context;
 - 5.1.4 There is local public benefit.
 - 5.1.5 There is evidence of community engagement.
 - 5.1.6 The project is technically and financially viable and can be delivered in the timescale required.
 - 5.1.7 The project is completely planned out and has given careful consideration to risk management and public safety.
- 5.2 Where feasible, the Panel are encouraged to reach a consensus view in terms of:
- 5.2.1 **Green light:** a good proposal, or one which is acceptable subject to minor improvements;
 - 5.2.2 **Amber light:** in need of significant improvements to make it acceptable, but not a matter of starting from scratch;
 - 5.2.3 **Red light:** the proposal is fundamentally flawed and a fresh start is needed.
- 5.3 Panel views shall be expressed without using jargon or complex terms, and should be clear and to the point. If Panel members are unable to agree, the advice should clearly reflect the basis of the disagreement and the issues involved.
- 5.4 The Chair, or a representative where appropriate, may be invited to report to and attend the Finance and Resources Committee to inform the Committee of the Panel's discussions in relation to any finance required for proposals.
- 5.5 The PAPA panel will monitor its progress after 12 months, to evaluate its success and to ensure it is set up correctly, has adequate membership with the relevant expertise required, and is achieving the aims set out in these Terms of Reference.

6. Criteria and Application Process

- 6.1 The Aberdeen Public Art Guidance provides an overview of the range of artforms and mediums that constitute public art, along with guidance for best practice and minimum standards pertinent to commissioning of public art within Aberdeen City.
- 6.2 Public Art refers to a work of art in any media that has been planned with the intention of being sited or staged in the physical public realm. This means outside spaces but can also at times refer to inside spaces that are accessible to the public, although not a gallery, museum, designated exhibition or performance space. Public art is usually, but not always, commissioned specifically for the site in which it is situated. Public art can take many forms, it can be permanent or transitory, large scale placemaking works or small intimate works which blend into the fabric of their surroundings.
- 6.3 Characteristics of public art are public process, public accessibility, artistic/aesthetic quality. Public art proposals must therefore include the following principles:
A public process: the public and or the public's representatives must, formally or informally, sanction the work as public art and its presence in the public realm,
Broad accessibility: the public must be able to physically experience it,
Aesthetic quality: it must have artistic significance.
- 6.4 Any proposal for public artwork temporary or permanent, see 1.3– 1.6 of these Terms of reference, should follow the PAPA process.
- 6.5 In the first instance applicants should complete the Public Art enquiry form to provide a short overview of the proposal. This will be reviewed by officers from the Cultural Policy and Partnership Team who will advise if the project is one that that it is required to go through the PAPA process.
- 6.6 Exemptions and exclusions to PAPA process
- 6.6.1 Commemorative Plaques, the Council has an established procedure and policy for requesting and for the installation of commemorative plaques.
- 6.6.2 School or community outreach projects where work is created through participation and does not engage an artist in its creation.
- 6.6.3 Museum art, gallery art, private art: Artwork that is exhibited and curated within an established gallery or museum or where public access is limited. Exceptions may be where museum artworks are permanently or temporarily installed in a public space of unrestricted public access.
- 6.6.4 Commercial advertisement: Artistic work that is produced for commercial purposes or serves primarily as commercial advertisement is not considered public art.
- 6.6.5 Artworks created and/or placed by individuals on their private residential property, intended to be publicly visible, are not considered public art. These artworks can be hand-made or commercially produced, such as decorative banners, flags, sculptures, and fountains.
- 6.6.6 Graffiti and "Street Art" in the form of artistic writing or drawings made on surfaces in the public realm, without a public process or public funding, does not constitute public art. Street artists throughout the world have produced incredible works that are undeniably artistic but the high public exposure or the longevity of such artworks does not, in itself, classify them as public art where there is no public process determining artist, theme, content, appearance, location, production, and/or maintenance. Graffiti without landowner consent is treated as an act of vandalism, and prosecuted under the Criminal Law (Consolidation) (Scotland) Act 1995.
- 6.6.7 Architectural detail, ornamentations, decoration or functional elements designed by architects, urban designers, landscape architects and interior design architects.

6.7 In submitting the application to the PAPA process, the developer/applicant should be aware of and satisfy the best practice principles which are set out more fully in the council's guidance within the Aberdeen Public Art Guidance and address specific artform requirements:

6.7.1 A description of the proposed public art project, including its main aims.

- The specific objectives which have been set.
- How the success of the project will be measured.
- The process for selecting and appointing the artist(s).
- How artists have been/will be involved in the commissioning process and delivery of the project.
- A description of the work that will be realised through the involvement of artist(s).
- A statement of how the project will have local benefit. This should refer to any consultation, research undertaken, or community involvement. This may include those areas that the proposed project will have a positive impact on.
- How the project will be managed and by whom.
- The programme for implementing the project including key stages and timescales.
- The risks associated with the implementation of the project and how they will be minimised.
- The anticipated life span of the completed work.
- A statement on the public safety aspects of the project in implementation and on completion.
- How the project will be maintained and by whom.
- The threats to the future survival of the artwork and how its future maintenance will be supported.
- A budget for the art project including its overall cost, a detailed breakdown of cost elements and the sums allocated for maintenance (if not a temporary work).
- Details of the ownership of the completed work.
- How the project will be recorded, and the artist's work archived.
- How the project will be publicised.

7. Status of the PAPA and Conflicts of Interest

7.1 It is recognised that there may be public art projects commissioned by Aberdeen City Council which will come under the PAPA process. In those circumstances Aberdeen City Council will nominate a project representative who will attend the PAPA meeting which will act as a steering group. Any decisions regarding the proposal remain the responsibility of the project representative who should ensure they are familiar and compliant with the requirements of the relevant Aberdeen City Council policies.

7.2 In PAPA meetings any person in attendance, apart from applicants, are required to declare any conflict of interest upon receipt of the meeting agenda, in these instances the Chair will review and identify a suitable replacement member(s) to participate in the review.

8. PAPA Record Keeping

8.1 Agreed documentation for agendas, attendance, minutes and letters will be used for each proposal reviewed and will be used by the PAPA process to ensure consistency of communication and record keeping.

9. Relevant legislation

- 9.1 Officers informing the PAPA, can when required, refer to the following legislation when considering applications:
- 9.2 Relevant legislation includes:
- 9.2.1 Health & Safety at Work etc. Act 1974 and associated legislation.
 - 9.2.2 The Town and County Planning Act (Scotland) 1997 (as amended).
 - 9.2.3 The Planning Listed Buildings and Conservation Areas (Scotland) Act 1997 (as amended).
 - 9.2.4 Occupiers Liability (Scotland) Act 1960.
 - 9.2.5 The Civic Government (Scotland) Act 1982, part V.
 - 9.2.6 The Road Traffic Regulations Act 1984 as amended by the Road Traffic (Temporary Restrictions) Act 1994 and the Road Traffic (Special Events) Act 1994.
 - 9.2.7 The Civic Government (Scotland) Act 1982, for public entertainment licences and the Licensing (Scotland) Act 1976 for occasional licences.
 - 9.2.8 Equality Act 2010.
 - 9.2.9 Data Protection Act 2018 and UK GDPR.
 - 9.2.10 Copyright, Designs & Patents Act 1988.
 - 9.2.11 Local Government in Scotland Act 2003, Section 20.