

**Funding Agreement between Colchester Borough Council and the
Mercury Theatre**

1.0 Introduction

- 1.1 Colchester's vibrant cultural sector is one of the Borough's unique selling points and something that Colchester Borough Council (CBC) aims to support and sustain, working with partners to align policy and funding to help deliver key social and economic outcomes through investment in the arts.
- 1.2 As Arts Council England (ACE) National Portfolio Organisations (NPOs) The Mercury Theatre, Colchester Arts Centre and Firstsite are key partners, together providing leadership, capacity, and innovative programmes of delivery that contribute to making Colchester a great place to live, learn, work and visit.
- 1.3 CBC provides core revenue grants to these organisations under the Strategic Arts Partner programme; to contribute to the delivery of the Council's Strategic Plan including the development of a new Cultural Strategy for Colchester; and to support Creative Colchester, a framework for enhancing the impact of the arts and creative industries on the local economy.
- 1.4 As part of the Council's commitment to transparency, quality and performance management systems, the organisations that receive CBC funding must set out clear objectives and provide performance and sector data so that the service provided through partnership working can be measured, evaluated and improved. This document defines the performance targets and monitoring process and confirms the funding amounts currently agreed.
- 1.5 It is acknowledged the impact of Covid 19 on cultural organisations continues into this funding period and will be reflected in the targets agreed.

2.0 Scope and Financial Arrangements

- 2.1 Between 1 April 2021 and 31 March 2022, the Council will fund the Mercury Theatre to the amount of £168,175. This is year two of a three year funding settlement agreed by Cabinet in line with budget strategy to support the core operations of the organisation, as set out in the business and operations plan and to meet the targets for performance set out in section 9 of this Agreement.
- 2.2 Upon signature of this Agreement, the Council will release the funding in quarterly instalments.
- 2.3 Any financial investment that the Council needs to make under its obligations as the owner of the theatre buildings is deemed to be outside of this agreement. However, any tenant responsibilities that the Mercury Theatre holds are considered to be within this agreement.

Colchester Borough Council strategic funding for arts organisations 2021/22

- 2.4 On signing this Agreement, the Mercury Theatre recognises that it is in receipt of public funding and accepts responsibility for showing proof of eligibility, meeting the targets for performance, and collecting qualitative and quantitative performance data to provide evidence of the service standards. The Theatre also agreed to provide available sector data to assist with monitoring and performance assessment.
- 2.5 Where appropriate and possible within current resources, Colchester Borough Council will provide non-financial support to the Mercury Theatre where it seeks to develop additional services that contribute towards meeting the Council's strategic priorities. If these additional services are developed to a point that requires additional funding, the Mercury Theatre may request such funding formally, and the Council may issue a separate funding agreement if applicable. If this circumstance arises, the services will be deemed to fall outside of this agreement.

3.0 Eligibility and Criteria for Acceptance

- 3.1 In order to be eligible for funding the Mercury Theatre must supply evidence to demonstrate that it is:
 - a. Properly constituted
 - b. Financially viable
 - c. Able to manage its work effectively, monitor and manage risk, and seek necessary professional financial, legal and insurance advice
 - d. Operating with effective policies and procedures in equal opportunities, health and safety, equality and diversity, access, and protection of children, young people and vulnerable adults.
 - e. Delivering on the current strategic priorities of the Council.

4.0 Performance monitoring framework

- 4.1 The Mercury Theatre must submit an up to date Business Plan and operations information to CBC, including a budget to cover the same period as the funding agreement and a copy of the audited accounts from 2020 -21 when available.
- 4.2 As a minimum throughout the term of the agreement, the Mercury Theatre must submit quarterly budget reports if required and invite a Council representative to observe Board meetings if appropriate. The organisation will also participate in an annual review meeting, as outlined below.
- 4.3 At the end of the agreement period, the organisation must provide audited accounts and submit performance data to evidence the organisation's turnover, audience and participation levels as well as contribution to the Council's strategic priorities.

5.0 Annual review process

- 5.1 A review meeting will take place between Colchester Borough Council and Mercury Theatre at least once during the period of the agreement. The

Colchester Borough Council strategic funding for arts organisations 2021/22

meetings shall be attended by the Portfolio Holder (PFH), relevant officer(s) of the Council and Executive staff of the Mercury Theatre.

- 5.2 The Portfolio Holder and Theatre Management may be asked to sit before a Scrutiny Panel to monitor performance and achievements. As such, the annual review process should be seen as an opportunity to ensure that the Portfolio Holder can evidence performance within their area of responsibility.

6.0 Acknowledgement of funding

- 6.1 The Mercury Theatre will acknowledge its financial assistance from CBC in all marketing and communication materials in print, electronic, broadcast and other formats.
- 6.2 The organisation is asked to specify particular steps that it will take within the period of this Agreement to promote the support that it receives from the Council in Section 9.

7.0 General conditions

- 7.1 The funding provided under this agreement may not be assigned to any other person, association or company other than in the course of delivering the Business Plan and agreed performance targets.
- 7.2 This agreement does not constitute the Mercury Theatre as an agent of the Council or otherwise make the Council liable to any person who may take proceedings against the Theatre.
- 7.3 The Council reserves the right to nominate annually a councillor to be a director on the Mercury Board.
- 7.4 Funds will be repayable in full to the Council in the event of any of the following:
- i. Misuse of payment received from the Council by Mercury Theatre
 - ii. A breach of the law by Mercury Theatre
 - iii. Petitioning the court for the appointment of an administrator
 - iv. Having a receiver appointed over all or any part of the Theatre's assets
 - v. Being the subject of a petition or resolution for the Mercury Theatre's 'winding up'
- 7.5 The Council should be consulted where any change or development in the direction of the organisation's affairs might affect this Agreement.

8.0 Breach in agreement

- 8.1 In the event of either the Council or the Mercury Theatre notifying the other in writing of a breach in this agreement, the parties shall meet to discuss the alleged breach within 21 days.
- 8.2 Both the Council and the Mercury Theatre agree that they have an equal responsibility to reach a practical and reasonable solution to the breach, but if

Colchester Borough Council strategic funding for arts organisations 2021/22

after 12 weeks a solution has not been agreed then the parties mutually agree to arbitration.

9.0 Specification of performance targets

- 9.1 The specification of performance targets is developed collaboratively between the Council and the Mercury Theatre. The information provided here substantiates the Council's decision to invest public funds and helps to strengthen the partnership delivery model.
- 9.2 The information is set out in line with the Strategic Plan to help to convey to Members, officers and partners how the Council's financial support is an effective and efficient way to deliver services to meet local identified needs.

9.3 Performance Overview

Please note targets have been adjusted to accommodate the new building opening during the year as follows:

26th June – Front of House and Bar/Café area

29th June – Creative Engagement and Community Programme commences

20th July – Performances commence (planned as non-socially distant at the time of writing)

Target	Outputs/Report
Annual target to put on 320 performances with 80,000 people attending.	
Annual target for non-ticketed performance visitors to the café bar – 20,000	
Collate and report audience feedback about the artistic programme with a minimum of 60% approval rating.	
Collate and report press feedback about the artistic programme.	
At least 60% local audience and 40% audience supporting tourism economy.	

9.4 Community and Audience Development

Target	Outputs/Report
Annual target of 600 community and education sessions with 12,000 participants	
Maintain rate of 7% of tickets sold to disabled people and carers.	

Colchester Borough Council strategic funding for arts organisations 2021/22

Maintain level of accessible performances for disabled and D/deaf people – 10 performances.	
Maintain methods of seeking audience and user feedback – 65 surveyed events per year.	

9.5. Governance and Management

Target	Outputs/Report
<p>Mercury Theatre Board of Directors to agree a new three-year business plan for the period 2022/23 and 2023 - 2026 to include:</p> <ul style="list-style-type: none"> • Activity Plan • Artistic Programme • Financial Projections • Cash Flow 	
<p>Mercury Board to review and update all policy statements to include:</p> <ul style="list-style-type: none"> • Equality and Diversity Strategy and action plan • Digital Plan • Audience Development Plan • Risk Management • Health and Safety • Sustainability and Environmental Strategy 	
Annual review all equality action plans and policies.	

9.6. Diversity and Access

Target	Outputs/Report
<p>Continue to encourage more diverse audiences and participants engage with the Mercury across all equality groups.</p> <p>Target: 3% of audiences</p>	
<p>Continue to ensure the Mercury recruits and attracts a diverse workforce.</p> <p>Target:</p>	

Colchester Borough Council strategic funding for arts organisations 2021/22

70% female 5% disabled 2% minority ethnic 5% lesbian and gay	
<p>Continue to attract those from lower income and modest income households, proactively engaging with those from disadvantaged backgrounds and deprived areas of Colchester.</p> <p>Target: 10% of users and audiences</p>	
<p>Maintain rate of 10% all tickets sold as concessions are for young people.</p>	
<p>Annual target of 600 community and education sessions with 12,000 participants</p>	
<p>Maintain Teachers Forums for Primary and Secondary Schools.</p> <p>Target: 40 members schools</p>	
<p>Continue to create opportunities for access to the arts particularly for children and young people. This includes community involvement in Mercury Company productions and an ongoing commitment to overall community activities.</p>	
<p>Maintain level of 145 young people enrolled in youth drama classes.</p>	
<p>Work with older people will continue during the period through senior matinees and other specific activities.</p>	

9.7 Job Creation, sector skills development and contribution to the local economy

Target	Outputs/Report
<p>Deliver 10 work experience placements during the year.</p>	
<p>Deliver 1 apprenticeship across all areas of the Mercury and 5 internships</p>	

Colchester Borough Council strategic funding for arts organisations 2021/22

Provide evidence and support for new and emerging regional talent and companies. Target: 60 participants	
Target and engage with 20 volunteers during the year.	
Assist CBC with other initiatives including: <ul style="list-style-type: none"> • Night-time economy • Local employment and skills • Development of creative and cultural industries • Marketing of Colchester as a visitor destination • Town Deal Programme 	

9.8 Action on Climate Change and Environmental Sustainability

Target	Outputs/Report
Review and implement new Sustainability and Environmental Policy and Action Plan.	
Collate and publish targets to reduce carbon footprint and provide evidence of improvement at regular intervals.	
Monitor the usage of green energy.	
Strengthen and grow partnership working through joint bids, cross programming and shared activity, including developing a big data approach to audience development across partners.	

9.9 How the organisation will promote the support that the Council provides during the period of the agreement

<p>The Mercury will continue to promote the support of the Council as follows:</p> <ul style="list-style-type: none"> • Partnerships - development of community, youth and educational partnerships • National and International Touring of Mercury Productions (formerly known as Made in Colchester) – ensure clear credit on all publicity and press

material promoting Colchester.

- **Regional and National Conferences and Events** – acknowledgement of support in materials and in person.
- **Brochures/Newsletters/Social Media/Website** – ensure clear funding credit and acknowledgement in partnership with Arts Council England
- **Press Conferences and Events (online and face to face)** – ensure credit on materials and in presentations.
- **Annual Civic Night** – annual event for Councillors and local VIP's to acknowledge the Council's support

9.10 How the organisation will meet the Colchester Borough Council Strategic Plan 2021-23 and other relevant local, regional or national strategies

The Mercury will proactively support the Council's Strategic Plan during the year as follows:

- Support the development and implementation of the new Cultural Strategy
- Continue to develop partnership working with the other NPO's and key arts, cultural and heritage organisations
- Work in partnership with the Colchester BID to promote the economic recovery of the town centre post Covid
- Work in partnership with the Council to promote tourism and the visitor economy
- Support the continued development of Creative Colchester
- Offer support to town-wide and specific community events (such as Castle Park, Christmas Lights Switch On)
- Continue to work in partnership with schools and other education providers (University of Essex and Colchester Institute) to provide formal and non-formal educational, learning, work experience and employment opportunities
- Work with local charities and the Job Centre to provide employment opportunities for local unemployed people
- Work in partnership with the Council to promote Climate Change and sustainability
- Work in partnership with the Council to ensure all our activities are accessible ensuring that marginalised communities and equality are at the centre of our work.
- Work in partnership with the Council to promote partnership working across the public, private and non-profit sectors.

Colchester Borough Council strategic funding for arts organisations 2021/22

11.0 Acceptance

- 11.1 Upon signing this agreement, the organisation agrees to the terms and conditions of funding and use reasonable endeavours to meet the performance targets and monitoring framework that have been outlined above.

On behalf of Mercury Theatre	Date	25/5/21
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Signed (Executive Director)

Signature redacted in compliance with GDPR 2016

Name Steve Mannix

On behalf of Mercury Theatre	Date	25/5/21
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Signed (Chair of the Board)

Signature redacted in compliance with GDPR 2016

Name Kathleen Hamilton

On behalf of Colchester Borough Council	Date	
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Signed (Portfolio Holder)

Name (please print)

On behalf of Colchester Borough Council	Date	
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Signed (Officer)

Name (please print)