Summer 2014

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ARTS & CULTURE BRIEFING

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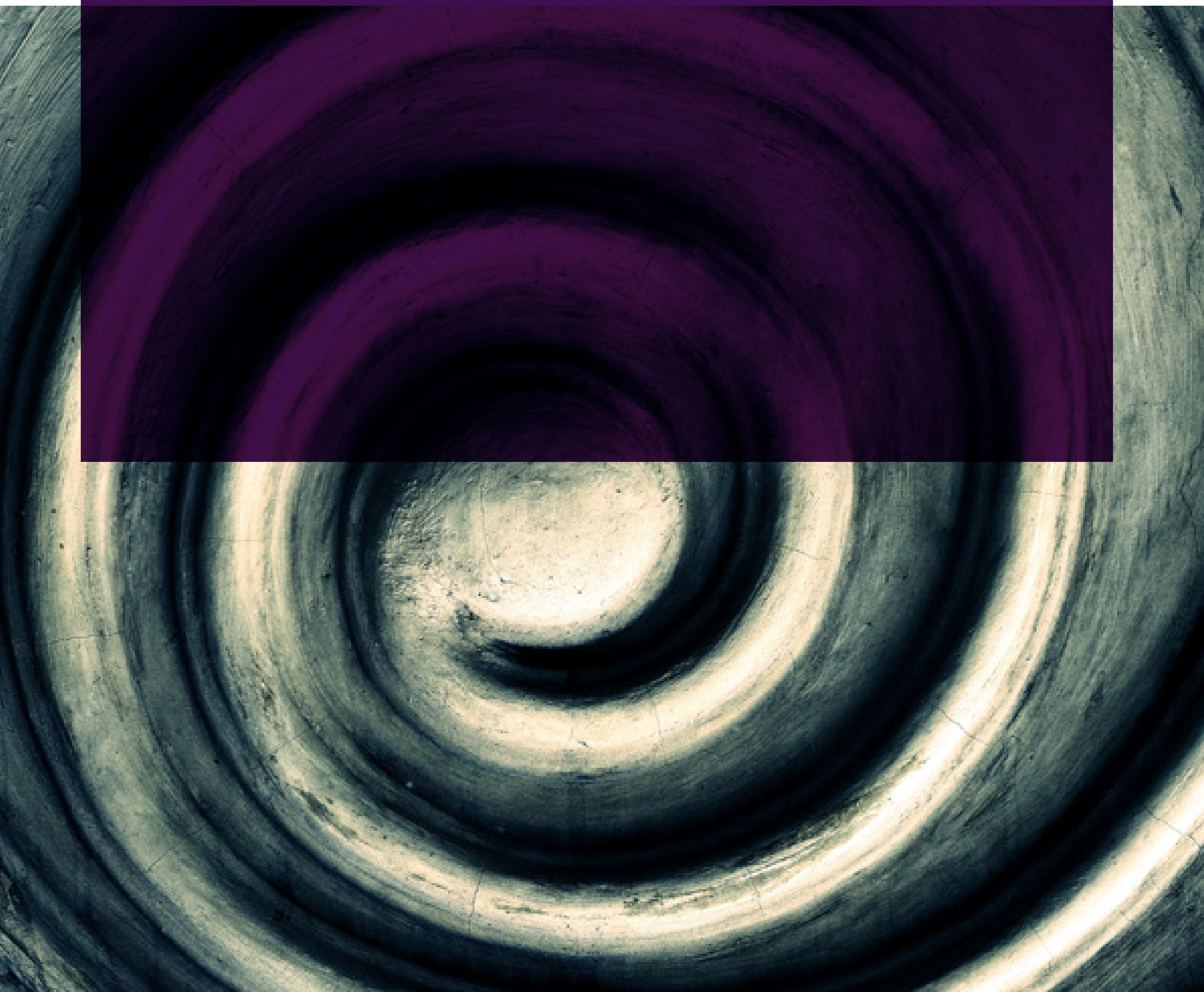

Letter from the editor | Arts Council funding | Rambert on the South Bank: challenges in capital and revenue funding | Theatre Tax Relief | The impact of the new SORP for arts and culture organisations

LETTER FROM THE EDITOR

As part of our drive to ensure that we meet the needs of our core client base, we welcome you all to the first edition of the Arts and Culture briefing, which we hope you find informative and a useful point of reference for your organisation.

As a firm dedicated to the charity sector, we have decided to focus our attention on key sub sectors and Arts and Culture is an area that we have been involved in for many years. We are proud of our client base and continue to work to ensure that we offer relevant and specialist advice, not only in terms of audit and compliance services, but also other value added areas such as governance, structure and IT.

In this first edition, we comment on the recent Arts Council funding announcements for National Portfolio Organisation's, which came as no particular shock to the sector. We just hope that any future in-year cuts are kept to an absolute minimum in order for you all to plan effectively.

We supplement this with an introductory comment on the new Theatre Tax Relief legislation, which is bound to be of interest to many of you. Whilst the implementation of the legislation still requires further work, there is a cautionary note to readers. The legislation is drafted on the basis that those who will receive the relief are companies, and so it would appear initially, that those of you with charitable status should be mindful of the restrictive use that may be made of this relief, or the need to have a revised structure in order to benefit from it.

It will also be interesting to see the progress of this legislation and the Arts Council's response. One of the key objectives of Arts Council funding is to enable organisations to explore the boundaries of the arts and culture sector, to ensure that it is not only the popular or commercially viable programmes that are pursued. The provision of a tax relief for productions to cover a potential gap in 'profitability' would, at first sight, appear similar. One wonders therefore whether the legislation was drafted for commercial theatres and charitable organisations were not considered in its original drafting.

There are other legal complications with its application to charitable bodies with trading subsidiaries, not least how you fund a trading company which expects to make a loss making production as the relief is available only on completion of the tax return, so the entity will need funding until such time that the tax relief is received and HM Revenue and Customs frown upon charities using charitable funds to support commercial ventures unless certain terms and conditions are in place. Trading companies of charities are only advisable where they are profit making. This relief is therefore not quite as attractive as first thought.

We also include a guest article from Rambert who have recently moved to their new home on the South Bank. This has been a very successful move, and the article focuses on the challenges that were faced in continuing to run an organisation and attract funding for its continuing operations whilst at the same time attract capital revenues for the build and move. We are grateful to Zoe Crick, Development Director at Rambert, for her insights.

Finally, we look at the recently published Charity SORP. Whilst a lot has been written about the new SORP, in practice the changes are largely cosmetic. We do however draw readers attention to those areas which we feel will impact on Arts and Culture charities the most, and in particular the enhanced disclosures for going concern, which will no doubt attract interest in the run up to the next Arts Council funding round.

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If you have any queries regarding articles in this edition or require assistance in other areas, VAT and employment tax most notably, you can contact one of our specialist Arts and Culture advisers. Our team and their contact details are listed below:

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ARTS COUNCIL FUNDING

On 1 July 2014, arts organisations heard whether their wishes had been fulfilled or dashed when Arts Council England (ACE) announced its funding plans for the three years from April 2015 to March 2018.

The key points were:

- Overall funding was largely maintained at £340m a year
- The number of National Portfolio Organisations (NPO) has reduced from 703 to 670 with 46 new organisations and 58 leaving
- There is a slight increase in funding for organisations outside London from 51.3% in 2012-15 to 52.7% in 2015-18
- The number of Major Partner Museums has increased from 16 to 21. Of these, 19 are outside London

Behind the headline figures were the individual stories. The Royal Opera House, Southbank, National Theatre, English National Opera and Royal Shakespeare Company remained the largest funded organisations but their grants were cut 7% in total to support smaller organisations.

While ACE emphasised the increasing proportion of funds to be distributed outside London, there has not been a significant rebalancing. The percentage of organisations funded has actually fallen as a percentage and, of the 58 organisations which lost funding, 43 were outside the capital. However, funding for non-London organisations is projected to increase 2.5%.

In addition to National Portfolio funding, £70m per year for the three year period has been committed to grants for the arts, up from £63m but strategic funds have fallen from £153m in 2014-15 to £104m.

Strategic funds will be used to target specific areas under the banner "Great art and culture for everyone". These will focus on artistic excellence, inclusivity, organisational resilience/ environmental sustainability, leadership skills and staff diversity and providing opportunities for children and young persons.

Grants for the arts, which are lottery funded, are project driven and aimed at finding and nurturing fresh talent and supporting individual artists, communities and cultural organisations.

One of the other features of note is the fall in central government grant in aid funding for the arts, which will have shrunk from £453m in 2010 to £270m from 2015. This has been more than offset by National Lottery funding which has been steadily increasing. Originally, the intention was the principle of "additionality" whereby lottery funding went towards non-core activities. In practice, this appears to be changing. In 2015-18, £70m of lottery funding is being used to fund National Portfolio Organisations, up from £29m.

Looking forward, it is likely that government funding of the arts will continue to be under pressure, especially after the General Election in May 2015. Organisations which were unsuccessful in their NPO applications are already in the brave new world of having to search for funds in an increasingly competitive funding environment. Those who were successful have earned a breathing space but know that the search for alternative sources of funds has only been postponed.

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RAMBERT ON THE SOUTH BANK: CHALLENGES IN CAPITAL & REVENUE FUNDRAISING

INTRODUCTION

Rambert is Britain's national dance company. We employ 22 world-class dancers full-time, and tour to cities across the UK and internationally for eight months of the year, reaching audiences of around 50,000. Each year Rambert also works with thousands of children, young people and adults, delivering a range of activities that engage people in contemporary dance and the work of the Company.

In November 2013 Rambert moved into a brand new, purpose-built home on London's South Bank. This state-of-the-art building was designed especially for Rambert by award-winning architects Allies & Morrison, and has won a RIBA London and RIBA National award. In March 2014 it was officially opened by Her Majesty The Queen accompanied by His Royal Highness The Duke of Edinburgh.

THE CAPITAL CAMPAIGN

We launched the fundraising appeal for our new building; which had a target of £19.6m to include the gift of land, in 2009. These were inauspicious times: the City was reeling from the shock collapse of Northern Rock and Lehman Brothers; there was no public funding available for capital projects; delays in the building project timeline had been frequent, and fundraising was only just emerging as an established income stream for the Company. The most immediate challenge, therefore, was to give confidence that the goal was attainable.

A strong CEO had been appointed with solid capital project management experience, together with a Board made up of senior volunteers with highly creditable experience from the property, finance and business sectors. This was a committed, driven team, determined to see the Company succeed, and all members of the Board either 'gave or got' throughout the life of the capital campaign. Setting in place best practice with the Board at this stage also proved invaluable when it came to making further financial asks in support of core activity, once the Company had moved.

One of the biggest issues with any capital fundraising appeal is deciding when to start fundraising. Although it may seem exciting to capitalise on momentum and announce publicly as soon as the intention is set, an announcement too early can lead to confusing messages with donors and prospects, an appearance of stagnation and difficulty with staff motivation.

We counteracted some of these potential hazards by introducing the 'Campaign for Rambert' as a mechanism to talk about fundraising needs as a whole. With this approach we made dual asks as appropriate. Some success was achieved with this and some philanthropic trusts opened up pathways for future funding once we were settled in the new building. Where trusts and foundations were open to receiving applications for either capital or revenue and needed a specific project, we established the area of greatest need at that given time and/or which was the strongest case, therefore most likely to get funded. This approach certainly has kept us in close contact with some of the biggest trust funders supporting the arts and our reputation is robust.

With fundraising from individuals, our approach was two-fold. For people with the means to support at a higher level, we created a pool of individuals who would commit annually to our Artistic Director's Circle membership at £1,000 and consider making an exceptional gift in support of the building at £5,000 or above. A gift at £5,000 enabled donors to 'name a year' of Rambert's history, beautifully realised with a sculptural oak column designed by Gary Breeze, in our foyer. This was a successful campaign with 90% of the years 'sold'; the remaining are available for donors making a revenue gift now at the same level.

© Photo by Nick Guttridge

The second challenge with fundraising from individuals came with the public appeal and devising accessible and meaningful ways for exceptional gifts to be made at lower levels. Our target group for this was, as a general rule, individuals who were cash-poor and enthusiasm-rich: audience members, alumni, existing donors at £50-£500 level and Rambert friends and family. We devised a range of options from supporting ballet barres, mirrors and flooring to naming a dancer's locker or a bleacher seat in the main studio.

Moving to brand new premises also gave the whole Company an impetus to have a massive clear out which uncovered photoboards and old posters no longer required for marketing or archive purposes. Immediately these became a valuable fundraising asset, presenting an inviting opportunity for individuals across the board to engage with the Company and our rich legacy, at the same time supporting the capital appeal with something tangible above and beyond a membership scheme. Selling these little pieces of Rambert history was perhaps our most successful smaller campaign.

It gave licence for more engaging social media interaction and brought interesting individuals into our mix for ongoing cultivation.

SUMMARY

The capital fundraising target was successfully achieved in June 2013, ahead of timeline projections and before completion of the building project. In addition, revenue income targets for the duration of the capital appeal were maintained and in the final year, 2013/14, exceeded: our best fundraising year to-date. Challenges remain in converting supporters from capital to revenue donors. However, our new home is an amazing asset to show off, and has become an even greater fundraising tool than we ever imagined.

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Photography by Nick Guttridge http://www.nickguttridge.co.uk/

THEATRE TAX RELIEF

Initially announced in the Autumn Statement last year, Finance Act 2014 confirmed the introduction of a new tax relief for theatre production. The relief will be available from September 2014, and will "recognise the unique cultural value that the theatre sector brings to the whole of the UK". The relief will adopt a similar model to film tax relief, with relief at 25% for touring productions and 20% for other productions. Relief will be available as a "super deduction" for tax purposes or as a payable tax credit. To qualify, the business must be incorporated (subject to Corporation Tax), and engaged in theatre production. It is likely therefore that charities/those in the subsidised sector, will have to incorporate a trading subsidiary in order to benefit from the relief. Further guidance is expected from HM Revenue and Customs (HMRC) in September.

QUALIFYING CORE EXPENDITURE

Only expenditure directly incurred in theatre production will qualify for relief, as follows:

- Expenditure must be directly incurred in theatre production and integral to the production process;
- 25% of the expenditure must be incurred in the EEA (there is no requirement for the performances to take place in the UK or EEA);
- Indirect expenditure, such as marketing, entertaining or financing will not be eligible;
- Speculative development costs and ongoing running costs (rent, salaries, crew fees etc.) will not be eligible; and
- Production costs such as script fees, casting and rehearsal costs, sets, costumes and visual/sounds effects, will be eligible.

RELIEF

In order to qualify for relief, the company must, at the beginning of the production phase, intend that all, or a high proportion, of the proposed live performances will be to paying members of the general public or provided for educational purposes.

- Relief will be available on 80% of qualifying core expenditure, as defined above;
- Relief will be available as "super deduction" for Corporation Tax purposes, or as a payable tax credit;
- Claims for the relief will be made in a company's Corporation Tax Return; and
- Each production will be treated as a separate trade and for co-productions, only one company can claim this relief.

AN EXAMPLE

A touring production has eligible costs of £500,000, including sets, costumes, rehearsal, script, cast and crew pre first performance. A claim for payment of £100,000 can be made to HMRC: 25% x (80% x £500,000) = £100,000.

THE SUBSIDISED/CHARITABLE SECTOR

As stated above, it is intended that charities/those in the subsidised sector, will have to incorporate a trading subsidiary in order to benefit from the relief. Trading subsidiaries are of course common in the charitable sector, but the funding of such subsidiaries is regulated by charities law. It may not be possible to set up and fund a new subsidiary company for the purpose of benefiting from this tax relief.

Ideally, a mechanism which allows charities to claim the tax relief direct should be introduced, but recognising that this would require significant change to the proposals, we await HMRC's guidance for further details on how the relief will be implemented in this sector.

Please contact Katharine Arthur, to discuss the new relief in more detail.

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THE IMPACT OF THE NEW SORP
FOR ARTS & CULTURE ORGANISATIONS

The new Charity Statement of Recommended Practice (SORP), which interprets the revised accounting standards under FRS 102, has finally been issued. A full version of the SORP is available for download from the Charity Commission website at www.charitycommission.gov.uk.

The new SORP will apply to accounting periods commencing on or after 1 January 2015. In practice, this means that, for the majority of Arts and Culture organisations, which tend to have March year ends, the first period of accounts affected will be 31 March 2016.

This might appear to be faraway but, on implementation, you might have to amend the comparative figures i.e. the figures for the year to 31 March 2015. If amendments affect key balance sheet items, you could potentially have to amend the opening balances of the comparative period i.e. the year to 31 March 2014.

Whilst the current version of the SORP was a revelation in terms of disclosures and analysis of financial results, the new SORP has not been that revolutionary in comparison. To assist Arts and Culture charities wade through the 195 page document, we highlight below the most significant areas to consider.

REVISED SOFA HEADINGS:

The new headings (see appendix 1) have been introduced to clarify the presentation of the Statement of Financial Activities (SoFA). Whilst SORP 2005 headings were somewhat confusing, especially to the lay reader of charity accounts, it is hoped that by making the terminology simple it will aid understanding and comparability. The diagram on page 7 highlights the changes in layout and format.

Memberships

One of the key distinctions that have been drawn out by the new SORP will affect membership organisations. Membership subscriptions that are akin to a donation should be treated as Donations and Legacies, whereas memberships where the member receives benefits akin to purchasing goods or services will be categorised as Income from other trading activities. For example, friends' schemes attract benefits, and it could be argued by being a member you become entitled to these benefits. However, in practice you pay the subscription as a 'donation' to the charity and so it will normally be recognised as a Donation or Legacy. But this could be an area of contention.

Fundraising costs

You will note from the diagram on page 7 that expenditure on raising funds has subsumed the previous headings of investment management costs and fundraising trading. Whilst this will make the disclosure easier, many organisations, given the varied nature of their fundraising operations, may well wish to expand the disclosure to make it clear to the reader the make-up of the total figure. Fundraising teams, trustees and indeed donors often place great emphasis on these numbers and increased transparency in this area is likely to be popular.

Governance costs

There are no surprises here in the final version of the SORP. Governance costs are now to be allocated across charitable activity headings in the same way as support costs under the current SORP, with analysis in the notes to the accounts. So varied were the component parts of governance costs between charities that it became a meaningless figure. This is a welcome change.

Gains and losses on investments

For those charities with investment assets, the revaluation of those assets at the year end has traditionally been a 'below the line' item. The new SORP requires these revaluation gains and losses to be reported as part of operational income and expenditure within the SOFA. Whilst this may look cosmetic, it will require careful drafting of the Trustees' Report as major swings in the financial markets will cause large swings in operational results. It will be important to ensure that the readers of the accounts understand the underlying operational performance of the charity and that this could also impact you if you have covenants to report on each year.

Analysis of comparative figures

The new SORP requires comparatives to be given for each column in the SoFA. Where charities have a mix of unrestricted, restricted and endowed funds, this could lead to a cluttered SoFA page. The guidance does allow this analysis to be provided within the notes to the accounts. In practice we believe this could be achieved through a properly structured funds note.

ACCOUNTING POLICIES

The key changes for accounting policies relating to Arts and Culture charities are:

Income recognition

The criterion for income recognition has been changed from 'virtually certain' to 'probably'. This may sound semantic, but in practice it could well result in legacies in particular being recognised as income earlier than they would be under the current rules. It also introduces a 'portfolio approach' for legacy income where an organisation receives a large number of small value legacies. Although, in this sector our experience is that legacies tend to be sizeable amounts and therefore is unlikely to be applicable.

Liability for staff costs

The new SORP has introduced a policy of staff liabilities. You will be required to estimate the value of unpaid annual leave and sick leave. If you have a coterminous year end, it is unlikely to have a material effect unless you allow carry-over of holidays. Those who have a non-coterminous year end will have to compare the entitlement to holiday for all staff to that actually taken at the year-end date. These should be valued with reference to individual staff salaries. Any liability will then need to be recognised in the accounts. This is a potential area where a prior year adjustment of the balances as at 31 March 2014 will be required if the amount is material to the accounts.

OTHER DISCLOSURES

Within the notes to the accounts the major changes are:

Related party disclosures and employee benefits

There are enhanced disclosures in the area of related party transactions to explain more fully the nature and authority of transactions. For employee benefits, the SORP has adopted the recommendation of the NCVO report on executive pay to disclose more information on the nature and value of benefits paid to staff, although thankfully it has not mandated the disclosure of individual names, salary and benefits packages of senior executives. It does, however, suggest that charities may make such disclosures.

In addition, larger charities (those over £500,000 income) will need to disclose the arrangements for setting the pay and remuneration of management personnel.

Going concern

One of the key changes affecting arts organisations, particularly those which are reliant upon Arts Council funding, will be the additional disclosures on going concern. The new SORP requires disclosure of any material uncertainties facing a charity and its subsidiaries when assessing whether it is a going concern. Larger charities with income over £500,000 will also need to provide a summary of the proposed actions for managing, mitigating and transferring those risks. This will be particularly relevant in the run up to new funding announcements by the Arts Council. As we have just seen, there are winners and losers in the distribution of Arts Council funding, and this is a key uncertainty that will need to be disclosed prior to new funding announcements.

Whilst there are other changes introduced by the new SORP, there is not space here for a detailed analysis. A more detailed breakdown of the changes can be found at www.charitysorp.org. Each charity is likely to be affected differently by the new SORP depending on how it is funded and its accounting treatments. We will be contacting our clients to provide tailored advice on the impact to ensure compliance with the new SORP.

If you require further information on how the new SORP will impact on your organisation, do get in touch.

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APPENDIX 1

2005 SORP (SoFA extract)	FRSSE SORP (SoFA extract)	FRS 102 (SoFA extract)
Voluntary income	Donations and legacies	Donations and legacies
Activities for generating funds	Other trading activities	Other trading activities
Investment income	Income from investments	Income from investments
Incoming resources from charitable activities	Income from charitable activities	Income from charitable activities
Other incoming resources	Other income	Other income
Total incoming resources	Total income and endowments	Total income and endowments
Costs of generating voluntary income	Expenditure on raising funds	Expenditure on raising funds
Fundraising trading: cost of goods sold and other costs		
Investment management costs		
Resources expended on charitable activities	Expenditure on charitable activities	Expenditure on charitable activities
Governance costs		
Other resources expended	Other expenditure	Other expenditure
		Net gains/(losses) on investments
Net incoming/outgoing resources before transfers	Net income/(expenditure)	Net income/(expenditure)
Gross transfers between funds	Transfers between funds	Transfer between funds
Gains on revaluation of fixed assets for charity's own use	Gains on revaluation of fixed assets	Gains of revaluation of fixed assets
Gains/losses on investment assets	Gains/(losses) on investment assets	
Actuarial gains/losses on define benefit pension schemes	Actuarial gains/(losses) on define benefit pension schemes	Actuarial gains/(losses) on defined benefit pension schemes
		Other gains/(losses)
Net movement in funds	Net movement in funds	Net movement in funds

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Future events

Technical update on tax, financial governance and SORP for Charities and Schools	9 September 2014
Financial Governance and SORP seminar	18 September 2014
Financial Governance and SORP seminar	24 September 2014
haysmacintyre VAT Exchange	1 October 2014
International Charities - joint seminar with NatWest	19 November 2014
Training courses for charity trustees 2014/2015	Multiple dates available on our website
Network of Women Chairs	Multiple dates available on our website

For further information on these events please visit www.haysmacintyre.com/events or contact Charlotte Gibbons on 020 7969 5521, cgibbons@haysmacintyre.com

Should you wish to receive an electronic version of our briefing going forward please email Charlotte Gibbons on cgibbons@haysmacintyre.com

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