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# **The Official Custodian for Charities**

**Annual Accounts  
2011-12**

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# The Official Custodian for Charities

## Annual Accounts 2011-12

(For the year ended 31 March 2012)

Accounts presented to the Parliament pursuant to Section 21(5) and sch. 2  
paragraph 7 of the Charities Act 2011

*Ordered by the House of Commons to be printed on 4 July 2012*

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ISBN 9780102980172

Printed in the UK by The Stationery Office Limited

on behalf of the Controller of Her Majesty's Stationery Office

ID P002490475 06/12

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## Foreword to Accounts

### Introduction

This publication presents the Annual Accounts for the Official Custodian for Charities (the Official Custodian) for the year ended 31 March 2012. The *Receipts and Payments Account* records the cash inflows and outflows for the year 1 April 2011 to 31 March 2012. It also shows the total funds of the Official Custodian as at 31 March 2012. The *Notes to the Accounts* explain the basis on which transactions are recorded and provides further analysis of the disclosures in the Receipts and Payments Account. Further notes have been included to provide greater clarity.

### The Official Custodian

By virtue of schedule 2 of the Charities Act 2011, the Official Custodian is a corporation whose sole function is to act as a custodian trustee for charities in respect of land or other property vested in the Official Custodian by an Order of the Court or the Charity Commission.

The Charity Commission designates one of its officers to be the Official Custodian, under section 2(2) of the Charities Act 1993, (now section 21(3) of the Charities Act 2011). Up until 30 November 2011, that officer was Sharon Martin. The Board of the Charity Commission approved the appointment of Alex Maddocks as Official Custodian with effect from 1 December 2011.

### The Role and Powers of the Official Custodian

Under section 91(1), (b) of the Charities Act 2011, the Official Custodian has the same powers, duties and liabilities as a custodian trustee appointed under section 4 of the Public Trustee Act 1906, except that s/he has no power to charge fees for his/her statutory services.

The responsibility for managing charity property held in the name of the Official Custodian remains wholly with the managing trustees of the charity. The Official Custodian cannot exercise any powers of management. Although section 4 of the Public Trustee Act 1906 determines that all sums payable to or out of the income or capital of the trust property shall be paid to or by the custodian trustee, in practice, and within the provisions of section 4, the Official Custodian allows dividends and other income derived from the trust property to be paid to the managing trustees.

Land and interests in land may be vested in the Official Custodian under section 90 of the Charities Act 2011. The primary advantage of vesting land in the name of the Official Custodian is that there is no further need for new deeds to be made when the trustees of the charity change. The Official Custodian cannot take part in managing land vested in him/her. For example, the Official Custodian has no power to enter into lease agreements or pay taxes in respect of the property. Charity trustees keep all the powers and duties of management, and will account for the land and buildings in their own financial statements.

The only charity property, other than land, to be held by the Official Custodian is that which has been transferred to him by an Order of the Court or the Commission for the protection of the charity under section 76 of the Charities Act 2011. The primary aim of the Official Custodian, in respect of property entrusted to him/her for its protection, is to safeguard that property until authorised to arrange its transfer to the managing trustees of the charity or their appointed representatives. When in the form of cash, it is either held in a current account at a bank or, for more significant sums, for a longer period in a deposit account. When in the form of securities, the Official Custodian may sell any investments only on the instructions of the trustees or their appointed representatives. Where necessary, s/he uses stockbrokers for this purpose. A webpage on the roles and responsibilities of the Official Custodian can be viewed on the Commission's website [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk).

The Chief Executive of the Charity Commission, as its senior full-time official, carries the responsibilities of Accounting Officer. He has overall responsibility for public funds in respect of all functions performed by officers of the Charity Commission, including the Official Custodian.

Alex Maddocks  
Official Custodian for Charities  
xxJune 2012

## **Statement of the Official Custodian for Charities' Responsibilities**

Under sch. 2(5) of the Charities Act 2011, the Official Custodian for Charities (the Official Custodian) is required to prepare a statement of accounts for each financial year. The financial statements are prepared on a cash basis and must properly present the receipts and payments for the financial year and the balances held at the end of the year. In preparing the financial statements, the Official Custodian is required to apply, on a consistent basis, any relevant accounting guidance given from time to time by HM Treasury.

The Official Custodian is responsible for the keeping of proper accounts. S/he must ensure that proper financial procedures are followed and that accounting records are maintained in the form prescribed, and all assets for which s/he is responsible are safeguarded. These responsibilities are established by a direction to the Official Custodian regarding her accounting responsibilities, issued by the Charity Commission (the Commission) under section 21(4), sch.2(2) of the Charities Act 2011.

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**THE CERTIFICATE AND REPORT OF THE COMPTROLLER AND AUDITOR GENERAL TO THE HOUSES OF PARLIAMENT**

I certify that I have audited the financial statements of the Official Custodian for Charities for the year ended 31 March 2012 under the Charities Act 2011. The financial statements comprise: the Receipts and Payments Account, the Statement of Balances and the related notes. These financial statements have been prepared under the accounting policies set out within them.

**Respective responsibilities of the Official Custodian for Charities and auditor**

As explained more fully in the Statement of the Official Custodian for Charities' Responsibilities, the Official Custodian for Charities is responsible for the preparation of the financial statements in accordance with the Charities Act 2011 and HM Treasury directions made thereunder. My responsibility is to audit, certify and report on the financial statements in accordance with the Charities Act 2011. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

**Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the circumstances of the Official Custodian of Charities and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Official Custodian of Charities; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Foreword to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the receipts and payments recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

**Opinion on regularity**

In my opinion, in all material respects the receipts and payments recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

**Opinion on financial statements**

In my opinion:

- the financial statements properly present the receipts and payments of the Official Custodian for Charities for the year ended 31 March 2012; and
- the financial statements have been properly prepared in accordance with the Charities Act 2011 and HM Treasury directions issued thereunder.

**Opinion on other matters**

In my opinion the information given in the Foreword for the financial year for which the financial statements are prepared is consistent with the financial statements.

**Matters on which I report by exception**

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records; or
- I have not received all of the information and explanations I require for my audit.

**Report**

I have no observations to make on these financial statements.

**Amyas C E Morse**  
**Comptroller and Auditor General**

**Date 28 June 2012**

National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

## Receipts and Payments Account and Statement of Balances for the year ended 31 March 2012

### Receipts and Payments Account for the year ended 31 March 2012

				2011-12			2010-11
				Specific Funds	General Funds	Total Funds	Total Funds
				£	£	£	£
<b>Receipts</b>							
From charities		(Note 3)	0	30	30	0	
From charities for protection			0	0	0	0	
From investments (interest)			1	0	1	2	
<b>Total Receipts</b>			<b>1</b>	<b>30</b>	<b>31</b>	<b>2</b>	
<b>Payments</b>							
Remittances made: Capital		(Note 3)	0	(30)	(30)	(21)	
	Interest		0	0	0	(12)	
<b>Total Payments</b>			<b>0</b>	<b>(30)</b>	<b>(30)</b>	<b>(33)</b>	
<b>Excess (shortfall) of receipts over payments for the financial year</b>			<b>1</b>	<b>0</b>	<b>1</b>	<b>(31)</b>	

### Statement of Balances as at 31 March 2012

				2011-12			2010-11
				Specific Funds	General Funds	Total Funds	Total Funds
				£	£	£	£
<b>Balance as at 1 April 2011</b>			<b>2,648</b>	<b>717</b>	<b>3,365</b>	<b>3,396</b>	
<b>Balance as at 31 March 2012</b>		(Note 4)	<b>2,649</b>	<b>717</b>	<b>3,366</b>	<b>3,365</b>	

The Notes on pages 8 and 9 form part of these accounts.

Alex Maddocks  
The Official Custodian for Charities  
19 June 2012

## Notes to the Accounts

### Note 1: Basis of preparation

The Accounts have been prepared on a receipts and payments basis, in accordance with schedule 2 of the Charities Act 2011. Income and expenditure is recognised in the Receipts and Payments Account at the point when the cash inflows and outflows occur.

### Note 2: Accounting policies

The Official Custodian has no funds of his/her own. Funds retained by the Official Custodian to meet residual liabilities ultimately belong to HM Treasury's Consolidated Fund.

Since the 11th December 1992, the Official Custodian has been divesting him/herself of investments and cash as directed by the Charity Commission under section 2 of the Charities Act 2011.

### Note 3: Receipts and Payments

The Charity Commission bears the full cost of the Custodian function (see Note 7). During the year, an amount of £30 was received from the Charity Commission to reimburse a payment of £30 (2010/11: nil) charged by the Custodian's bankers for audit letter fees. These linked transactions are therefore recorded as both a receipt and a payment within the Accounts.

### Note 4: Funds held

The funds held at bank are as follows:

	31 March 2012			31 March 2011
	Specific funds Note (a)	General funds Note (b)	Total funds	Total funds
	£	£	£	£
Deposit account balances	2,649	645	3,366	3,325
Current account balance	0	72	0	40
<b>Total funds</b>	<b>2,649</b>	<b>717</b>	<b>3,366</b>	<b>3,365</b>

#### (a) Specific Funds

- In August 2005, an amount of £1,400 was received in respect of £40,000 6.5% Convertible Unsecured Loan Stock 2000/2005 issued by Staflex International Limited (in compulsory liquidation). The money has been placed in an interest bearing deposit account in the name of the Official Custodian and now amounts to £1,524. The identity of the charity that owns the Loan Stock is as yet unknown.
- In September 2004, an amount of £997 was received in respect of £18,300 11.5% Convertible Unsecured Loan Stock 1998 issued by Espley Trust plc (in compulsory liquidation). The money has been placed in an interest bearing deposit account in the name of the Official Custodian and now amounts to £1,125. The identity of the charity that owns the Loan Stock is as yet unknown.

(b) Funds are held by the Official Custodian as follows:

- £72 in a current account; and
- £645 in an interest bearing deposit account including interest earned.

The Official Custodian did not hold any funds on protection in 2011-12 (£nil in 2010-11)

**Note 5: Property protected**

The following property is vested in the Official Custodian by an Order of the Charity Commission made under section 76(3)(C) of the Charities Act 2011:

Date vested	Date discharged	Property
28 February 2007	-	Recreation Ground at Bath, Somerset
12 August 2009	7 properties were discharged at various dates throughout 2011-12	22 properties were originally vested throughout England and Wales, all within one charity for which the Charity Commission has appointed an Interim Manager. Of these 22 properties, 14 were discharged in previous years and 1 remained vested in the Official Custodian at 31 March 2012.

**Note 6: Land vested in the Official Custodian**

As noted in the Foreword to the Accounts, land may be vested in the Official Custodian under Section 90 of the Charities Act 2011. Some will be registered at the Land Registry, some will not. Vested land should appear on the balance sheet of the appropriate charity and does not appear in the Accounts of the Official Custodian.

**Note 7: Related parties**

The Official Custodian is an employee of the Charity Commission. The Charity Commission bears the full cost of the Custodian function.

**The Seal of the Official Custodian for Charities was affixed hereto in the presence of:**

Alex Maddocks  
 Official Custodian for Charities

25 June 2012



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ISBN 978-0-10-298017-2



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