

FINANCE MANAGERS MEETING

THURSDAY 17 NOVEMBER 2005, 10.30am – 4.00pm

BECHSTEIN ROOM, WIGMORE HALL

Chaired by Russell Jones *Director*, Association of British Orchestras



R E P O R T

Russell Jones, Association of British Orchestras welcomed everyone to the meeting and began the round room introductions. Apologies were given for Stephen Maddock, who was due to chair the meeting.

National Insurance

Russell updated the group with the latest situation. Russell and Michael Henson had met with David Lammy, Culture Minister, the week before. David now understood the issues and consequences and was working with Tessa Jowell towards a solution.

Alan Davey, *Deputy Permanent Secretary*, Department of Culture Media and Sport had also met with the Inland Revenue who were surprised that the orchestras were not paying Class 1 NIC.

The Association of British Orchestras has engaged Laurie Watt from Charles Russell solicitors to plan a route forward. Laurie will look at a mechanism to rewrite the contracts and the definition of salary.

The Association of British Orchestras has also engaged Richard Jukes, Political Lobbyist to act on their behalf. It was essential to collate all the figures before presenting the case to the Treasury.

Jenny Hope, Royal Scottish National Orchestra raised the issue of 8% holiday pay being issued several years ago and questioned whether this counted musicians as employees.

Russell Jones, Association of British Orchestras informed the group that advice had been taken from Charles Russell and that the European Union directive was that payment made to 'workers' regardless of whether they are freelance or permanent staff.

Richard Huxtable, Royal Philharmonic Orchestra did not agree with the route taken in regards to freelancers being classed as 'workers'. He stated that this was a very grey area.

ACTION: *All members to ask auditors what they know about this situation*

There continued further discussion regarding the National Insurance issue.

ACTION: *ABO to consult with Charles Russell about Artists contracts post April 2006 i.e. conductors/soloists.*

ACTION: *ABO to send out advice regarding wording in contracts and the list of 'do nots'.*

ACTION: *ALL to ask auditors for advice regarding putting contingency/ongoing liability in the End of Year accounts.*

ABO Conference

The advertisement for the conference was in the current issue of Classical Music Magazine. All conference sessions would take place in The Sage. There would be three themes to the conference :

- Healthy – in conjunction with the Musicians Benevolent Fund, to address the health issues for players

and administrative staff. A ten point Charter would be launched relating to sickness/environment/touring issues.

- Engaging – one session to include Marc Jaffrey, Music Manifesto champion. Will include discussion on the relevant orchestra and why orchestras engage in education work.
- Live – sessions to discuss new music and concert presentation. The Listen Up!2006 festival will be launched and a prize of £5000 given to the winner of the concert presentation challenge.

There would also be a 'in conversation with' session with Sir Peter Maxwell Davis and Andrew Motion, hosted by John Evans.

Listen Up! 2006

This year the themes would be concert presentation and the performance of a living British composer. The Musicians on Call project is also planned to be repeated, following it's success in 2004. Sir Peter Maxwell Davies had been commissioned to write a Listen Up fanfare.

VAT

Andrew Minns, Bournemouth Symphony Orchestra updated the meeting with the information that the High Court Appeal had been rejected. There would now continue a hearing at the Court of Appeal.

The issue is that the Bournemouth Symphony Orchestra does not meet the partial culture exemption on VAT because the Chief Executive is salaried and sits on the board. The judge has stated that the BSO was not 'essentially voluntary' as salary is a financial interest.

Contracts and Insurance

Sean Egan, Head of Arts & Media - *Bates Wells & Braithwaite Solicitor*
s.egan@bateswells.co.uk

Sean spoke to the group about what you can insure against and how policy wording was often difficult to decipher. He also stated that Insurance policies do change over time.

Sean explained where 'force majeure' originated from, dating back to Edward VII's coronation. This is included in a contract to allocate risk. This clause should be stated in a contract between an orchestra and a venue. If a venue is responsible for providing the venue then it must be covered for loss. There was also some debate regarding box office split and the difficulty of proving loss. It was also necessary to have a cancellation clause with the venue to divide the risk.

Alison White, Spitalfields Festival, stated that insurance can cover postponement but not cancellation. This was used by the City of London Festival on July 7th, as the concert was re-scheduled two weeks later. The insurance company covered the cost of moving the date of the concert.

Ivan Rockey, Brighton Philharmonic Orchestra asked whether cancellation due to epidemic was covered in 'force majeure'. Sean stated that it was, but a statement would be required from the High Commission.

Les McConachie, Scottish Chamber Orchestra was interested to know if orchestras have to insurance all players instruments.

Sean stated that freelance musicians should insure their own instruments.

Sean also stated that Trustee Indemnity Insurance, for trustees of a charity, had never had a successful claim.

AOB

None

Date of next meeting: Wednesday 10 May 2006