



Official Solicitor



Public Trustee

The Official Solicitor to the Senior Courts' and the Public Trustee's
Stewardship Accounts

For the period 1 April 2011 to 31 March 2012

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Joint statement by the Official Solicitor and by the Public Trustee

Statutory Background

1. The Official Solicitor (OS) and the Public Trustee (PT) are separate independent statutory office holders. The OSPT is an arm's length body of the Ministry of Justice (MoJ) that exists to support their work. The working relationships between the OS and the MoJ, and the PT and the MoJ, are set out in Memoranda of Understanding dated 5 May 2010 (OS/MoJ) and 8 January 2010 (PT/MoJ).

2. The OS is appointed by the Lord Chancellor under section 90 of the Senior Courts Act 1981. He is an office holder of the Senior Courts and those courts' own solicitor. His purposes are to prevent injustice to the vulnerable by

- acting as last resort litigation friend, and in some cases solicitor, for adults who lack mental capacity and children (other than those who are the subject of child welfare proceedings) in court proceedings because they lack decision making capacity in relation to the proceedings;
- acting as last resort administrator of estates and trustee;
- acting as last resort property and affairs deputy in relation to Court of Protection clients; and
- accepting appointment, to manage the Child Trust Funds of "looked after" children in England and Wales who have no one available, with parental responsibility, to act for them.¹

He also

- acts as advocate to the Court providing advice and assistance; and under *Harbin v Masterman*² makes enquires on behalf of the court;
- through the International Child Abduction and Contact Unit (ICACU) carries out in England and Wales the operational functions of the Lord Chancellor, who is the Central Authority under The Hague and European Conventions on Child Abduction; and
- through the Reciprocal Enforcement of Maintenance Orders (REMO) Unit carries out in England and Wales the operational functions of the Lord Chancellor who is the Central Authority for international maintenance claims.

The holder of the office is deemed to be a Trust Corporation for the purposes of the 1925 property legislation (Law of Property (Amendment) Act 1926 s.3 (1)).

3. The Public Trustee is appointed by the Lord Chancellor under section 8 of the Public Trustee Act 1906 ("the Act").

- The Public Trustee's duties are to act on invitation and in line with defined criteria as executor or administrator of estates and as the appointed trustee of settlements. His aim is to provide an effective executor and trustee service of last resort.

In addition, the Public Trustee:

¹ See section 3(10) of the Child Trust Funds Act 2004 and regulation 33A of the Child Trust Funds Regulations 2004 (SI 2004/1450).

² [1896] 1 Ch 351.

- is the legal holder of land under Part IV of the First Schedule to the Law of Property Act 1925 (land held in undivided shares) and Part V of the First Schedule to the Law of Property Act 1925 (Common Land);
- takes title on death under section 9 of the Administration of Estates Act 1925; and
- maintains a register of notices affecting land under Section 18 of the Law of Property (Miscellaneous Provisions) Act 1994.

By virtue of the 1906 Act the PT is a corporation sole.

4. The OS and the PT, by providing frontline services, contribute to Structural Reform Priority 3 of the Ministry Of Justice's Business Plan, 2011-2015, by:

- "ensuring that we provide necessary support for those who need it most"

Auditor

5. The Accounts have been audited by the Comptroller and Auditor General³. The Auditor's remuneration for the audit of the financial statements of the OS and the PT for 2011/12 was £47,000 (2010/11 £55,000). So far as we, as the Accounting Officers, are aware, there is no relevant information of which the auditors are unaware. We have taken all steps that we ought to have taken to make ourselves aware of any relevant audit information and to establish that the auditors are aware of that information.

Annual review of the OS's and the PT's businesses to which the Stewardship Accounts apply

6. Our key activities during 2011/12 relating to the Third Party assets which are subject to the Stewardship Accounts were to

- continue to administer our respective ongoing trusts and estates
- close and retire from trusts and estates which could properly be either closed and distributed or transferred to another trustee
- apply the last resort criteria in respect of acceptance of new cases
- (OS only) manage the OS's deputyships
- support the MoJ's Trust and Deputy Services Change Programme which through two Projects
 - (Project 1) investigated whether there needs to continue to be a public sector last resort trustee and administrator, and, if so, whether either or both of us were best placed to act as such
 - (Project 2) investigated whether the statutory office of the PT should remain in existence and if not with whom his functions or remaining functions should be placed
- run an ongoing project to outsource the our respective investment advice and securities management

³ Auditor: The Comptroller and Auditor General, National Audit Office (NAO), 157-197 Buckingham Palace Road, London SW1W 9SP.

7. Although the Programme determined that the office of the PT could be abolished, with his replacement by another person or persons to carry out his functions, given a suitable statutory vehicle for achieving those things, senior MoJ officials determined that no submission should be made to Ministers to propose abolition of the office of PT, given that they envisaged that doing so would not be a Ministerial priority.

8. The Change Programme determined that there is a continuing need for a public sector last resort trustee and administrator, and that those functions best sit with the OS and the PT

9. We started the 2011/12 year with a combined total of 357 cases which had reduced to 298 by the end of the financial year because we had closed those trusts and estates which could properly be closed and distributed, and continued to apply our last resort policies. We have implemented some stretching throughput targets to ensure we are delivering the most efficient service possible to our respective clients. All of these targets have been either met or exceeded. We have also implemented a robust case review system across all of our teams to provide reassurance as to the quality and timeliness of casework activity. We have ensured that 100% of our cases have been reviewed annually in line with the specific requirements of the case type.

10. There have been no known incidents of fraud or personal data incidents during the period of these Accounts.

11. The Securities team, which handles the brokerage activities in respect of our clients' securities, moved back to OSPT from the Court Funds Office (CFO) in December 2011.

12. Our total joint net third party assets for 2011-12 were £64 million. This is made up of cash and bank balance of £11 million; properties of £14.7 million, and securities of £37.7 million and other assets of £0.6. The value of these assets has been diminishing year on year as we continue to close or properly distribute cases and apply our strict last resort criteria. The current value of securities fluctuates in accordance with market volatility. During this period the markets fluctuated and finished over 2% lower. 2011-12 saw a decline in the total value of our joint client securities holdings by 8.8% compared to the prior period as a result of the above and our continued retirement and distribution of a number of trusts and estates administered by the OSPT. The 2011-12 opening market value of securities was £41.3 million. Purchases of £4.3million and sales of £6.1million were made during the year. Corporate actions and equalisations were £0.4million. Our continued distribution of trusts and estates and market fluctuations resulted in a £1.4 million reduction in value of assets leaving a total market value of securities of £37.7million at the end of the year.

13. The OSPT continues to rely on the Trust Accounts and Banking System (TABS) as the accounting system to support our work. The TABS system, which was hosted on the same platform as the CFO's Funds Accounting system at Kingsway, was moved to Chancery Lane following the decommissioning of the Data General machines as part of the transfer of CFO work to NS&I in December 2011. The age of TABS continues to present a significant risk, however, there has been no significant downtime experienced in the accounting period.

Strategy and Outlook in respect of our Trusts and Deputy Services work

14. We will continue to review, adapt and change the way that we work to meet the changing requirements of, and the budgetary allocations to, our offices. We will focus on best outcomes and ensure that our services and resources are targeted to meet the needs of our vulnerable clients and make certain that we are only acting in those cases where our involvement is necessary and meets our 'Last Resort' criteria. We will continue our work to outsource our investment advice and securities management; currently we are preparing to interview potential providers of this work and we expect that the work will have been outsourced by the Summer of 2013. We will conduct a

review of all the OS Deputyship cases to determine whether they are suitable cases in which to request the Court of Protection to appoint a Panel Deputy in substitution for the OS.

15. So that there can be no benefit to the Exchequer from holding third party monies, the monies for which we each have stewardship should not be held in a public bank account such as is provided by the Government Banking Service⁴. We reviewed our cash banking arrangements and made a decision on 9 January 2012 to adopt Lloyd's i-Site Application to provide a more effective and visible process of banking and an optimum interest rate return for funds held in respect of clients. Implementation of the i-Site Application is in progress with a proposed live date of 1 October 2012.

16. We will provide protection to our information by managing risks to its integrity and confidentiality so that our businesses always function effectively.

17. We will adhere to MoJ's commitment to sustainable development and improving its environmental performance.

Alastair Pitblado
Official Solicitor to the Senior Courts

Date 06/11/12

Eddie Bloomfield
Public Trustee

Date 06/11/12

⁴ Our bank for these purposes is Lloyds TSB Bank plc, 25 Gresham Street, London, EC2V 7HN.

Statement of Accounting Officers' Responsibilities

18. We, as Accounting Officers, are severally responsible for the stewardship of the Third Party assets held respectively by us and administered on our behalves by OSPT. We are required to ensure that proper financial procedures are followed and that the accounting records are maintained in a suitable form to facilitate the preparation of annual stewardship accounts. The accounts are prepared as described in note 1 to the accounts and must give a true and fair view of the state of affairs of stewardship assets for the financial year. We must also ensure that third party assets are properly safeguarded and well managed.

19. These accounts cover our respective functions as trustees, judicial trustee, executors of wills and administrators of estates, guardian to a child's estate, and property and affairs deputy. They also cover sums of money the OS holds on behalf of his clients for whom he acts as litigation friend and solicitor.

20. These accounts are additional to the individual trust and estates accounts which we must prepare.

21. We are required to prepare these annual stewardship accounts in accordance with the accounts direction issued by the Ministry of Justice reproduced on pages 26 to 27.

22. We follow the investment strategy described in note 11 to the accounts.

Governance Statement

Introduction

23. In our respective roles we must carry out our duties and exercise our powers in accordance with the law applicable to the particular functions we are carrying out. For example, we must act as trustees in accordance with the law of trusts; and so on. As trustees, executors, administrators, deputy, solicitor, budget holders and Accounting Officers, we have put in place governance arrangements to ensure that the right decisions are made at the right time, at the right level, and by the right people. We are satisfied that we have the necessary systems and processes in place which enable us to maintain an effective system of internal control throughout our offices and that supports the achievement of policies, aims and objectives, whilst safeguarding the public funds and third party assets for which we are personally accountable.

24. We are accountable for the performance of our offices. We each have in place a Memorandum of Understanding with our sponsoring Department, the MoJ, which sets out how we will work together and each work with the MoJ. We are advised in the executive decisions we jointly make by the OSPT Non-executive Management Advisory Board (MAB), which we jointly chair, which meets monthly and with whom we discuss progress against our annual plans and targets, budgetary matters and issues of concern. We also jointly chair a monthly Finance Sub-committee which helps us to manage our budget at a detailed level. The MAB supports us in ensuring that we

quickly identify any emerging risks and put actions in place to manage them and that we regularly review how well risks are being managed.

25. We are confident that we have all necessary and proper risk management and assurance arrangements in place.

Governance framework

26. As Accounting Officers we have responsibility for reviewing the effectiveness of our governance arrangements. There are effective arrangements for reporting and managing any conflicts of interest but there have been none during the year.

27. At our monthly meeting with the MAB we exercise oversight of the performance of our joint office. In particular, the purpose of the Advisory Board is to advise us so as to assist us in our decision-making and monitoring in respect of:

- The strategy and direction of OSPT
- Finance matters
- People resources
- Performance against budgets and plans
- Risk management
- Compliance with principles of good corporate governance

28. In addition to the auditing of the Stewardship Accounts, a source of independent assurance within our joint office has in the past been the activities of MoJ's Internal Audit Division. In accordance with MoJ Internal Audit and Assurance Division's revised Departmental Strategy we will no longer have an annual audit plan but rather seek assurance from that Division on an ad hoc basis to ensure our risk management processes continue to be robust. The work will be governed by an analysis of the risks to which we are exposed.

29. We have quarterly accountability review meetings with our MoJ sponsor, within the ALB Governance Division. At these meetings, quarterly finance and quantitative performance information is made available and discussed. This includes the detailed Finance Pack that is discussed at each MAB, together with the Business Activity Report which charts quantitative performance across all of our businesses month on month. We attend these meetings, together with our Head of Operations and Head of Finance and any other key personnel who may be required to attend depending on the key discussion matters.

30. We are also supported by the MAB Finance Sub-committee referred to above. Its membership is drawn from the MAB and the Senior Lawyers, and is jointly chaired by us. The Finance Sub-committee helps us to ensure robust management of our budgets. At each meeting we discuss with the Committee the in-year financial position and receive an update on payroll spend and fee recovery. In addition to this, the Committee discusses the likely pressures over the year. We then inform the MAB of the outcome of the Finance sub-committee's meetings and raise any issues which require further discussion.

31. Full details of the membership and attendance records of the MAB and its Finance sub-committee are shown at tables 1 to 2.

32. We are satisfied that we have sound Governance in place. We adhere in a proportionate way to the MoJ's governance structure, which has been developed with the following principles in mind; clarity of purpose, clear accountability, oversight, flexibility, light touch and avoidance of duplication. As independent statutory office holders, the OS and the PT are not bound by these principles, but adhere to them as a matter of good practice.

Risk and Control Framework

33. The main process to identify and evaluate risk to us as Accounting Officers is the MoJ Corporate Risk Management framework which we follow. This highlights the key risks, assesses the impacts and the likelihood of the risk and sets out controls or actions put in place to mitigate those risks.

34. We will inform the MoJ about, and discuss with the MoJ, those risks with a significant high score (based on a combined total of assessing both impact and likelihood) and discuss actions and planning required. Separate Risk Registers are developed for key business changes.

35. We, whilst ensuring we have sufficient oversight of our respective complete risk profiles, will focus in particular on those risks which are red risks.

36. We are satisfied that we are aware of the strengths and weaknesses of the governance, management and risk control systems and highlight those for the key systems for which we are responsible and report them in the Annual Assurance Statement provided to the Permanent Secretary.

37. In addition an audit of our cash and banking procedures was conducted by MoJ's Internal Audit Division (IAD) to provide assurance on the adequacy, effectiveness and reliability of controls in operation to oversee the cash and banking system. IAD gave a Green/Amber assessment together with 3 recommendations which were accepted and have been taken forward.

38. We continue to embed the concept of risk management throughout our offices and educate staff around best practices.

Risk Management

39. The systems of governance, management and risk control are designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance. The systems of governance, management and risk control are based on an ongoing process designed to identify and prioritise the risks to the achievements of our policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The systems of governance, management and risk control were in place for the whole year ending 31st March 2012 and accord with HM Treasury guidance.

40. As Trustees and Administrators, Budget Holders and Accounting Officers we acknowledge our overall responsibility for the effective management of risk in relation to our stewardship of the third party assets. However, as a management responsibility, we formally delegate the responsibility for governance, management and risk control; and the adequacy of assurance arrangements as a whole to the individual Managers in the key business areas. It is their responsibility to maintain and update the OSPT Risk Register for us and manage the emerging risk issues which are scrutinised by us with the MAB at the monthly meetings.

41. We have a documented Risk Management Strategy and Policy available to all OSPT staff via its Intranet. This is further supported by a Fraud Policy Statement and Fraud Response Plan. The IAD Audit (referred to in para 37) included as one of its recommendations that we formally review cash and banking operations to identify where there maybe a significant risk of fraud. IAD provided a Fraud Risk Template which our Head of Trust and Deputy Services used to review the current compliance controls and to satisfy us that any risks around the cash and banking procedures have been duly mitigated. This demonstrated that opportunities for fraud have been identified and that the appropriate controls are in place. The fraud risk template has been shared with IAD who are satisfied with our response.

42. The risk assessment looked at areas such as illegal transfer of money, unauthorised changes and additions to payee details through BACS, monies received not being recorded, false creation of or unauthorised updates to accounting records to allow the unauthorised payment of monies, falsification and duplication of invoices or expenses to generate a false payment. Robust procedures and controls are in place to ensure that it would be extremely difficult for anyone to perpetrate fraud. Segregation of duties within our cash and banking procedure significantly reduces the risk of OSPT employees overriding the system of internal controls.

43. Other key risks that the OS and the PT face in their trusts, estates and deputyship work include risks around IT and integrity of the accounts data. Our accounting system – Trusts Accounting and Banking System (TABS) is over 20 years old with limited capabilities. There is a risk of service collapse due to the age of TABS and its servers. This presents challenges to our staff in preparing and verifying the accounts data. We assessed these risks as having a high impact but low likelihood. We have put in place arrangements to minimise these risks which has enabled TABS to continue to be supported by MoJ’s IT service provider, Logica.

None of these risks materialised during the year.

Conclusion

44. We continue to identify our risks and develop procedures to ensure that adequate systems of governance, management and risk control operate in respect of the Third Party assets we hold and that are administered by the OSPT. We are satisfied with the effectiveness of the systems of governance, management and risk control.

Alastair Pitblado
Official Solicitor to the Senior Courts

Date 06/11/12

Eddie Bloomfield
Public Trustee

Date 06/11/12

Tables 1 to 2: Attendance at Management Advisory Board and Finance Sub-committee

Table 1. The MAB is scheduled to meet twelve times every financial year. In the period to which this report refers there were 10 Board meetings.

Non Executive Management Advisory Board Members	No. Meetings Attended
Alastair Pitblado, Official Solicitor (Co-chair)	5
Eddie Bloomfield, Public Trustee (Co-chair)	10
May Maughan, Deputy Official Solicitor	9
Janet Peel, Head of Operations	9
Devone Lawrence, Operational Manager Litigation Services	9
Sue Bullard Head of Finance (left 20/09/2011)	3
Michelle Ruskin, Head of Finance, Fees and Costs Recovery (from 21/09/2011)	10
Jane Weston Head of Corporate Services (left 31/03/2012)	8
Julie Owen, Manager Trust and Deputy Services (left 31/03/2012)	8
Meetings of the Advisory Board were also attended by:	
Mbina Mir, Risk and Compliance Officer	3
Julie Taylor, TDS Project Manager	3
Mark Stephens, Deputy TDS Project Manager	7

Observers from the office attend from time to time on an ad hoc basis

Finance Sub-committee of the Advisory Board.

Table 2 – Finance Sub-committee meets monthly. Throughout 2011-12 it met on 10 occasions.

Non Executive Finance Sub-committee Members	No. Meetings Attended
Alastair Pitblado, Official Solicitor (Co-chair)	5
Eddie Bloomfield, Public Trustee (Co-chair)	10
May Maughan, Deputy Official Solicitor	9
Janet Peel, Head of Operations	9
Devone Lawrence, Operational Manager Litigation Services	9
Michelle Ruskin, Head of Finance, Fees and Costs Recovery (from 21/09/2011)	10
Senior Lawyers attend depending on availability	10
Sue Bullard Head of Finance (left 20/09/2011)	3

Independent Auditor's Report to the Official Solicitor and to the Public Trustee

I have audited the stewardship accounts for third party monies held by the Official Solicitor and by the Public Trustee respectively for the year ended 31 March 2012. These comprise the Balance Sheet, the Capital Account, the Income Account, the Portfolio and Investment Income Statement and the related notes. These stewardship accounts have been prepared under the accounting policies set out within them.

Respective responsibilities of the Accounting Officers and auditor

As explained more fully in the Statement of the Accounting Officers' Responsibilities, the Accounting Officers are responsible for the preparation of the stewardship accounts and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the stewardship accounts. 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 stewardship accounts

An audit involves obtaining evidence about the amounts and disclosures in the stewardship accounts sufficient to give reasonable assurance that the stewardship accounts 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 those funds under the stewardship of the Official Solicitor and Public Trustee, have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Official Solicitor and Public Trustee; and the overall presentation of the stewardship accounts. In addition I read all the financial and non-financial information in the sections entitled "Summary Information", "The Joint Statement by the Official Solicitor and by the Public Trustee" and "the Governance Statement" 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 report.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income reported in the stewardship accounts conform to the authorities that govern them.

Opinion on Regularity

In my opinion, in all material respects the expenditure and income of those funds under the stewardship of the Official Solicitor and Public Trustee have been applied to the purposes intended by Parliament, and the transactions recorded in the stewardship accounts conform to the authorities that govern them.

Opinion on Financial Statements

In my opinion:

- the stewardship accounts give a true and fair view of the financial position of the funds under the stewardship of the Official Solicitor and the Public Trustee as at 31 March 2012 and of the movement in net assets and deficit for the year ended 31 March 2012 relating to those funds; and

- the financial statements have been properly prepared in accordance with the accounts direction issued by the Ministry of Justice.

Opinion on other matters

In my opinion:

- the information given in the Joint Statement by the Official Solicitor and by the Public Trustee for the financial year for which the stewardship accounts are prepared is consistent with the stewardship accounts.

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 stewardship accounts are not in agreement with the accounting records; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Amyas C E Morse
Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

Date 9 November 2012

Balance Sheet as at 31 March 2012

	Notes	2011/12	Re-stated 2010/11
		£'000	£'000
Assets:			
Property	3	14,773	15,304
Securities		37,697	41,343
Chattels		67	67
Debtors	4	540	1,447
Cash and Bank balances	5	11,413	14,705
		<u>64,490</u>	<u>72,866</u>
Liabilities:			
Creditors	6	(495)	(662)
Net Assets		<u>63,995</u>	<u>72,204</u>
Representing			
Capital Account		47,270	52,935
Accumulation Account		3,876	5,230
Revaluation Reserves	7	12,849	14,039
		<u>63,995</u>	<u>72,204</u>

The notes on pages 19 to 25 form part of these accounts.

Accounting Officers

Alastair Pitblado
Official Solicitor to the Senior Courts

Date 06/11/12

Eddie Bloomfield
Public Trustee

Date 06/11/12

Capital Account for the year ended 31 March 2012

	Notes	2011/12	Re-stated 2010/11
		£'000	£'000
Balance at 1 April		52,935	59,550
Add:			
Surplus on disposals		1,814	1,642
Capital introduced from new clients		3,238	5,176
		<u>57,987</u>	<u>66,368</u>
Less:			
Taxation payable		(367)	(551)
Investment management charges		(66)	(88)
Professional Fees		(158)	(207)
OSPT bills and fees		(692)	(646)
Distributions		(9,209)	(11,911)
Other expenditure		(48)	(30)
Revaluation Losses		(177)	-
		<u>47,270</u>	<u>52,935</u>

The notes on pages 19 to 25 form part of these accounts.

Income Account for the year ended 31 March 2012

	Notes	2011/12	Re-stated 2010/11
		£'000	£'000
Income			
Rental income		15	95
Investment income		976	1,046
Interest income		90	80
Other income		673	458
		<u>1,754</u>	<u>1,679</u>
Expenses:			
Taxation		(411)	(215)
Investment management charges		(33)	(47)
Professional Fees		(10)	(72)
OSPT bills and fees		(123)	(213)
		<u>(577)</u>	<u>(547)</u>
Balance Transferred to Accumulation Account		<u>1,177</u>	<u>1,132</u>
Accumulation Account			
Balance at 1 April		5,230	6,749
Add:			
Income for the year		1,177	1,132
		<u>6,407</u>	<u>7,881</u>
Less			
Distributions		(2,531)	(2,651)
		<u>3,876</u>	<u>5,230</u>

The notes on pages 19 to 25 form part of these accounts.

Portfolio and Investment Income Statement

	Profit (Loss) Y.E 31-3- 12 £'000	Net Income Y.E 31-3- 12 £'000	Market Value At 31-3- 12 £'000	Market Value At 31-3- 11 £'000
UK				
Fixed Interest	208	160	9,609	8,069
Listed Equities	1,183	447	8,984	13,087
Common Investment Schemes	70	305	17,726	17,346
Unlisted Equities	-	1	26	24
Non-UK				
Listed Equities	152	62	1,068	1,697
Unlisted Equities	40	1	284	1,120
Total Securities	1,653	976	37,697	41,343

The notes on pages 19 to 25 form part of these accounts.

Notes to the Financial Statements

1. Accounting Policies

Basis of Accounting

The accounts are prepared under the accounting practices commonly applied by legal and accountancy practitioners in England and Wales to the accounts of individual trusts and estates, under applicable law ('common accounting practice for trusts and estates') and in accordance with the Ministry of Justice Accounts Direction on stewardship accounts of third party monies.

The accounts are prepared under the historical cost convention, modified by revaluation of property to fair value and securities to market value at the balance sheet date.

The Balance Sheet of the accounts represents the aggregated value of all client assets under OSPT stewardship. Increases or decreases in the value of client funds reported in the Balance Sheet arise through transactions related either to:

- a) original client capital; or
- b) income generated by that capital (e.g. dividends).

In the majority of trusts and estates the beneficiary is entitled to either the capital or the income from the trust or estate. It is therefore important to segregate for client account purposes funds that relate to original capital and funds that arise out of subsequent income generation. For this reason the stewardship accounts include the following statements.

i) Capital Account. This represents the total capital element of client funds and is therefore presented as a reserve in the Balance Sheet. The Capital Account is then further analysed to present capital newly introduced from clients; gains and losses on capital transactions (e.g. sales of shares); and distributions to trust and estate beneficiaries; and fees and charges which are properly chargeable against capital.

ii) Income Account. This shows the income generated by client funds during the year (e.g. through the receipt of dividends on shares) net of expenses properly chargeable against income. The Income Account is roughly the equivalent of a profit and loss account for client funds and is therefore presented as a separate statement, with the net amount being transferred each year to the Accumulation Account.

iii) Accumulation Account. This represents the accumulated total of the net income received on client funds, after the deduction of distributions to beneficiaries which are made out of income. Where beneficiaries are only entitled to receive distributions from income, they must be made out of the funds represented by this account. Together with the Capital Account and Revaluation Reserves, the Accumulation Account represents an analysis of the aggregated value of client funds which is presented in the Balance Sheet.

iv) Revaluation Reserves. These represent the total of any upward revaluations made to client assets based on current market conditions as described below.

Property

Freehold and leasehold properties are shown at fair value. This is based on indexation using Land Registry Indices. The surplus on revaluation is taken to the revaluation reserve and disclosed separately on the balance sheet. Any revaluation deficits are charged against the revaluation reserve to the extent that gains have been recorded previously; otherwise they are charged to the capital account as revaluation losses.

Securities

Investments in securities are carried out on an arms-length basis following best practice standards. Securities are stated in the accounts at the market value on the balance sheet date. The surplus on revaluation is taken to the revaluation reserve and disclosed separately on the balance sheet. Any revaluation deficits are charged against the revaluation reserve to the extent that gains have been recorded previously; otherwise they are charged to the capital account as revaluation losses.

Basis of Valuation: Other Assets – Chattels

Client assets other than cash, property and securities are included at original cost or probate value. In our judgement these assets will not be marketed in the near future, therefore market value will not be appropriate.

Foreign Currencies

All transactions in foreign currencies are converted into sterling at the rates of exchange ruling at the transaction date. Foreign currency assets and liabilities at the end of the accounting period are translated at the exchange rate at close of business on the balance sheet date.

Recognition of Income

Dividends and interest from investments in securities that are not mandated directly to beneficiaries are credited to the Income Account when received.

Interest received from bank deposits is credited to the Income Account when received.

Other Income comprises of royalties, annuities, severe disability allowance, disability living allowance, income benefits, cold weather/winter payments, Christmas bonuses and pensions. These are credited to the Income Account when received

OSPT and Other Fees and Charges

Fees due to the Public Trustee are administered in accordance with the Public Trustee (Fees) Order 2008 (SI 2008/611). Provision is made in the balance sheet for Public Trustee Administration fees. Withdrawal fees, income collection fees and special fees are drawn from cash as they arise. Other expenses incurred with regard to maintenance of Trust or Estates assets are charged against Capital or Income on a per-case basis in accordance with the terms of the individual Trust and the relevant law regarding the allocation of expenses between income and capital.

Bills due to the Official Solicitor are administered in accordance with the present Estate Fees Collection Policy. Any other expenses incurred with regard to maintenance of the assets of any of the Official Solicitor's trusts or estates are charged against Capital or Income on a per-case basis in accordance with the terms of the individual Trust and the relevant law regarding the allocation of expenses between income and capital.

Taxation

Provision is made in the capital or income accounts as applicable for Income Tax, Rate Applicable to Trusts, Inheritance Tax, Accrued Income Scheme and Schedule A Tax at the

current rates. Provision is made in the capital account where capital gains and Inheritance Tax liabilities are known; otherwise charged to the capital account as cash is paid.

	31 March 2012	31 March 2011
	£'000	£'000
Tax charge to capital account	367	551
Tax charge to income account	411	215
Total at 31 March	<u>778</u>	<u>766</u>

Distributions

The OS and the PT each divests himself of, and distributes, trust assets. This happens when:

- cash or assets are transferred to a beneficiary as part of a distribution pursuant to the terms of the trust or estate
- one or other of them retires as trustee in favour of an alternative trustee, in accordance with their last resort policy or
- the trust has terminated or
- one or other of them has completed the winding up of an estate.

Assets distributed comprise shares/stocks, properties and cash as well as payments made to and on behalf of beneficiaries in ongoing cases. These are recognised in capital and/or income accounts at the point of transfer/payment in accordance with terms of the trust deed and the law applicable to the case.

	31 March 2012	31 March 2011
	£'000	£'000
Capital distributions	9,209	11,911
Income distributions	2,531	2,651
Total at 31 March	<u>11,740</u>	<u>14,562</u>

2. Segmentation Analysis

The breakdown of non-current and current assets is not shown in these accounts due to the difficulties in ascertaining Securities split. The major categories of net assets at the Balance Sheet date are as follows:

	Estates	Trusts	Litigation	Total at 31 March 2012	Total at 31 March 2011
	£'000	£'000	£'000	£'000	£'000
Assets:					
Property	11,009	3,764	-	14,773	15,304
Securities	29,468	8,229	-	37,697	41,343
Chattels	2	65	-	67	67
Debtors	481	59	-	540	1,447
Cash and Bank Balances	7,506	3,604	303	11,413	14,705
Liabilities:					
Creditors	(230)	(236)	(29)	(495)	(662)
Net Assets	<u>48,236</u>	<u>15,485</u>	<u>274</u>	<u>63,995</u>	<u>72,204</u>

3. Property

	Freehold	Leasehold	Total at 31 March 2012
	£'000	£'000	£'000
Balance at 1 April 2011	12,719	2,585	15,304
Introduced from clients	158	-	158
Distributed to clients	(745)	(300)	(1045)
Revaluation	167	189	356
Balance at 31 March 2012	<u>12,299</u>	<u>2,474</u>	<u>14,773</u>

At 31 March 2012 the OSPT managed 70 (76 as at 31st March 2011) properties on behalf of client trusts.

4. Debtors

	31 March 2012	31 March 2011
	£'000	£'000
Loans receivable and accrued income	365	373
Accounts held by Brokers	111	1,003
Cash held by Agents	64	71
	<u>540</u>	<u>1,447</u>

5. Cash and Bank balances

	31 March 2012	31 March 2011
	£'000	£'000
Cash at Bank	9,606	12,772
Cash on long term deposit at other institutions	1,807	1,933
	<u>11,413</u>	<u>14,705</u>

6. Creditors

	31 March 2012	31 March 2011
	£'000	£'000
Bills payable to the Official Solicitor	100	104
Fees payable to the Public Trustee	123	251
Other creditors	272	307
	<u>495</u>	<u>662</u>

Other creditors comprises accrued tax liabilities, discretionary loans from the Ministry of Justice and accrued expenses

7. Revaluation Reserves

	31 March 2012	Re-stated 31 March 2011
	£'000	£'000
Securities	7,031	8,754
Properties	5,818	5,285
	<u>12,849</u>	<u>14,039</u>

8. Contingent Liabilities

There were no contingent liabilities at the balance sheet date.

Re-statement of prior year closing balance

In 2010-11, an adjustment of £43k for upward revaluation of client assets was posted to the capital account, thereby understating the revaluation reserve. An adjustment of £43k has been made in the 2010-11 revaluation reserve, increasing it from £13,996k to £14,039k.

A further consolidation adjustment of £7.1m was made to the capital account and income account closing balances to re-align the consolidation surplus of £7.1m and deficit of £7.1m on the capital account and income account closing balances respectively.

9. Post Balance Sheet Events

Post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the certificate of the Comptroller and Auditor General.

There are no Post Balance Sheet Events to report.

10. Related Party Transactions

The Official Solicitor and the Public Trustee are independent statutory officers sponsored by the MoJ and as such are related parties. During the year the office of the Official Solicitor and Public Trustee had a number of material transactions with the MoJ and other bodies under the control of the MoJ, consistent with its sponsorship arrangements.

The Public Trustee, Eddie Bloomfield, also serves as the Deputy Accountant General, and as such is responsible for overseeing the administration of Funds in Court on behalf of the Accountant General. The Official Solicitor and the Public Trustee provide a last resort trustee service to several individuals who are beneficiaries of MoJ equity investments managed by Legal & General on behalf of the Accountant General. The market value of those securities at 31 March 2012 was £10.2m.

Other than the related party transactions disclosed above, none of the senior management staff or other related party has undertaken any material transactions with the client assets during the period.

11. Financial Instruments

The investment of the funds of each trust or estate must be designed to further the objectives of the relevant trust or estate. To that end, the Official Solicitor and the Public Trustee took advice from the Ministry of Justice's Strategic Investment Board and the funds of each trust are invested in accordance with 1 of 5 strategies depending on the balance to be struck between income and capital growth and taking into account any potential liability to capital gains taxation. .

Funds maybe wholly or partly unitised. Where unitised the preferred security is the Equity Index Tracker Fund within the Common Investment Fund of the MoJ. 70% of the Fund has exposure to UK shares with the remainder invested in other global markets. Index trackers invest in a representative sample of all the companies that make up the index that they are tracking, instead of the Fund Manager actively choosing which stocks to hold in the Fund. The Fund strategy is to track the capital return of the composite benchmark by investing in Legal & General Index Tracking Unit Trusts. The intention is simply to deliver the return of the index being tracked.

Market price risk

Market price risk is the risk that the value of the securities will fluctuate as a result of changes in market prices caused by factors other than interest rate or foreign currency movement. Market price risk arises mainly from uncertainty about future prices of financial instruments held by trusts/estates clients of the OSPT. The investment portfolio is exposed to market price fluctuations, which are monitored by an internal Investment Manager in pursuance of the investment objective for each individual trust and in relation to the Equity Index Tracker Fund in accordance with the guidelines set by the MoJ Strategic Investment Board in 2005.

Foreign currency risk

Trusts and Estates clients of the OSPT are rarely exposed to foreign currencies. The OSPT does not hold any foreign currency cash. Securities denominated in foreign currencies are held in their base currencies.

Interest rate risk

Interest rate risk is the risk that interest rate movements on assets and liabilities are not aligned, resulting in a financial loss. The OSPT has negotiated competitive rates with its Bank and manages liquidity to optimise return.

Liquidity risk

Each Trust and Estates case is closely monitored to ensure there is asset and liability matching and overdrafts are prevented. Where cases are unable to pay future creditors, measures are taken to achieve a distribution of the case in consultation with stakeholders or the MoJ will provide interim Vote Loans in circumstances where these are fully recoverable.

Credit risk

Certain transactions in securities that the OSPT enters into expose it to the risk that the counter party will not deliver the investment for a purchase, or cash for a sale after the OSPT has fulfilled its responsibilities. The OSPT only buys and sells investments through MoJ Approved Panel Brokers and Fund Managers. In addition, the MoJ Strategic Investment Board in 2005 set limits to the exposure to any individual broker that may exist at any time and changes in brokers' financial ratings are reviewed.

Ministry of Justice Accounts Direction on Stewardship Accounts of Third Party Assets under the care of the Official Solicitor and Public Trustee

The MoJ gives the following Accounts Direction:

1. The Official Solicitor and the Public Trustee (OSPT), as Accounting Officers for stewardship of third party assets under their care, shall prepare for each financial year stewardship accounts that aggregate the individual trusts and estates.
2. The accounts shall be prepared under the accounting practices commonly applied by legal and accountancy practitioners in England and Wales to the accounts of individual trusts and estates, under applicable law ('common accounting practice for trusts and estates'). These principles, which apply directly to the preparation of individual trust and estates accounts prepared by the OSPT, should be applied where practical to the stewardship accounts.
3. In addition to following these principles, the Accounting Officers should be mindful of their responsibilities under *Managing Public Money* and should include any additional narrative required by HM Treasury in associated guidance relevant to these responsibilities.
4. Accordingly, the accounts shall give a true and fair view of:
 - I. the financial position of the third party assets at the period end ('Balance Sheet');
 - II. movements in trust or estate capital ('capital account'), including relevant adjustments including for gains and losses on the realisation of assets, in addition to deductions for taxation, expenses and distributions properly chargeable to capital; and
 - III. the net income during the period after taxation, expenses and distributions properly chargeable to income ('income account').
5. In addition to the primary financial statements described above, the accounts shall include:
 - IV. a Foreword;
 - V. a statement on the responsibilities of the OSPT as Accounting Officers;
 - VI. a statement on governance, which should comply with the latest HM Treasury guidance in all applicable respects; and
 - VII. the notes to the accounts.
6. The Foreword shall include among other items:
 - VIII. a statement that the accounts have been prepared in accordance with directions given by the MoJ including such information that may be necessary to present a true and fair view; and
 - IX. relevant information in respect of the statutory background of the OSPT, developments during the year, including any incidents of fraud or personal data loss, and a forward look.
7. The Notes shall include as a minimum:
 - X. the accounting policies;

- XI. an analysis of material items within the Accounts;
- XII. an analysis of how assets and liabilities are segmented between the principal activities of the OSPT (e.g. the administration of trusts and estates respectively);
- XIII. related party transactions relating to the OSPT, following the disclosure requirements of latest HM Treasury guidance;
- XIV. a Portfolio and Investment Statement showing the movements on securities during the year by type and any difference between book and market values; and
- XV. a description of the investment strategy for third party assets and an assessment of the risks attaching to current investments, with disclosure on risks following the requirements of latest HM Treasury guidance; and
- XVI. any further notes required to give a true and fair view in accordance with common accounting practice for trusts and estates, or to comply with the latest HM Treasury guidance for disclosures regarding accountability, for instance on governance, losses and special payments.

General

- 8. The Accounting Officers will employ best endeavours to complete the stewardship accounts within 6 months of the year-end. This timetable will include sufficient time for the Comptroller & Auditor General to complete the audit.
- 9. The Accounting Officers will submit the stewardship accounts to the MoJ and arrange for them to be published on either their own or the MoJ's website.

Signed:

Ann Beasley

MoJ Director General, Finance and Corporate Services

Date: 13 March 2012