



April 2009 – March 2010

OPG Annual Report & Accounts

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Foreword

All organisations learn and develop. The nature of learning, and the rate and direction of development, are functions of an organisation's environment and of its culture. OPG has learned much in its second full year of operation, and it has developed and grown hugely at the same time. Accordingly, I am very proud to present this Annual Report as Chief Executive and Public Guardian.

■ Last year I described 2008/09 as a period of transition. That transition has continued through 2009/10:

- We now deliver services across three locations in Birmingham, London and Nottingham, having successfully located

more than 40% of our posts to the Midlands;

- We received more than 125,000 applications to register Lasting Powers of Attorney (LPAs) and Enduring Powers of Attorney (EPAs) – an increase of some 25% over 2008/09;
- We reduced the application to register an LPA fee by 20%;
- Deputyship numbers continued to grow, and the intermediate Type 2A supervision approach has bedded in, not only to ensure additional support in the first year of appointment, but also as a means of additional risk-based oversight; and
- Investigations work has developed in scale and scope, with registered LPAs adding new dimensions to our compliance activity.

But transition and growth have meant continued instability in some areas – particularly where that growth has been unprecedented. In April 2009, OPG received 8,800 applications to register powers of attorney. In March 2010, that number was over 18,000 – more than four times higher than just two years ago.

We have, of course, found it hard to deal with such rapid growth, happening as it did in the last quarter of the year on the back of national media attention. That means we have started 2010/11 on the back foot, and the challenge to meet customers' – and our own – high expectations will be significant going forward.

Without our moves to reshape and reform OPG, we could not have handled the volumes nor delivered our range of services



But we can count on very many successes over the year, with strong (if not perfect) performance against our Key Performance Indicators, and a wealth of new talent and experience joining the organisation. Despite the challenges we face, I am confident in my own mind – and from feedback from users and stakeholders – that we are on the right track. Without our moves to reshape and reform OPG, we could not have conceived of handling the volumes and delivering the range of services we have over the past year.

The Court of Protection remains a key interface for what we do in OPG. The past year has already signalled the benefits of clearer distinction and separation from OPG, with the Court's administration now well embedded within Her Majesty's Courts Service. As both organisations develop, we look ahead to maintaining and building the right relationship – of appropriate challenge, but constructive engagement – as members of the Ministry of Justice 'family'.

It is increasingly apparent that the limits of my jurisdiction as Public Guardian,

and the framework and process for the registration of LPAs and EPAs set by the Mental Capacity Act 2005, can be sources of our users' frustrations. Towards the end of the year we consulted on some high-level ideas for change, and responses tell us that we can and should continue to seek to innovate. As part of our transformation agenda we will aim to build on these ideas, and others, to keep us moving towards achievement of the OPG vision.

'Along with success comes a reputation for wisdom,' Euripides tells us. OPG cannot yet claim its reputation has reached the point of wisdom – that remains an ambition. But we can justifiably claim that our struggles and successes over the last year have made us wiser as an organisation and that stands us in very good stead for the challenges to come.

Martin John
Chief Executive and Public Guardian
21 July 2010

Our vision

To encourage everyone to prepare for a possible lack of mental capacity and to empower and safeguard those who lack mental capacity now.



The role of the Public Guardian

A key role of the Public Guardian is to protect from abuse people who lack the capacity to protect themselves.

The Public Guardian, supported by the Office of the Public Guardian (OPG), carries out this function in the following ways:

- Registering Lasting Powers of Attorney (LPAs) and Enduring Powers of Attorney (EPAs);
- Maintaining a register of court-appointed deputyships;
- Supervising and supporting court-appointed deputies to help ensure they



- are acting in the best interests of the person who lacks capacity;
- Administering a team of specialist visitors who report on matters to the Public Guardian and Court of Protection;
- Receiving and assessing reports from attorneys and deputies as necessary and appropriate; and
- Investigating cases where there are concerns raised about the way in which a deputy or attorney is discharging his or her duties.

The Public Guardian is also personally responsible, as Chief Executive and Accounting Officer of the OPG, for the day-to-day management and organisation of the OPG, including the way the agency spends public money and manages its assets.

The key principles of the Mental Capacity Act:

- Every adult has the right to make his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise.
- A person must be given all practicable help before anyone treats them as not being able to make their own decisions.
- Just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision.
- Anything done or any decision made on behalf of a person who lacks capacity must be done in their best interests.
- Anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms.

What does the OPG do?

The Office of the Public Guardian (OPG) is an executive agency of the Ministry of Justice (MoJ). It exists to safeguard the interests of people who may lack the mental capacity to make certain decisions for themselves, and to enable people to plan ahead and prepare for their health and finances to be looked after should they lose capacity in future.

The OPG registers Lasting Powers of Attorney (LPAs) and Enduring Powers of Attorney (EPAs); supervises court-appointed deputies; and investigates allegations of abuse and mismanagement by registered attorneys and deputies.

The OPG ensures that safeguards are in place to minimise the risk of deputies abusing their powers, and to ensure that attorneys and deputies act with regard to the principles of the Mental Capacity Act (MCA) 2005.

Safe, just, fair and simple

The OPG is an executive agency of the MoJ, alongside HM Courts Service, the Tribunals Service and the National Offender Management Service (NOMS). The agency's aims are in line with those of the MoJ: to create a safe, just and democratic society.

The OPG contributes to the MoJ's departmental strategy objective of 'Delivering fair and simple routes to civil and family justice'

The OPG's key objectives include: encouraging the take-up of LPAs among the general public in order to avoid the need for intervention by the court; providing support to deputies appointed within the MCA framework; and contributing to the MoJ's performance and efficiency agenda by maintaining a full cost-recovery strategy.

As at 1 June 2010, the government ministers responsible for the OPG were:

- The Right Honorable Kenneth Clarke QC MP, Lord Chancellor and Secretary of State for Justice; and
- Jonathan Djanogly MP, Parliamentary Under-Secretary of State at the MoJ.

The OPG is the fourth largest executive agency within the MoJ, employing as at 31 March 2010 481 full-time equivalent staff, including temporary staff.

Who uses our services?

The OPG serves several types of customers and stakeholders, including:

- Donors – People who have made a LPA or EPA to protect their welfare or finances should they lose capacity in the future;
- Attorneys – People who have been appointed by donors to manage their welfare or finances should they lose capacity in the future;
- Clients – People who have lost capacity and whose welfare or finance affairs are subject to proceedings before the Court of Protection;
- Deputies – Either lay or professional individuals or authorities (such as councils or solicitors) who have been appointed by the court to manage the welfare or finances of a client; and
- Other stakeholders – Relatives of a client or donor, GPs and other health professionals, charities such as Age UK and Headway; and the legal profession.

To find out how our performance is measured, see pages 71-74.

Our mission statements:

■ To continue to improve the service provided to deputies and attorneys, and those applying for such roles, in order that decisions concerning individuals who lack mental capacity are made optimally and quickly

■ To improve awareness and knowledge of the OPG, and the services it provides, in order to improve the preparedness of everyone for a possible future lack of mental capacity

■ To create a proficient and motivated workforce equipped with the skills to carry out their roles effectively

■ To engage effectively with a range of supporting organisations in order to improve the effectiveness of the Mental Capacity Act 2005 and engagement with the OPG





Change

The OPG has undergone a period of significant change and improvement in the past 12 months.

Left: OPG's Birmingham
offices in Hagley Road
Below: The Nottingham-
based centre

As part of our commitment to continuous improvement in our service delivery, and in order to achieve the longer-term aims set out in our Vision and Mission statements, we embarked on an agency-wide change programme in 2009.

Parts of this change have been practical and visible, such as the move of functions from London to two new sites in the Midlands. Other elements have involved cultural – and therefore less tangible – shifts.

While undertaking these major strategic and organisational changes, we have made considerable efforts to maintain and improve the consistency of our service.

Relocations

In May 2009, we implemented our first office outside of London when we





Office of the Public Guardian

Case Study

'The first couple of months were very challenging'

Csaba Toth relocated from OPG's London offices to the new centre in Birmingham

'I had worked for over a year at the OPG's Contact Centre in London, but when the centre was relocated to Nottingham, I decided to apply for a different post in Birmingham.

I started in the post room, then was given a temporary supervision role. Now I'm post room manager.

'The set-up is quite different in Birmingham – for one thing, we're all on the same floor, whereas in London, we were spread over 15 floors! The first couple of months were very challenging, but people soon started to pick up on ways to improve things.'

➤ moved our post-handling, scanning and registration functions to Birmingham.

Eighty new staff were recruited to this office in order to build the capacity and capability to cope with the increasing demand for our services.

In autumn 2009, we started work at a further site in Nottingham, which became fully operational in March 2010. This space was previously occupied by another part of the MoJ and the acquisition provided a number of benefits, including the ability to take on existing civil servants from the MoJ.

The phased move to Nottingham began with the transfer of Type 2 and Type 2a supervision functions in October 2009, which was completed in January 2010. The final phase saw the OPG contact centre transfer to Nottingham on 8 March 2010.

Key benefits of both relocations included:

- The ability for the OPG and MoJ to fully utilise existing estate;
- An increase in resilience, through the removal of the business continuity risk of occupying a single London site;
- Improved customer service as the OPG was able to improve its processes and grow

its staff numbers and meet the increasing volumes of Lasting Power of Attorney (LPA) registration work; and

- A reduction in the OPG's dependency on temporary agency staff.

Some 200 posts have now been moved out of London, and the OPG is now functioning successfully across three sites rather than one. As a result, the organisation's business resilience has increased, as well as our capability for delivery and change.

The move is consistent with the wider civil service agenda to relocate offices outside the capital and will reduce costs in the long term. But it is only an enabler – the real opportunity is to build on and improve the service we offer to our customers.

Cultural change

The OPG's internal procedures have already benefited from the fresh perspectives brought in by new staff, who have helped us challenge some of our existing ways of thinking and working. Staff in Birmingham – the majority of whom were new to

The OPG is now functioning successfully across three sites

Active Orders Under Supervision (as at 31 March 2010)

Type 1	Property and affairs: 521	Personal welfare: 14	Total: 535	1.6%
Type 2A	Property and affairs: 5,703	Personal welfare: 0	Total: 5,703	17.5%
Type 2	Property and affairs: 20,656	Personal welfare: 181	Total: 20,837	63.8%
Type 3	Property and affairs: 5,589	Personal welfare: 0	Total: 5,589	17.1%

the civil service – have brought with them experience from the private sector. Meanwhile, a number of the staff in Nottingham were already civil servants and have therefore contributed a wide range of knowledge and skills from elsewhere in the sector.

Our broader aim has been to develop a more flexible and multiskilled workforce across the organisation, so that we can evolve out of a 'silo' culture. Part of the success of this change will be down to staff training and the development of job roles within the OPG that are robust and have a clear progression path.

This will improve customer service standards, as any person calling the OPG's contact centre should be able to receive help from whoever takes their call.

Our planned move, subject to funding, to a more integrated IT system over the

next 18 months will also play a part in this cultural shift.

Mental Capacity Act Implementation Review

As a result of recommendations from the scheduled review of the implementation of the Mental Capacity Act in 2008/09, we undertook a number of changes to our processes.

■ SUPERVISION

A new supervision level – type 2a – was introduced in April 2009. This intermediate tier helps bridge the gap between type 1 and type 2 supervision, offering added assurance for some new deputies, while enabling less demanding cases to be managed proportionately. Approximately 80 per cent of cases in type 2a are newly

Review of the Panel of Deputies

If a person loses mental capacity and they have not already made an LPA, the Court of Protection can appoint a deputy from a panel of approved deputies where there is no one else to act in their best interests.

This panel, which is mostly made up of solicitors and other professionals experienced in representing others, was reviewed during the year.

A full review, based on an online survey of deputies, was undertaken. The primary objective of the review was to assess the effectiveness of the panel and, if necessary, consider alternative options and make recommendations to ensure a high-quality service provision.

The size, spread and nature of the panel was looked at, with recommendations made as

to the criteria for panellists to be chosen and specialist areas which ought to be represented. A monitoring process has also been suggested.

Recommendations on how to increase the effectiveness of the panel, as well as ways of streamlining its administration, were made in March 2010, with implementation due during 2010/11.

Case Study



Office of the Public Guardian

'Having new staff input has really helped the OPG'

Simon Manby is a systems and performance manager at the OPG's Birmingham office. He started at the OPG as an administrative officer on Band E and skipped a band when he was promoted to his current position. He was awarded Employee of the Year in 2010

'The set-up in the Birmingham office is brilliant; we have some really, really good staff. We're under a lot of pressure, though – the volumes of work have really vamped up – but that's the picture across the whole of the OPG.'

'Having a new input of staff at Birmingham seems like it has really helped the organisation. Moving out of London has also been a good thing and has created new posts outside of the capital.'

➤ appointed lay deputies. The number of cases in type 1 supervision have also reduced from 1,317 in March 2009, to 535 in March 2010, as more have moved into type 2a.

We are now better able to target help and intervention where it is really needed. The type 1 supervision category is now operating much more as it was originally intended – for cases that require very close monitoring.

■ **FORMS**

In October 2009 shorter, simpler and more accessible LPA application forms were introduced for public use. The forms underwent user testing in advance, and the final versions reflect feedback from the test groups. There are two forms – one for a financial LPA, and one for a health and welfare LPA. Each have around 13 pages (compared to the previous 24 or 25 pages).

The intention was to make the application process less formidable and to reduce the number of imperfect

applications received. This is already having an effect, with over 10 per cent reduction in imperfections recorded in the first six months of use.

The forms can now be downloaded from our website free of charge.

■ **FEES**

The chance to move down the scale from type 1 supervision to type 2a has saved many of our customers money, as supervision fees are charged on a sliding scale. A new fees structure was also implemented in April 2009. This accommodated the new supervision level, and also reduced the cost of an LPA application from £150 to £120.

At every stage, the OPG is looking to improve our levels of customer service, efficiency and value for money. As every pound we spend must be reclaimed through fees, any savings we make also flow back to benefit our customers.

Further results from the MCA Review will be announced later in 2010.



**Sandra Hodgson
Head of Change and Development**



Challenge

Against a backdrop of significant organisational change, the OPG has also been faced with day-to-day operational challenges during 2009-10.



High volumes of work have persisted in the past 12 months – and these have risen dramatically in some areas.

We are keen to encourage more Lasting Power of Attorney (LPA) applications, so the challenge is to improve our ability to respond to ever-increasing workloads in both the immediate and the longer term.

We have already taken significant steps towards improving service delivery; this is reflected in a more streamlined complaints process and greater efficiency in all our business systems.

People

In addressing the need to build the OPG's capacity, a number of positive changes have already been put in place (see pages 12-14). There have, however, been some challenges for our employees during this unsettling period.

London-based staff, most of whom have elected not to move to the Midlands, have been particularly affected as their posts have been relocated. A preference exercise to redeploy staff within the London office has been very successful, and it is a credit to the people within the OPG that levels of engagement with the culture change have been so high.

A key priority has been to help staff develop transferable skills, so that they are aware of and prepared for other roles across the MoJ and wider civil service, should they wish to remain in London.

Workloads

Since 2007, the OPG has been faced with extraordinary volumes of work. In some cases – particularly in the applications and customer contact areas – these workloads were overwhelming and we initially struggled with our service delivery levels.

Case Study

'Preference exercise gave me a choice'
Jonathan Barnes has been employed by the OPG for eight years. He previously worked in the contact centre as team leader of correspondence team and telephony manager at Archway Tower, London. When his role was moved to Nottingham, Jonathan chose to stay in London and begin a new role



Office of the
Public Guardian

'When my job was relocated, I went through the preference exercise to find a new role in the capital. I had a team, so I had to oversee their new job applications as well.

'I was given options of roles within my existing band – D.

'I liked the sound of the post of PA to the head of supervision. So I ticked that box, filled out the application and was invited to an interview. I got the job and things have worked out well.

'Most of my team also managed to get new roles in Archway. Of the few who left, two got jobs at headquarters.'

In 2009-10, challenges around these volumes have remained – the financial year began with 8,802 receipts per month of Power of Attorney forms and ended with 18,147 a month.

One reason for the spike in volumes was that applicants had been waiting until the redesigned LPA application forms were released in October before applying.

A second – unexpected – boost to applications resulted from national media coverage of the OPG's work.

A front-page story in the *Mail on Sunday* in November, and a feature on BBC television's *The One Show* in January increased the number of applications to more than double the expected



Jo Weaver
Head of
Operations

numbers. By March 2010, we were receiving approximately 18,000 forms per month.

We can now reliably estimate that once a customer requests an LPA pack, there will be a six- to 10-week lead time before the application form is returned to the agency for processing.

To enable staff to keep pace with the increasing number of applications being received, an additional extended working hours shift was introduced in the

It is a credit to the people within the OPG that levels of engagement with the organisation's culture change have been so high

Birmingham office in March, beginning at 4pm. This new shift pattern will run initially for six months. Forty new staff were recruited to handle the workload and this meant we could begin to process 800 forms per day.

As the staff become more experienced, we anticipate it will be possible to continue to improve capacity and service.

Work will continue, subject to funding, to develop a more robust IT system that will enable the OPG to meet its LPA Key Performance Indicator (KPI) more effectively.

Continuous improvement

The OPG has challenged itself to deliver major improvements in all its business areas.

We have set out some robust tests for ourselves about the direction of the business in relation to customer needs and experiences in particular.

For example, our target for responding to correspondence reduced from 15 days to 10 days at the start of the year, and in 90 per cent of cases we are meeting this target.

In the past 12 months, we have aimed to become more proactive and forward-thinking, preparing the ground for the future. In June 2009, the OPG's executive team came together to develop a 'Future Operating Blueprint'.

This puts in place plans outlining how we should move forward as an organisation, including mechanisms to help us deal with increasing workloads.





► Complaints

The OPG has experienced a drop in the numbers of complaints received during the past year – from 2,312 registered complaints in 2008/09 to 1,860 in 2009/10 – while volumes of customer interactions have increased.

We have also streamlined our procedures so that complaints are now initially handled within the appropriate business area.

This has enabled each department to take an increased level of ownership and responsibility for any problems experienced.

New guidance – *Complaints, Compliments and Suggestions for Improvement* – has replaced the previous complaints booklet and, as well as explaining procedures, provides all the necessary contact details so customers know what to do if they wish to comment on our services. It is available for download via the website.

The OPG has experienced a drop in the numbers of complaints it has received

Customer feedback

In December 2009, the customer strategy team solicited feedback from Lasting Power of Attorney (LPA) customers about completing applications, OPG processing and registration. It also asked customers why they decided to make an LPA and what sources of information they used.

The results revealed overall satisfaction for customers was up by almost 20 per cent from February 2009 to 70.8 per cent. Customers liked having downloadable forms, clear guidance notes and a point-by-point explanation of errors. They found the OPG's website helpful and appreciated speaking to polite staff on the phone.

Monitoring the Public Guardian

The Public Guardian Board assesses OPG's progress and achievements during the year.

As the OPG enters its third year, progress is evident. The measures taken to address the early difficulties caused by unanticipated demand and limited capacity have delivered a distinct and sustained improvement in performance.

This is reflected in a progressive decrease in the levels of complaints and in positive feedback received from stakeholders. It is noticeable that the majority of complaints now received are about particularly complex cases, not, as before, about systematic delays and failures in process. The move of large parts of the operation to new offices in Birmingham and Nottingham has been essential to this transformation, and the work of those involved in this must be acknowledged.

In recent months the OPG has again experienced very high volumes following media coverage in *The Times* and *The One Show*, which has led to a very significant increase in the number of applications for LPAs. At the time of writing, the Public Guardian is again using his flexibility to adapt processes to increase capacity, notably by the implementation of the pilot Twilight Shift,

which has been implemented in Birmingham.

While the Board welcomes any increase in public awareness about LPAs, it is very conscious of the demand these place on the capacity of the OPG. In its second Annual Report, the Board called for an urgent investment in the OPG IT system, the necessity for which is now even more apparent.

At the end of last year, the Board made some important recommendations and I am pleased that most of these have since been addressed. I am particularly pleased that the LPA form has been revised so that it is simpler, that the cost of registering an LPA has been reduced.

Going forward, the Board is very keen to find an effective means of championing the Act across the relevant organisations in health, justice, and professional education. The success of the MCA will be measured not in procedural effectiveness but in a widespread change in the practice of those providing services to people lacking capacity.

The objective behind the MCA was to make it easier for people to exercise choice over their future, not make it more difficult. It is part of the personalisation agenda that now underpins health and social care services in the UK. They are both aspects of a fundamental cultural and policy shift towards empowering people and giving them control over their lives. The Board is emphatic about the need to get the difficult balance between empowerment and safeguarding right and this will be a continuing theme in our future work.

Rosie Varley OBE

Chair of the Public Guardian Board

At the time of writing, the Public Guardian is again using his flexibility to adapt processes

The Public Guardian is monitored, scrutinised and supported by the independent Public Guardian Board. The Board reports annually to the Lord Chancellor on how well the Public Guardian has discharged his duties. It also has an important role in communicating with those who use or provide OPG services, and in making sure their views are taken into account.

Working together

We are committed to taking a cohesive approach to our work, both within the organisation itself, and as part of the wider MoJ network. We are also working in closer partnership with our external stakeholders.

With the move to a multi-site operation, we realised we risked losing the sense of being a single, joined-up agency with a common purpose. We have therefore made efforts to ensure that the organisation's core cultural values are maintained across all locations.

The OPG's internal communications function has been integral to maintaining this unity, as it helps provide a whole-business picture for all staff. The staff newsletter *Inside OPG* and the staff intranet site are the key tools through which the organisation communicates with staff and creates a sense of cohesion.

Staff have been engaged in major decisions about the direction of the agency, and this has helped foster a sense of engagement and momentum. The annual staff survey has shown that the majority of employees have a clear understanding of the aims and longer-term plans of the OPG.

Work has also been done to improve learning and training opportunities, so



Steve Wade
Head of Customer and Policy



that staff at all levels can take responsibility for their own career and personal development. The aim is to create a more

Staff survey results showed:

- 85% feel they have the skills they need to do their job well
- 84% have a clear understanding of the OPG's purpose
- 84% understand how their work contributes to the OPG's objectives



skilled, flexible and motivated workforce, with a shift away from the inherent management-oriented culture.

To this end, we are adopting a 'coaching culture' – based on a training and mentoring system trialled in NOMS, another agency of the MoJ.

At all stages, we are making efforts to align our practices clearly with wider MoJ and Access to Justice strategies and priorities.

As well as employing staff at its three main sites, the OPG also now has a team of six directly employed visitors, who work

from home. Until 2009, all visitors were employed on a freelance basis, but by bringing on board a team of visitors, we have gained more flexibility and improved our speed of response for urgent cases.

The directly employed visitors are each developing their own areas of expertise – such as legal, welfare and benefits – based on their backgrounds.

Our partners

The OPG works with a variety of partners, in both the private and public sectors, as





A letter to an OPG visitor

I would just like to thank you for your kindness toward my mother during your visit the other week. In all these years, with all kinds of visits from doctors and psychiatrists, and care home managers, coming into the house, I have never known anyone show her the regard and understanding that you did; nor has anyone before bothered to speak with me for more than a couple of minutes after leaving.

Most people talk over her, deny that anything is particularly amiss, or being embarrassed because they have nothing to offer, rush off once their duty is done.

Mum was fine after you left. Ordinarily she gets very agitated after a visit from an outsider.

So thank you and I hope to see you again in a couple of years' time.

well as with individual members of the public.

In doing so, we have always aimed to be accessible and supportive, working together to find solutions that will benefit everyone.

We have in the past year become better at customising our outreach work with partners, so that we take into account more clearly the needs of specific stakeholder groups.

For example, in 2009/10, we have aimed to strengthen our links with local authorities in particular, and we have organised engagement sessions with councils to involve them in consultation exercises and raise their awareness of our role.

These sessions have proved popular and productive, so we will be continuing to roll them out in 2010/11.

Some of the benefits to local authorities from this increased level of partnership have been the ability to ask for advice where necessary, and the OPG has even supported some councils with applications to the Court of Protection.

Going forward, we will also be looking at work that could be done in partnership with other organisations, so that private-sector expertise could be utilised in areas such as processing application forms.

Stakeholders often approach the OPG to give talks at events or to group meetings,

Feedback from deputies

After talking through a particular problem about family finances with an OPG case worker, one lay deputy said she was very grateful to discover that there was somewhere to go for help and support as she previously didn't know the OPG existed.

Another lay deputy commented that in dealing with the OPG, it was nice that someone had listened and taken her concerns seriously.

and this is a key way of letting people know about our services.

We are keen to get feedback from people who have attended talks or awareness-raising workshops, and have sought views on the OPG itself, as well as the Mental Capacity Act, and any changes implemented.

We have tried to address the problems and issues that deputies and attorneys face in their role, and we've made efforts to cascade down to them as much information as possible, for example the launch of the new-style LPA form. ➤

Our partners and stakeholders include:

- The MoJ
- The Department of Health
- Local authorities
- Adult social care departments
- Solicitors and the legal profession
- Doctors and primary care trusts
- Care homes and care workers
- Charities and third sector agencies
- Lay deputies and attorneys

Case Study

OPG in the community

Anne Meader is a trustee of Hampshire-based charity Carers Together, which supports unpaid carers. Carers Together has been working with the OPG to promote the use of LPAs to its members



Office of the
Public Guardian

'Carers Together has a project called Clear Action Planning for Everyone (CAPE) and part of that is to try to encourage people to put plans in place for their future.

'We've been delighted that Martin John and the OPG listened to some of our concerns about the length of the Lasting Power of Attorney (LPA) forms and that they have improved these in the past 12 months so they are shorter and simpler.

'When we said we'd like to promote LPAs, the OPG came down to give

a talk at a large event we held and they provided us with the documents we needed. That was a great help because, as a small voluntary organisation, printing off paperwork for 150 people costs a lot of money. The OPG has given us lots of advice and support in this sense.

'We worked together to develop a bid for a project that will test the use of innovative methods of sharing information, reduce the number of times an individual gives information, improve quality of referrals and

ensure key information is shared promptly and efficiently.

'For example, if someone comes out of hospital, they know where to get information and they know what their rights and choices are. The OPG is working with us to implement the project over the next two years. It's been a really good exercise in bringing the voluntary sector and a national organisation together with local organisations and looking at things we can do together in the community.'

Case Study

OPG working with its stakeholders

Caroline Bielanska is Chief Executive of the not-for-profit independent UK organisation Solicitors for the Elderly (SFE). Its members are lawyers who are committed to providing legal advice for older and vulnerable people, their families and carers



Office of the Public Guardian

‘The openness of the OPG is one of the factors that impresses me most about the organisation. Even when it is facing some tough challenges, the team at the OPG aims to keep our members informed about what is happening and what the impact is likely to be.

‘The OPG’s office moves in the past year obviously presented a major challenge, but I don’t think anyone outside the OPG would have noticed any difference in service as a result.

‘A key part of the OPG’s role is to manage the registration of LPAs and EPAs and it is inevitable that members of the public want their documentation finalised as quickly as possible.

‘There have been times in the past year when the OPG has not managed to turn these round as quickly as it would have liked – simply because of the sheer scale of applications – but at least the OPG has kept us up to date about what has been happening.

‘I like the way that the OPG invites some of its stakeholders to offer their perspectives on its work and future plans. It was very useful for Solicitors for the Elderly to be involved in the guidance on LPAs, not just from a technical point of view but because we are representing the people who need to apply for them.’

▶ The support deputies need to carry out their duties depends on the complexity of the person’s affairs they are involved with, as well as factors, such as whether there has been a family conflict about the best interests of the person who lacks capacity.

Court of Protection visitors meet with deputies, particularly when they are new to their role, to ensure that they are coping with their duties. Type 1 and 2a deputies can call on dedicated caseworkers who draw up and manage supervision plans.

Deputy Support Group

A group exists to provide information, advice and reassurance to lay deputies. The group consists of volunteers who are, or have been, deputies themselves.

They are contactable by telephone and between them cover almost all regions of England and Wales. They have most recently used their experience of working with newly appointed deputies to help us redesign our fact sheets.

The Deputy Support Group is one of our key communication channels for deputies, and helps us to identify any common queries that may be coming to the fore.

Very good, easy to understand – provided a good grounding for future joint working

Feedback from London Borough of Hillingdon after a local authority engagement session



Raising awareness

As the OPG develops, we want to generate greater awareness of our work among the general public and our stakeholders. ▶

The OPG in the national media spotlight

During the year there was a raised level of awareness of LPAs, due to high-profile media coverage. This has included:

- A radio interview with the Minister (*The Today Programme*, BBC Radio 4);
 - A feature slot on BBC One's *The One Show* encouraging people to make LPAs as well as wills; and
 - Tabloid articles on various issues, including the abuse of LPAs and the Mental Capacity Act.
- The coverage on *The One Show* proved to have the greatest impact on the workload of the OPG, causing a significant



spike in the numbers of applications for LPAs.

The OPG has received coverage in a range of media – everything from television and radio to tabloid and broadsheet dailies and trade publications.

- These have included: *The Daily Mail*, *The Sun*, *The Daily Express*, *The Daily Mirror*, *The Times*, *The Independent*, *The Financial Times*, *The Daily Telegraph*, *The Mail on Sunday*, *The Law Society Gazette*, *The One Show*, *The Today Programme* and *Moneybox*.



By 2012, more than one million people in the UK will suffer from dementia

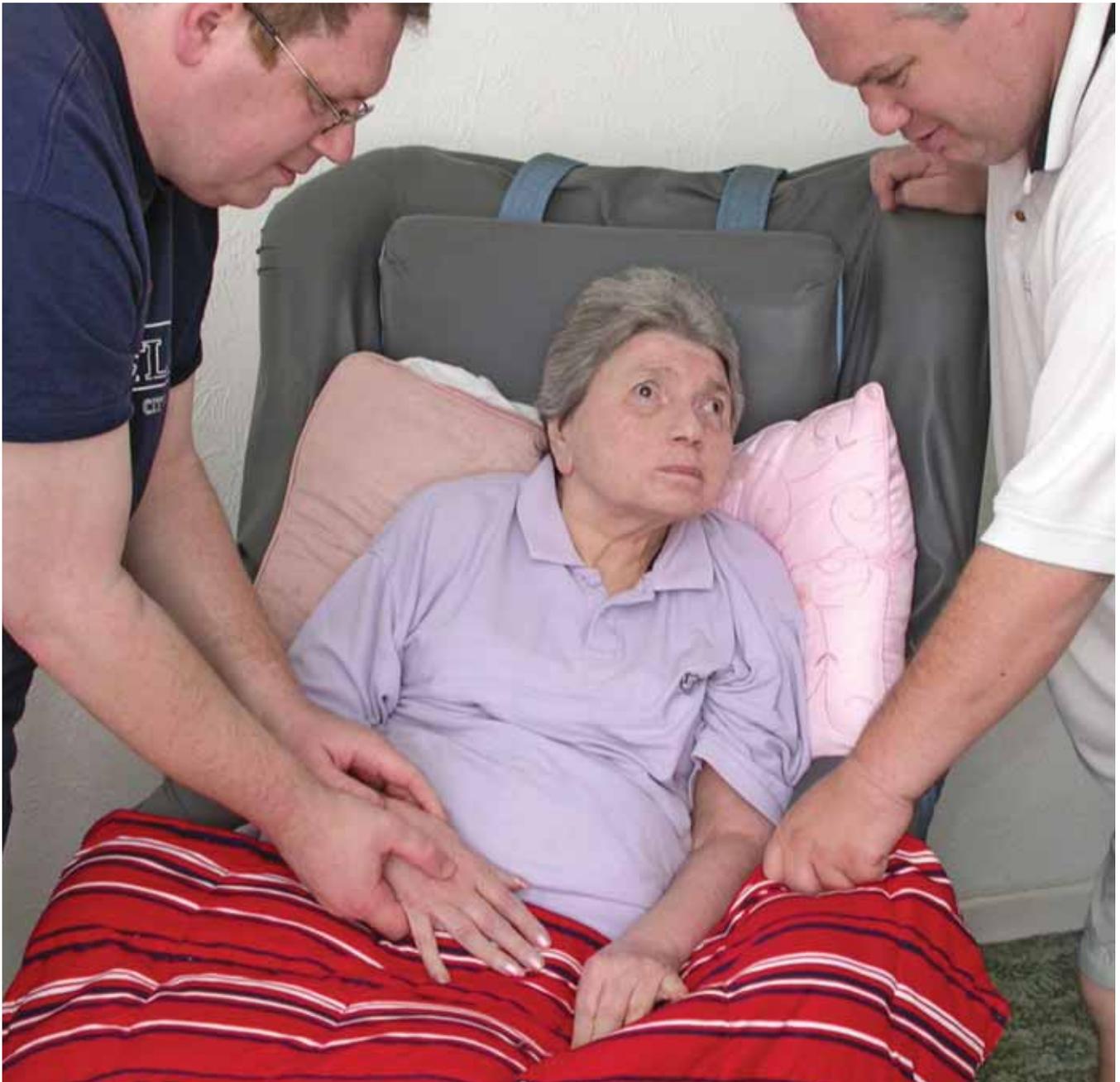
It is predicted that as many as one in three adults will be affected by mental capacity or mental health problems at some point in their lives. We therefore have an important role to play in making it possible for all adults to plan in advance for a time when they may no longer have the mental capacity to make decisions regarding their own welfare or finances.

Part of our success in this task will be based on how aware people are of the OPG's existence and the services it provides. In particular, we want to raise awareness of lasting powers of attorney (LPAs) proactively and to make these accessible and affordable to as many people as possible.

At present, the majority of LPA applications come from the over-65s, however we are currently profiling our customer bases with a view to targeting an increasingly younger demographic, too.

We want to become smarter at engaging other customer groups and increasing the demand for our services among them. As part of this, over the past 12 months we have made an effort to deliver the clear message that an LPA offers a person a choice about how they are cared for, or how their finances are handled. Without an LPA in place, that decision is left to someone else (who must be appointed by the Court of Protection).

This awareness-raising strategy has taken a variety of forms, including: conferences; talks to stakeholders, such as will writers, the British Banking Association and the Ministry of Defence; and sending leaflets out to



organisations such as the Civil Service Pensions Alliance.

Information has been cascaded down to deputies and donors, as well as the general public about the improved LPA process.

We have focused particularly on the stakeholders who will help to meet our objectives for raising awareness.

The increased awareness of both the existence and the importance of LPAs can be measured in terms of growing numbers of applications received by the OPG.

The increase in cases being referred for investigation can be seen as a positive development

Within the past year, particular periods of heightened awareness of the OPG and our work can be attributed to both positive and negative media coverage (see box overleaf). ➤



Office of the
Public Guardian

Case Study

Working together to protect a vulnerable donor An OPG investigation in action

In June 2009, the OPG Compliance and Regulation Unit received a telephone call from a bank holding an attorneyship account for one of our donors.

An attorney (acting for an elderly donor who suffers dementia and lives in a care home) had made large withdrawals, to the extent that there was only enough money left to pay one more month of care home fees.

The bank was also concerned that the attorney had obtained credit cards and personal loans in the client's name.

The OPG made an urgent Protection of Vulnerable Adults referral to the local Adult Social Care team who, in turn, notified the local police.

Upon the Public Guardian's Rule 81 application, the Court of Protection froze all accounts in the name of the donor. Statements revealed inappropriate transactions, including £50,000 on holidays and payments to gambling websites. Over two years more than £200,000 had been spent.

The degree of abuse was sufficient to warrant an immediate application to revoke the Enduring Power of Attorney.

Working with the police meant we received warning of the attorney's arrest, and delayed serving our application for removal until afterwards, to avoid compromising the investigation.

Meanwhile, a multi-agency safeguarding strategy panel was convened to make decisions about the donor's care in the immediate term.

The attorney was charged with fraud.

Protection and intervention

In 2009/10, 902 referrals were received by the OPG's investigations department, of which 506 cases were completed.

Of these, 148 complaints (around 30 per cent) were not upheld. This fact makes it clear that investigations should not be feared by a deputy or attorney if they have done nothing wrong – in fact it can be a supportive process.

In 2009/10, the increase in general awareness of our work has also been reflected in higher numbers of requests for investigation or intervention by the OPG. This is a result of an improved understanding, particularly among our stakeholders, of the OPG's powers to protect the donors and clients on our register.

We now receive approximately 100 requests for intervention per month. Around half of these referrals do not fall within our remit, and have to be referred on. In these instances, our Safeguarding Service Standard states that: *Where a concern raised with the Public Guardian falls outside his statutory powers of investigation, we will provide advice or assist the complainant to progress their concerns in 90 per cent of cases, within five working days.*

The increase in cases being referred for investigation can be seen as a positive development as it means more people are willing to report to us where they

The SVA policy

The OPG's Safeguarding Vulnerable Adults (SVA) policy provides a framework for the delivery of our safeguarding role. Since its introduction in 2008, we have been able to respond more quickly to concerns about abuse. All OPG staff have access to the policy.



have a concern. The majority of referrals for investigation come from family whistleblowers, but better training and the implementation of the Safeguarding Vulnerable Adults (SVA) policy, have meant that OPG staff are also more likely to spot where there is a potential problem that needs our attention. Some referrals are also made by local authorities and the police.

The OPG has been successful in all but one of its 80 applications to the Court of Protection for the removal of deputies where there has been concern about their conduct or capabilities.

If a deputy or attorney has been abusing their powers, there are often occasions when the law has been broken, so a case would need to be referred to the police. However, a deputy who has been stripped of their powers by the OPG may, nevertheless, still be the client or donor's main carer. Such concerns have meant that, in the past, the



Angela Johnson
Head of Practice
and Compliance

Potential outcomes of an investigation include:

- Application to court to remove the powers of a deputy or attorney;
- Warning letter from the Public Guardian to say that powers could be revoked if improvements are not made;
- Referral to the police; or
- Increased level of supervision.

OPG has sometimes hesitated to refer a case to the police.

However, we now have a blanket policy of referring a case to the police if it is believed that a criminal act has been committed, for example theft or fraud.

The police and Crown Prosecution Service are better placed to decide whether a prosecution would be in the public interest.

OPG Policies

Equal opportunities

The OPG is an equal opportunity employer. Our aim is to be fair to everybody, to ensure that no eligible job applicant, or employee, receives less favourable treatment on the grounds of race, colour, nationality, ethnic or national origins; age; gender; sexual orientation; marital status; disability; religion or religious affiliation; or is disadvantaged by conditions or requirements which cannot be shown as justifiable. Our policy builds on the Civil Service Code of Practice on Employment of Disabled People and the statutory obligations of employers under the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995, The Race Relations (Amendment) Act 2000, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003 and the Employment Equality (Age) Regulations 2006.

Employee engagement

Ensuring that our employees are engaged is a key objective of the OPG. We ensure that our employees are kept up-to-date on all issues, including performance of the agency. During this financial year we have managed this through use of the intranet, a fortnightly newsletter, organisational briefings and office notices. Following on from the results of the staff engagement survey, all divisions have produced an individual action plan, designed to address areas where teams, or the OPG as a whole, can improve levels of engagement. We



Stephen Taylor
Head of Finance
and Resources

have introduced a People Group, made up of a cross-section of OPG people who work with colleagues to gauge views, ideas and opinions about the OPG and to act as a channel of communication between OPG people and senior managers.

Learning and development

Between April 2009 and March 2010 the Learning & Development Team focused on OPG transformation. This involved design and delivery of a programme to underpin the launch of our Birmingham and Nottingham offices, and continuing support to those teams. In addition, staff looking for new roles were trained in job application techniques. As part of ongoing business skills work, the operational teams have received training in the new complaints-handling policy and the LPA forms introduced in October.

Creditor payment, policy and performance

The OPG pays all supplier invoices in accordance with the Government payment performance targets. These require us to pay all invoices not in dispute within 30 days or within the agreed contractual terms. They also require us to pay 100 per cent of invoices, including disputed invoices once the dispute has been settled, on time within these terms. From 1 April 2009 to 31 March 2010, we paid 100 per cent of invoices within this time span. Payments are only made once they have been properly authorised under the terms of our scheme of financial delegation. No

interest was paid under the Late Payment of Commercial Debt (Interest) Act 1998. The OPG, in keeping with public sector organisations, aims to pay suppliers within 10 days, and in this year we paid 96 per cent of invoices within this time span.

Health and safety

The OPG acknowledges its legal responsibilities in relation to the health, safety and welfare of its employees and for all people using its premises. We comply with the Health and Safety at Work Act 1974 and all other legislation as appropriate.

In maintaining health and safety, a Health and Safety Committee meets quarterly to discuss relevant matters and to ensure key staff are kept informed of changes in legislation, practices and procedures. Relevant training for staff and managers is provided to ensure compliance. We remain committed to continual improvement in this field, in consultation with staff and trade union representatives who have played a constructive part throughout.

Sustainability

The OPG is committed to sustainable development, which can be defined as development that meets the needs of the

The OPG is committed to sustainable development, which meets the needs of the present without compromising future generations



present, without compromising the ability of future generations to meet their own needs. We implement the following strategies to support this statement:

Energy: Staff are reminded to switch off their CPU and monitor every night to reduce carbon emissions, while photocopiers and lights are switched off by the security staff.

Resources: OPG booklets and forms have been printed on recycled paper, and the same content can also be obtained on a CD-Rom when requested. Clients are also encouraged to seek information via the internet and email the office where possible.

Staff information is communicated via the intranet, which is a well-used tool within the organisation.

Water filter machines are provided on each floor, minimising the use of bottled mineral water and the need to operate individual kettles for hot water.

Recycling: Recycling points for paper, plastic bottles and cans can be found on each floor.

Transport: Staff members are encouraged to use public transport when travelling to an external meeting.

Financial activity

The OPG is funded by the Ministry of Justice (MoJ) from its Parliamentary Supply and by income derived from fees and charges from external customers

In common with other Government agencies, future funding has to be approved by our sponsor department, the MoJ, and by Parliament.

Such approval has already been given for 2010/11 and there is no reason to question future funding arrangements. The financial statements have therefore been prepared on a going-concern basis for financial reporting and asset valuation purposes.

1 April 2009-31 March 2010

SUMMARY

The OPG had a net cost of operations of £9.2m due mainly to the cost of fee exemptions and remissions of £3.2m and

for work carried out on behalf of the Court of Protection of £3.8m (Financial Statements Note 7. Fees and Charges). The OPG's net assets as at 31 March 2010 amounted to £6.2m.

INCOME

Total income over the financial year has increased by 25% to £22m from £17.6m the previous year. This reflects another year of significant levels of demand, in particular applications to register Lasting Powers of Attorney and Enduring Powers of Attorney, generating the bulk of fee income.

FEE REMISSIONS AND EXEMPTIONS

Fee exemptions and remissions have increased from 10.8% of fee income to 14.6% to £3.2m for the year. This is the

Total income over the financial year has increased by 25% to £22m from £17.6m the previous year

The financial outlook for the OPG for 2010/11 is positive as the organisation continues to expand to meet the challenges of increasing demand for our services

result of our commitment to communicate the fee exemptions and remissions policy so that people find our services affordable and accessible, in line with access to justice.

■ OPERATING EXPENDITURE

Operating expenditure

A breakdown of expenditure, excluding the Court of Protection recharges for work carried out is as follows:

	Total	CoP*	OPG	
	£'000	£'000	£'000	
Staff costs	14,879	1,935	12,944	53%
Other operating costs	5,905	357	5,548	23%
Notional costs	7,320	1,477	5,843	24%
	28,104	3,769	24,335	

* OPG continues to provide assistance to CoP, these costs have been estimated.

■ FULL COST RECOVERY

The financial objective agreed with HM Treasury to achieve full cost recovery, excluding fee exemptions and remissions, is not achieved at 93% (see Note 7 Fees and Charges).

■ LOOKING AHEAD

The financial outlook for the OPG for 2010/11 is positive as the organisation

continues to expand to meet the challenges of increasing demand for our services, as the awareness of the Mental Capacity Act 2005 strengthens. Fees for 2011/12 will be reviewed.

Remuneration report

Remuneration policy

The remuneration of senior civil servants is set by the Prime Minister following independent advice from the Review Body on senior salaries.

The salaries for the members of the Executive Board are determined by the Permanent Secretary of the MoJ, in accordance with the rules set out in Chapter 7.1 Annex A of the Civil Service Management Code.

In reaching its recommendations, the Review Body has regard to the following considerations:

- The need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities;
- Regional/local variations in labour markets and their effects on the recruitment and retention of staff;
- Government policies for improving public services, including the requirement on departments to meet the output targets for the delivery of departmental services;
- The funds available to departments as set out in the Government's departmental expenditure limits; and
- The Government's inflation target.

The Review Body takes account of the evidence it

The monetary value of benefits in kind covers any benefits provided by the employer and treated by HM Revenue and Customs as taxable

receives about wider economic considerations and the affordability of its recommendations.

Salary

'Salary' includes:

- Gross salary;
- Performance pay or bonuses;
- Overtime;
- Reserved rights to London weighting or London allowances;
- Recruitment and retention allowances;
- Private office allowances; and
- Any other allowance to the extent that it is subject to UK taxation.

This report is based on payments made by the Department on behalf of OPG and thus recorded in these accounts. The tables in this remuneration report have been subject to audit.

Benefits in kind

The monetary value of benefits in kind covers any benefits provided by the employer and treated by HM Revenue and Customs as a taxable emolument.

Service contracts

Civil service appointments are made in accordance with the Civil Service Commissioners' Recruitment Code, which requires appointment to be on merit on the basis of fair and open competition, but also includes the circumstances when appointments may otherwise be made.

Unless otherwise stated below, the officials covered by this report hold appointments that are open-ended until they reach the normal retiring age of 60. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

Non-executive members were appointed on a three or four-year fixed contract.

Remuneration				
Members	2009-10		2008-09	
	Salary £'000	Benefits in kind (to nearest £100)	Salary £'000	Benefits in kind (to nearest £100)
Martin John Chief Executive and Public Guardian	75-80	–	55-60 (75-80 full year equivalent)	–
Stephen Taylor Head of Finance and Resource	65-70	–	60-65	–
Angela Johnson Head of Supervision	50-55	–	50-55	–
Sandra Hodgson Head of Change and Development	45-50	–	10-15 (45-50 full year equivalent)	–
Steve Rider Head of Applications (to 13 September 2009)	20-25 (50-55 full year equivalent)	–	50-55	–
Jo Weaver Head of Applications and Processing (from 14 September 2009)	25-30 (50-55 full year equivalent)	–	–	–
Steve Wade Head of Policy and Customer Strategy	45-50	–	–	–
Rosie Varley Chair of the Public Guardian Board	15-20	–	15-20	–
Maurice Rumbold Public Guardian Board member	5-10	–	5-10	–
Bob Niven Non-executive director (until retirement in 28 February 2010)	5-10	–	5-10	–
Lionel Joyce Public Guardian Board member	5-10	–	5-10	–
Suzanne McCarthy Public Guardian Board member	0-5	–	0-5	–
Deep Sagar Non-executive director and Public Guardian Board member	5-10	–	0-5	–
Sue Whittaker Public Guardian Board member	5-10	–	0-5	–
Sarah Wood Non-executive director (from 1 February 2010)	0-5	–	–	–

Non-executive directors were appointed on a three or four-year fixed contract.

Pension benefits

Members	Accrued pension at age 60 as at 31.03.10 and related lump sum	Real increase in pension and related lump sum at age 60	CETV at 31.03.10	CETV at 31.03.09*	Real increase in CETV	Employer contribution to partnership pension account
	£'000	£'000	£'000	£'000	£'000	Nearest £'000
<i>Martin John Chief Executive and Public Guardian</i>	15-20 plus lump sum 50-55	0-2.5 plus lump sum 2.5-5	222	194	16	-
<i>Stephen Taylor Head of Finance and Resource</i>	5-10 plus lump sum 20-25	0-2.5 plus lump sum 2.5-5	131	106	18	-
<i>Angela Johnson Head of Supervision</i>	15-20 plus lump sum	15-20 plus lump sum	301	27	60	-
<i>Sandra Hodgson Head of Change and Development</i>	15-20 plus lump sum 40-45	0-2.5 plus lump sum 2.5-5	339	295	24	-
<i>Steve Rider Head of Applications (to 13 September 2009)</i>	20-25 plus lump sum 65-70	2.5-5 plus lump sum 7.5-10	420	351	46	-
<i>Jo Weaver Head of Applications and Processing (from 14 September 2009)</i>	10-15 plus lump sum 35-40	0-2.5 plus lump sum 0-2.5	141	129	8	-
<i>Steve Wade Head of Policy and Customer Strategy</i>	0-5 plus lump sum 10-15	0-2.5	62	49	10	-

*The figure may be different from the closing figure in last year's accounts. This is due to the CETV factors being updated to comply with the Occupational Pension Scheme (Transfer Values) (Amendment) Regulations 2008.

Civil service pensions

Pension benefits are provided through the Civil Service Pension (CSP) arrangements. From 30 July

The pension figures relate to the benefits the individual has accrued as a result of their total membership of the pension scheme

2007, civil servants may be in one of four defined benefit schemes: either a 'final salary' scheme (classic, premium or classic plus); or a 'whole career' scheme (nuvos). These statutory arrangements are unfunded with the cost of benefits being met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus and nuvos are increased annually in line with changes in the Retail Price Index (RPI). Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a good-quality 'money purchase' stakeholder pension with a significant employer contribution (partnership pension account).

Employee contributions are set at the rate of 1.5

per cent of pensionable earnings for classic and 3.5 per cent for premium, classic plus and nuvos. Benefits in classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum (but members may give up [commute] some of their pension to provide a lump sum). Classic plus is essentially a variation of premium, but with benefits in respect of service before 1 October 2002 calculated broadly in the same way as in classic. The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3 per cent and 12.5 per cent (depending on the age of the member) into a stakeholder pension product chosen by the employee from a selection of approved products.

The employee does not have to contribute but, where they do make contributions, the employer will match these up to a limit of three per cent of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8 per cent of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill-health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach 60, or immediately on ceasing to be an active member of the scheme if they are already aged 60 or over. Further details about the CSP arrangements can be found at the website:

www.civilservice-pensions.gov.uk

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme, or arrangement to secure pension benefits in another pension scheme, or arrangement when the member leaves a

scheme and chooses to transfer the benefits accrued in their former scheme.

The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The CETV figures, and from 1 April 2003 the other pension details, include the value of any pension benefit in another scheme or arrangement that the individual has transferred to the CSP arrangements, and for which the Cabinet Office's Civil Superannuation Vote has received a transfer payment commensurate to the additional pension liabilities being assumed. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries and do not take account of any actual or potential reduction to benefits from Lifetime Allowance Tax, which may be due when pension benefits are taken.

Real increase in CETV

This reflects the increase in CETV effectively funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Martin John
Chief Executive and Public Guardian
21 July 2010

Corporate governance

The OPG governance structure consists of an Executive Board supported by five sub-boards: Delivery, Policy, People, Customer and Change. One non-executive director supports each sub-board. The Executive Board and its sub-Boards have accountability for strategy, management overview and operational control of the OPG in supporting the Chief Executive. The Public Guardian Board continues to fulfil its statutory role.

The Executive Board comprised six executive staff members, all permanent civil servants, throughout the period as follows:

- Martin John
Chief Executive and Public Guardian
- Stephen Taylor
Head of Finance and Resources
- Steve Rider (until 13 September 2009)
Head of Applications and Contact Centre
- Jo Weaver (from 14 September 2009)
Head of Applications and Contact Centre
- Angela Johnson
Head of Supervision
- Sandra Hodgson
Head of Change and Development
- Steve Wade
Head of Policy and Customer Strategy

The sub-Boards during the period include the following chairpersons and members of the Public Guardian Board:

- Delivery Board
Chair: Stephen Taylor
PGB: Maurice Rumbold
- Policy Board
Chair: Angela Johnson
PGB: Suzanne McCarthy
- People Board
Chair: Steve Rider
PGB: Sue Whittaker
- Customer Board
Chair: Steve Wade
PGB: Lionel Joyce
- Change Board
Chair: Sandra Hodgson
NED: Bob Niven (to 28 February 2010)

Governance Framework

The OPG Framework Document (revised) laid before Parliament on 1 April 2009, sets out the financial and organisational framework within which the OPG operates as an executive agency of the Ministry of Justice (MoJ) and the responsibilities of those involved. The Secretary of State for Justice and Lord Chancellor is the Minister accountable to Parliament for the activities and performance of the OPG.

The Chief Executive is appointed to manage the OPG, and the Secretary of State delegates to him responsibility for the exercise of its functions as set out in the Framework Document and for its day-to-day performance.

The Permanent Secretary for the MoJ is the Department's principal Accounting Officer and is the principal adviser to the Secretary of State on matters affecting the MoJ as a whole, including allocation of resources to the OPG, expenditure and finance. The Permanent Secretary, as principal Accounting Officer, must be satisfied that the OPG has adequate financial systems and procedures in place, both to promote the efficient and economical conduct of its business and to safeguard public and client funds.

The Permanent Secretary designated the Chief Executive as Accounting Officer for the agency by letter, in a form approved by HM Treasury, which defined the Chief Executive's responsibilities and the relationship between the role of agency Accounting Officer and the role of principal Accounting Officer.

The Chief Executive

The Chief Executive is responsible for the management of the OPG. He is directly accountable to the Secretary of State for the effective, efficient and economic operation of the OPG. In particular, he is responsible for:

- Ensuring the proper management and propriety in handling public and client funds;
- Carrying out the functions entrusted to him by the courts or by statute;
- The quality of the service provided to clients;
- Setting operational policy and strategy;
- Managing the OPG's resources efficiently, effectively and economically;
- Risk management and corporate governance within the OPG;
- Preparing the OPG's corporate and business plans, and proposed key performance measures;

The Executive Board has accountability for management overview, strategy and operational control

- Submitting quarterly performance reports to the MoJ;
- Achieving the OPG's agreed key targets;
- Preparing accounts and signing audited accounts;
- Operating an effective complaints procedure;
- Leadership of staff; and
- Ensuring effective consultation with the OPG's clients and stakeholder groups.

The Chief Executive, as Agency Accounting Officer, is responsible for the proper and economical use of resources and expenditure of money voted by Parliament and for ensuring that correct procedures are followed for securing the propriety and regularity of public and client funds for which he is responsible.

He is responsible for ensuring that the requirements of Managing Public Money as notified to him are met, and observes any general guidance on accounting matters issued to him by HM Treasury and the Cabinet Office.

The Chief Executive ensures that any recommendations of the Public Accounts Committee, other Parliamentary Select Committees or other Parliamentary Authority accepted by the Government and notified to him are put into effect, and provides regular reports to the Permanent Secretary on progress in compliance with such recommendations.

Complaints

The Chief Executive is responsible for maintaining an open, fair and responsive complaints procedure in relation to the administrative work of OPG staff. The Agency monitors all comments and complaints it receives and aims to respond constructively in line with the complaints procedure. Information on the OPG complaints procedure was published and made available to its clients on request and via the OPG website. It will be reviewed to ensure it is published in a manner that is clear and accessible to all users.

An Independent Complaints Examiner (ICE) considers complaints that clients feel are not resolved after full investigation through the OPG's internal



complaints procedure. The ICE reports regularly on his or her activities in relation to OPG complaints and, in the context of this work, provides considered advice to the OPG on improving customer service.

External Auditor

The financial statements have been audited by the National Audit Office (NAO) on behalf of the Comptroller and Auditor General. No further audit services were received, aside from that of Statutory Audit by the NAO. The cost of audit work was £53,000, which is solely related to audit services and is a notional cost (see note 6 of the financial statements). So far as the Accounting Officer is aware, there is no relevant audit information of which the OPG's auditors are unaware, and the Accounting Officer has taken all the required steps to familiarise himself with any relevant audit information, and to establish that the OPG's auditors know about that information.

Internal Audit

The Chief Executive has established, and maintains, arrangements for the provision of internal audit services within the agency in accordance with the objectives and standards for internal audit set out in the Government Internal Audit Standards (published by HM Treasury), which include periodic peer reviews. The MoJ is provided with copies of the results of the peer reviews. The MoJ Internal Assurance Division has a right of access to the OPG in support of the Permanent Secretary's responsibilities as principal Accounting Officer, including access to all books,

records, data, assets, personnel and premises of the OPG, as may be considered desirable or necessary to discharge the department's responsibilities.

MoJ receives copies of the OPG's annual internal audit plans and annual report to the Chief Executive. MoJ is notified of any fraud or irregularity, within the definition set out in Managing Public Money.

Audit Committee

The OPG Audit Committee provides support for the Accounting Officer in the discharge of his responsibilities for governance, risk management, control and assurance. It is an advisory body and has no executive powers.

The members of the agency's Audit Committee during the period were:

- Bob Niven
Chairman (Non-executive director)
- Deep Sagar
(Non-executive director)
- Kate Ivers
(Finance Director, Office of Fair Trading)

The Chief Executive of the agency is an attendee. The Audit Committee met four times during the period; internal and external auditors attended all meetings.

No Audit Committee member had any other directorship or significant interest, that conflicted with their responsibilities as a member of the OPG Audit Committee.

The financial statements have been audited by the National Audit Office (NAO) on behalf of the Comptroller and Auditor General

Statement of Accounting Officer's responsibilities

Under section 7(2) of the Government Resources and Accounts Act 2000, HM Treasury has directed the agency to prepare a statement of accounts for each financial year in the form and on the basis set out in its Accounts Direction.

The accounts are prepared on an accruals basis and must give a true and fair view of the agency's state of affairs at the year-end and of its income and expenditure, recognised gains and losses and cash flows for the financial year.

The principal Accounting Officer for the Ministry of Justice (MoJ) has designated the Chief Executive of the OPG as the Accounting Officer for the agency, with responsibility for preparing the agency's accounts and for transmitting them to the Comptroller and Auditor General.

In preparing the accounts, the Accounting Officer is required to comply with the 2009/10 Government Financial Reporting Manual (FRoM) issued by HM Treasury that follows International Financial Reporting Standards (IFRS) to the extent that it is meaningful and appropriate to the public sector, and in particular to:

- Observe the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- Make judgments and estimates on a reasonable basis;
- State whether applicable accounting standards, as set out in the FRoM, have been followed, and disclose and explain any material departures in the accounts; and

- Prepare the accounts on a going-concern basis.

The responsibilities of an Accounting Officer – including responsibility for the propriety and regularity of the public finances for which an Accounting Officer is answerable – for keeping proper records and for safeguarding the agency's assets, are set out in the Accounting Officers' Memorandum issued by HM Treasury and published in *Managing Public Money*.

In preparing the accounts, the Accounting Officer is required to comply with the 2009/10 Government Financial Reporting Manual

Statement on internal control

Scope of responsibility

As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the Office of the Public Guardian (OPG) policies, aims and objectives, whilst safeguarding the public funds and Agency assets for which I am personally responsible, in accordance with the responsibilities assigned to me by the Principal Accounting Officer of the Ministry of Justice (MoJ), following the principles set out in *Managing Public Money*.

The OPG is an executive agency of MoJ. The Secretary of State is the Minister accountable to Parliament for the activities and performance of the OPG. The Agency has an Executive Board and sub-Boards, which comprise the non-executive and executive members, who serve to provide strategic oversight, guidance, scrutiny of and challenge to the work of OPG in support of the Chief Executive.

In addition a Public Guardian Board (PGB), which has seven members independent of the OPG, includes a judicial appointment made by the President of CoP. The Board's duty is set out in the Mental Capacity Act 2005 and, in summary, its remit is to scrutinise and review the way in which the Public Guardian discharges his functions and to make recommendations to the Lord Chancellor as it thinks appropriate.

During times of increased workloads and changes to our working environment my responsibility similarly increases so that awareness and learning of effective controls and compliance has intensified. Delivering our services across three locations London, Birmingham and Nottingham as well as separating the OPG and the Court of Protection during this

period has meant an emphasis on induction for new staff along with training that has incorporated compliance and control matters together with risk management.

The purpose of the system of internal control

The system of internal control is 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 of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the OPG's policies, aims and objectives; to evaluate the likelihood of those risks being realised, and the impact should they be realised; as well as to manage them efficiently, effectively and economically. The system of internal control has been in place in the OPG for the year ended 31 March 2010 and up to the date of approval of the annual report and accounts, and accords with HM Treasury guidance.

I acknowledge my overall responsibility for the effective management of risk throughout my business area

Capacity to handle risk

I acknowledge my overall responsibility for the effective management of risk throughout my business area. I can confirm that registers identifying, assessing and setting out mitigating actions to significant risks are in place across my business area and are regularly reviewed at management boards. Risk management is incorporated into the planning and decision-making processes, with assessment of risk to business objectives documented, along with mitigating actions, and reported on through risk registers and other means that are (regularly) reviewed and updated:

- Risk addressed monthly at the Executive Board meetings and OPG Audit Committee meetings as an agenda item. Key Risks are elevated to the Access to Justice (AtoJ) business group and MoJ Corporate Risk Register as appropriate;
- OPG Corporate Risk Register assessed and updated monthly by OPG Executive Board. The register includes details of risk, cause, effect and mitigating actions to manage risk with delivery dates, clear ownership and status of risk;
- Risk management used in business plans – The Register details risks associated with achievement of objectives in the OPG Business Plan. Business performance reviewed monthly by the OPG Executive Board and quarterly by AtoJ;
- Project risks and status are reviewed by the OPG Change Board as appropriate;
- A Risk Co-ordinator being responsible for maintenance of a Corporate Risk Register by calling for and collating updates from risk owners, liaising with AtoJ and MoJ Risk Management Branch, completing Statement of Assurance and Internal Control, and organising a Risk workshop; and
- The OPG providing information for the MoJ fraud risk assessment.

The risk and control framework

There is a formal system for identifying, evaluating, managing and reporting risks to objectives, their impact, and likelihood of occurrence and current and planned mitigating action, along with assigned responsible risk owners.

Risk strategy

Use is made of the MoJ Risk Management Assessment Framework as a tool for the continued assessment of risk management in the OPG. The Risk Register and setting of top risks is reviewed monthly. The strategy includes:

- A Risk Register being reviewed by the OPG Executive Board monthly and OPG Audit Committee every quarter;
- A Risk Summary Matrix allowing risk to be prioritised and tracked throughout the period, supplementing the OPG Corporate Risk Register;
- An OPG corporate risk register being provided to AtoJ and MoJ quarterly, to be considered in relation the Departmental Corporate Risk Register;
- A booklet *A Guide to OPG Corporate Governance Policies and Compliance* being issued to all staff as a consequence.

Information assurance

An OPG-appointed Information Assurance Executive Lead (IAEL) performs the role of Senior Information Risk Owner supported by a designated Information Manager. The OPG has a Security of Information policy, asset register, information risk register and post-incident response plan, including:

- The OPG management control system with controls specifically covering security of information procedures and responsibilities;
- All OPG staff during the year receiving mandatory training in the security of information;
- Managers with specific security of information responsibilities attaining a CiISMP;
- The OPG intranet, available to all staff, providing an Information Assurance and Security section, which provides additional guidance on how to apply protective marking, and a guide on how protective marking works;
- The OPG having risk assessments completed in respect of all its key IT systems;
- The OPG commissioning Ernst & Young to complete a gap analysis information security management assessment in line with ISO 27001



and against the HMG Security Policy Framework of those areas not covered by the standard to assess compliance;

- Lockable storage space being reviewed and a key cupboard protocol being in operation; and
- The OPG has a clear desk policy and is seeking to embed this into its staff culture.

Anti fraud

The OPG has a fraud response plan that underpins the MoJ Fraud Policy. The organisation has a trained fraud investigator, who is a member of the MoJ Counter Fraud Co-Ordination Group, and is able to draw more widely across the department if necessary. Fraud investigations are always carried out by the OPG Fraud Investigator with MoJ Internal Audit. The organisation has completed a fraud risk assessment that, in turn, feeds into the MoJ fraud risk assessment. Fraud awareness seminars are provided to all new staff on induction and via a rolling programme to existing staff.

Business continuity

The OPG has a Business Continuity Policy and Business continuity Plan in line with BS25999 and best practice. The organisation has a Business Continuity Manager, who is a member of the Business Continuity Institute.

Steps to ensure business continuity include:

- Completing a business impact analysis to determine the OPG's key processes, having moved to multi-site organisation;
- Revising the Incident Management Plan, so as to be able to deliver its key processes in the event of an unplanned incident;
- Providing the MoJ with a quarterly self assessment and action plan in line with BS 25999 as to its business continuity status;
- Risk management being embedded in the activities of the business area including: policy making; project and programme; operational and performance management; business and delivery planning; and budgetary reviews.

Public stakeholders are involved in the management of risks that impact on them. Key elements of this include Partnership Forums that exist for key groups of stakeholders, to maintain ongoing involvement of service users and stakeholder groups.

Other elements of an effective control system followed are: regular management information, financial and administrative procedures including segregation of duties, and a system of delegation and accountability.

Aspects of these other elements' arrangements are in place to ensure the following:

- Formal approval by the Executive Board of the business plans that are approved by the Minister and laid before Parliament;
- Comprehensive budgeting systems with an annual budget, which is reviewed and agreed by the OPG Executive Board and AO;
- Delegated budget from the Department Principal Accounting Officer, reviewed monthly by the OPG Executive Board and AtoJ; and
- Sub-delegation to Heads of Department agreed and reviewed monthly at Executive Board meetings.

The OPG is not a standalone organisation and the maintenance of internal controls is reliant on the MoJ, which provides a number of key services to the agency including Human Resources; Payroll; Information Technology; Facilities and Estates Management; Internal Audit; and Procurement.

The top risk priority for this period, which continues to be a prominent risk to focus on for 2010-11, is sustaining appropriate information technology to meet increasing demand for the services provided by the OPG.

Public stakeholders are involved in the management of risks that impact on them

Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the executive and senior managers within the OPG, who have responsibility for the development and maintenance of the internal control framework, and for comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the board and the Audit Committee. A plan to address weaknesses and ensure continuous improvement of the system is in place.

I confirm that I have carried out the review of the effectiveness of the system of internal control and an assessment of my key business risks, including the following key financial areas, and that all necessary controls are in place and have been applied.

All expenditure and income has been recorded and properly spent and received with regard to propriety and regularity. Measures that I have taken include:

- Reviewing the stewardship reporting process in which Executive Board members, senior managers and team leaders have completed a statement confirming compliance with prescribed internal controls throughout the period, including the reporting of exceptions and remedial actions.
- Reviewing the period report from the Audit Committee.
- Reviewing the period report from the Head of Internal Audit, which states that: *'It is our opinion that the arrangements for governance, control and risk management in the OPG for the financial year 2009/10 are established and generally working effectively, with identified areas of weakness having been addressed (or in the process of being addressed) by management during the year.'*

Management's response in addressing these issues has been positive and timely, which reflects a consistent and sound approach to governance and risk management across the Agency. The majority

of the control issues identified have arisen as a consequence of organisational changes brought about by the transition to a multi-site office operation. As such, we regard them as teething problems, but we will, of course, conduct follow-up reviews during the coming year to ensure that any problems have been resolved as required.

Significant internal control issues

At the time of writing there has been an instance of loss resulting from a weakness in internal control. An internal audit review highlighted that a weakness in financial control could have been exploited by staff to perpetrate the fraudulent intercept of payable orders to a value of £2,513.50. It is internal audit's opinion that control changes that have been introduced to the processes for payable orders have addressed the concerns raised and provided me with a reasonable level of assurance that procedures are now adequate and effective.

Martin John

Chief Executive and Public Guardian

21 July 2010

Auditor's report

The certificate and report of the Comptroller and Auditor General to the House of Commons

I certify that I have audited the financial statements of the Office of the Public Guardian for the year ended 31 March 2010 under the Government Resources and Accounts Act 2000. These comprise the Income and Expenditure Statement, the Statement of Changes in Taxpayers' Equity, the Statement of Financial Position, the Statement of Cash Flows and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

My responsibility is to audit the financial statements in accordance with applicable law

Respective responsibilities of the Chief Executive and Auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Chief Executive is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit the financial statements in accordance with applicable law and 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 Agency's

circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Agency; and the overall presentation of the financial statements.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income reported in the financial statements have been applied to the purposes intended by Parliament, and that the financial transactions conform to the authorities that govern them.

Opinion on regularity

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

Opinion on the financial statements

In my opinion:

- the financial statements give a true and fair view, of the state of the Agency's affairs as at 31 March 2010, and of the deficit, changes in taxpayers' equity and cash flows for the year then ended; and
- the financial statements have been properly prepared in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions issued thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with HM Treasury directions made under the Government Resources and Accounts Act 2000; and
- the information given in the OPG Policies, Financial Activity and Corporate Governance sections is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following

matters if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Statement on Internal Control does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Amyas C E Morse

Comptroller and Auditor General

National Audit Office

157-197 Buckingham Palace Road

Victoria

London

SW1W 9SP

23 July 2010

Income and Expenditure Account for the period ended 31 March 2010

		2009/10		Restated 2008/09	
	Note	£'000	£'000	£'000	£'000
Income					
Operating income					
Invoiced fees	3.1	21,578		17,115	
Fees remitted		(3,159)		(1,853)	
		18,419		15,262	
Other income	3.2	482		523	
Total income			18,901		15,785
Expenditure					
Staff costs	4.1	(14,879)		(11,418)	
Other operating costs	5	(5,905)		(4,450)	
Notional and other non-cash charges	6	(7,320)		(6,306)	
Total expenditure			(28,104)		(22,174)
Deficit for the year			(9,203)		(6,389)

Statement of Financial Position as at 31 March 2010

		31 March 2010		Restated 31 March 2009		Restated 1 April 2008	
	Note	£'000	£'000	£'000	£'000	£'000	£'000
Non-current assets:							
Property, plant and equipment	9		1,240		1,327		1,842
Intangible assets	9a		2,364		2,543		3,019
Total non-current assets			3,604		3,870		4,861
Current assets:							
Trade and other receivables	10	6,373		9,129		7,504	
Cash and cash equivalents	11	1,429		668		563	
Total current assets			7,802		9,797		8,067
Total assets			11,406		13,667		12,928
Current liabilities:							
Trade and other payables	12	(2,035)		(2,871)		(1,710)	
			(2,035)		(2,871)		
Total current liabilities			(2,035)		(2,871)		(1,710)
Non-current assets plus net current assets			9,371		10,796		11,218
Non-current liabilities:							
Other payables			-		-		(36)
Provisions	13		(3,157)		(1,051)		(1,058)
Total non-current liabilities			(3,157)		(1,051)		(1,094)
Assets less liabilities			6,214		9,745		10,124
Taxpayers' equity:							
General fund			5,686		9,545		9,784
Revaluation reserve	14		528		200		340
Total taxpayers' equity			6,214		9,745		10,124

The notes on pages 53-69 form part of these accounts.

Martin John

Chief Executive and Public Guardian

21 July 2010

OPG – Statement of Cash Flows for the period ended 31 March 2010

		2009/10	Restated 2008/09
	Note	£'000	£'000
Cash flows from operating activities			
Deficit for the year		(9,203)	(6,389)
Adjustments for non-cash transactions	6/9	8,916	7,578
(Increase)/decrease in trade and other receivables	10	2,756	(1,625)
Increase/(decrease) in trade payables	12	(454)	1,118
Use of provisions	13	(99)	(7)
Net cash inflows from operating activities		<u>1,916</u>	<u>675</u>
Cash flows from investing activities			
Purchase of property, plant and equipment	12/9/9a	(483)	(159)
Purchase of intangible asset	12/9/9a	(672)	(411)
Net cash outflow from investing activities		<u>(1,155)</u>	<u>(570)</u>
Cash flows from financing activities			
Net financing		-	-
Net increase/(decrease) in cash		<u>761</u>	<u>105</u>
Cash and cash equivalent at the beginning of the period	11	<u>668</u>	<u>563</u>
Cash and cash equivalent at the end of the period	11	<u>1,429</u>	<u>668</u>

Statement of changes in Taxpayers' Equity for the period ended 31 March 2010

		General Fund	Revaluation Reserve
	Note	£'000	£'000
Balance at 31 March 2009	2	9,545	200
Net gain/(loss) on revaluation of:			
Property, plant, equipment (upward (downward)) revaluation during the year	14		328
Property, plant, equipment (impairment during the year)	14		
Non-cash charges:			
Cost of capital	6	219	
Auditor's remuneration	6	53	
Corporate overhead charges	6	5,135	
Transfers			
Property, plant and equipment	9	(63)	
Net deficit for the year		<u>(9,203)</u>	
Balance at 31 March 2010		<u>5,686</u>	<u>528</u>

The notes on pages 53-69 form part of these accounts.

Statement of changes in Taxpayers' Equity for the period ended 31 March 2009

		General Fund	Revaluation Reserve
	Note	£'000	£'000
Balance at 1 April 2008	2	9,784	340
Net gain/(loss) on revaluation of:			
Property, Plant, Equipment (upward (downward) revaluation during the year)	14		95
Property, Plant, Equipment (impairment during the year)	14		(92)
Non-cash charges:			
Cost of capital	6	231	
Auditor's remuneration	6	52	
Corporate overhead charges	6	5,440	
Transfers			
From revaluation reserve		143	(143)
Transfers of net assets		284	
Net deficit for the year		(6,389)	
Balance at 31 March 2009		9,545	200

The notes on pages 53-69 form part of these accounts.

Notes to the accounts

For the period ended 31 March 2010

1. Statement of accounting policies

1.1 Basis of preparation

The financial statements have been prepared in accordance with the 2009-10 Government Financial Reporting Manual (FRoM) issued by HM Treasury. The accounting policies contained in the FRoM follow International Financial Reporting Standards (IFRS) to the extent that it is meaningful and appropriate to the public sector.

Where the FRoM permits a choice of accounting policy, the accounting policy that has been judged to be the most appropriate to the particular circumstances of the Agency for the purpose of giving a true and fair view, has been selected. The Agency's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

Without limiting the information given, the accounts meet the accounting and disclosure requirements of the Companies Act and the accounting standards issued or adopted by the Accounting Standards Board and HM Treasury, so far as those requirements are appropriate.

The Agency is funded by the MOJ, from its Parliamentary Supply and by income derived from fees and charges from external customers. In common with other government agencies, future funding has to be approved by our sponsor department, the MOJ and by Parliament. Such approval has already been given for 2010/11. The financial statements have therefore been prepared on a going-concern basis for financial reporting and asset valuation purposes.

1.2 Accounting convention

These accounts have been prepared under the historical cost convention modified to account for the revaluation of non-current assets at their value to the business by reference to their current costs.

1.3 Income recognition

Operating income is income that relates directly to the operating activities of the agency. It principally comprises fees and charges for services provided on a full-cost basis to external customers, net of fees remitted (see note 1.4) and net of VAT.

The Mental Capacity Act 2005 provides for fees to be charged in relation to proceedings brought in relation to the functions carried out by the Public Guardian. The levels of charges are contained in two statutory instruments, Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian Regulations 2007 and The Public Guardian (Fees etc) Regulations 2007.

Public Guardian fees

The Regulations replace the range of fees that were payable by receivers appointed by the court with a single set up fee, payable when a new deputyship is initially assessed for supervision, and a single annual administration fee. Cases are placed into one of three categories of supervision and bring in annual fees according to the level allocated. The majority of cases fall into the Type II supervision category.



EPA and LPA registration fees

The registration fee is payable when the application is made.

A separate registration fee is payable for Property and Affairs LPAs and Personal Welfare LPAs when each application is made.

1.4 Exemption and remission of fees

Both instruments provide for exemption and remission from fees. Exemptions apply to people in receipt of qualifying benefits who have not received a damages award in excess of £16,000, which has been disregarded for the purposes of eligibility for these benefits. The instruments also provide for fees to be waived or reduced, where, due to the exceptional circumstances of the case, payment would cause undue hardship.

The Office of Public Guardian Finance Branch is responsible for authorising exemption from payment of fees and for approving applications to waive fees on exceptional grounds.

1.5 Deferred income

Deferred income is that proportion of payments received that relates to services to be provided after the reporting period. Where the payment represents contributions to the funding of non-current assets, the income will be realised in the Income and Expenditure account over the period of the underlying contracts determining these amounts.

1.6 Pensions

The provisions of the Principal Civil Service Pension Scheme (PCSPS), which is described in note 4.2 and the Remuneration Report, cover past and present employees. The defined benefit schemes are unfunded and non-contributory except in respect of dependants' benefits. The Agency recognises the expected cost of these elements on a systematic and rational basis over the period that it benefits from employees' services by payment to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution schemes, the Agency recognises the contributions payable for the financial year.

1.7 Consumables

Consumables purchases (stationery and office supplies) are not considered material and are expensed in the Income and Expenditure account as they are purchased.

1.8 Leases

Where all risks and rewards of ownership of a leased asset are substantially borne by the Agency, the asset is recorded as a tangible non-current asset and a debt is recorded to the lessor of the minimum lease payments, discounted by the interest rate implicit in the lease. The interest element of the finance lease payment is charged to the Income and Expenditure account over the period of the lease, at a constant rate in relation to the balance outstanding.

Other leases are regarded as operating leases and the rentals are charged to the Income and Expenditure account on a straight line basis over the term of the lease.

1.9 Notional and other non-cash charges

Notional and other non-cash charges are included in the Income and Expenditure account to reflect the full cost of the Agency's services, in line with the FReM and *Managing Public Money*. These charges include:

Cost of capital charge

The cost of capital charge is a notional charge, which reflects the cost of capital utilised by the Agency. The charge is calculated at the real rate set by HM Treasury (currently 3.5%) on the average carrying amount of all assets less liabilities, except for amounts due to be surrendered to the Consolidated Fund (CFERs) and cash balances held at the Office of HM Paymaster General (OPG), where the charge is nil;

MOJ headquarters' support charges

The notional overhead charges for certain support functions provided by the MOJ; and

External auditor's remuneration

The notional charge for the statutory audit of the accounts carried out by the National Audit Office (NAO).

1.10 Bad debts

Bad debts are written off when identified. A provision for doubtful debts is made based on a specific review of the individual cases.

1.11 Non-current assets

Non-current assets are carried at fair value. Non-current assets are deemed to be low value assets and are therefore valued on the basis of depreciated historic cost as a proxy for fair value. Property, Plant and Equipment have been revalued using appropriate indices published by the Office for National Statistics (Business Monitor MM22).

Revaluations above the depreciated historic cost of a non-current asset are credited to a revaluation reserve. Amounts equivalent to the depreciation charge on the revaluation element are then credited to the Income and Expenditure account to offset the total depreciation charge on that tangible fixed asset based on the revalued amount. Any downward revaluation of non-current assets below the depreciated historic cost is charged directly to the Income and Expenditure account. Otherwise, it is offset against any balance in the revaluation reserve relating to that particular asset.

1.12 Property, Plant and Equipment

On initial recognition, Property, Plant and Equipment are stated at cost, including any costs such as installation directly attributable to bringing the asset into working condition. Expenditure on property, plant and equipment over £1,000 is capitalised. Where an item costs less than the prescribed limit, but forms an integral part of a package whose total value is greater than the capitalisation level, then the item is treated as a non-current asset.

1.13 Intangible assets

The OPG recognises intangible assets only if it is probable that future service potential will flow to the OPG and the cost of the asset can be measured reliably. The future service potential can be defined as a direct contribution of the intangible asset to the delivery of services to the public. The OPG's intangibles comprise internally developed software for internal use and purchased software.

Expenditure is capitalised where it is directly attributable to bring an asset into working condition. The OPG's own staff costs are expensed to the Income and Expenditure Statement, as are those of contractors and interims undertaking ongoing roles that might otherwise be filled by civil servants. The

costs of external consultants engaged on projects are capitalised where appropriate.

As there is no active market for the OPG's intangible assets, their fair value is assessed at cost less accumulated amortisation and accumulated impairment losses. The OPG's intangible assets are amortised using a straight line method over its anticipated useful life. The useful lives of OPG's software range from three to ten years.

1.14 Depreciation

Property, plant and equipment are depreciated at rates calculated to write them down to their estimated residual value on a straight-line basis over their estimated useful lives.

Payments on Account and Assets under Construction are not depreciated until the asset is brought into use or reverts to the Agency respectively.

- Estimated useful lives are as follows:
- Leasehold Improvements Remaining lease period
- Furniture & Fittings ten years
- Plant & Equipment five to seven years
- Information Technology five to seven years
- Software licences five to seven years
- Internally generated software five to seven years

1.15 Value Added Tax (VAT)

The Agency does not have an individual VAT registration with HM Revenue and Customs, but falls under the MOJ's registration, which advises the Agency of any recoverable input VAT.

Irrecoverable VAT is charged to the relevant expenditure category or included in the capitalised purchase cost of non-current assets. Where output VAT is charged or input VAT is recoverable, the amounts are stated net of VAT.

1.16 Provisions

The Agency provides for legal or constructive obligations that are of uncertain timing or amount at the balance sheet date on the basis of the best estimate of the expenditure required to settle the obligation. Where the effect of the time value of money is significant the estimated risk-adjusted cash flows are discounted using the real rate set by HM Treasury.

1.17 Machinery of Government Changes

The responsibilities of the Court of Protection (CoP) transferred from OPG to HMCS on 1 April 2009 and this has been accounted for using merger accounting in accordance with the FReM.

2. OPG – First-time adoption of IFRS

OPG 2009	General Fund £'000	Revaluation Reserve £'000
Taxpayers' equity at 31 March 2009 under UK GAAP	10,619	200
Transfer of Court of Protection to HMCS*	(825)	
PLUS – IFRS adjustment of prior year	(387)	
Adjustments to opening balance for:		
Reclassification	25	
Accrued employee benefits	113	
Taxpayers' equity at 1 April 2009 under IFRS	9,545	200
	2009	
	£'000	
Net deficit for 2008/09 under UK GAAP	5,896	
Transfer of Court of Protection to HMCS*	631	
Adjustment for:		
Reclassification	(25)	
Accrued employee benefits	(113)	
Net deficit for 2008/09 under IFRS	6,389	

OPG 2008	General Fund £'000	Revaluation Reserve £'000
Taxpayers' equity at 31 March 2008 under UK GAAP	10,365	340
Transfer of Court of Protection to HMCS*	(194)	
PLUS – IFRS adjustment of prior year	(302)	
Adjustments to opening balance for:		
Reclassification	(85)	
Taxpayers' equity at 1 April 2008 under IFRS	9,784	340

*See note 22

Central Government organisations are required to prepare their 2009/10 accounts using International Financial Reporting Standards.

3. Income

		2009/10	Restated 2008/09
		£'000	£'000
3.1	Operating income		
	OPG fee income	(21,578)	(17,115)
	Remission	3,159	1,853
	Net fee income	(18,419)	(15,262)

3.2	Other income		
	Charges for services provided to CAFCASS	(277)	(205)
	CAFCASS deferred income	(36)	(48)
	Miscellaneous	(48)	(100)
	Recoveries in respect of outward secondments	-	(47)
	Rental income	(121)	(123)
		(482)	(523)

4. Staff numbers and costs

		2009/10	2008/09
		£'000	£'000
4.1	Staff costs		
	Salaries and wages	9,279	6,505
	Social security costs	585	471
	Superannuation	1,476	1,152
	Agency/temporary staff	2,691	2,793
	Contract staff	848	497
	Total gross costs	14,879	11,418

4.2 The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme, but the OPG is unable to identify its share of the underlying assets and liabilities. The scheme actuary valued the scheme as at 31 March 2007. You can find details in the resource accounts of the Cabinet Office: Civil Superannuation (www.civilservice-pensions.gov.uk).

For 2009/10, employers' contributions of £1.476m (2008/09: £1.152m) were payable to the PCSPS at one of four rates in the range 16.7 per cent to 24.3 per cent of pensionable pay, based on salary bands. The scheme's Actuary reviews employer contributions every four years following a full scheme valuation. From 2009/10, the rates are in the range 16.7% to 24.3%.

The contribution rates are set to meet the cost of the benefits accruing during 2009/10 to be paid when the member retires, and not the benefits paid during this period to existing pensioners.

4.3 The average number of whole-time equivalent staff employed (including senior management, staff on inward secondments, agency/temporary staff and contract staff; but excluding staff on outward secondments) during the financial year was as follows:

By business segment:		
	2009/10	2008/09
OPG	481	376

Total Staff	2009/10	2008/09
	Number	
Civil servants	370	285
Agency/temporary staff	106	86
Contract staff	5	5
Total	481	376

5. Other operating costs

	2009/10	2008/09
	£'000	£'000
Cash losses and ex-gratia payments	88	145
Consumables	536	263
Maintenance	652	363
Other running costs	1,427	1,105
Postage	876	493
Rates	356	238
Rental of accommodation	1,067	913
Utilities	324	332
Visitor services	579	598
	5,905	4,450

6. Notional and other non-cash charges

	2009/10	Restated 2008/09
	£'000	£'000
Bad debts	178	64
Cost of capital charge	219	231
MOJ Headquarters support charges:		
E Delivery Group	1,819	2,414
Facilities Management Group	996	878
Human Resources	427	339
Other	217	310
Depreciation – Property, plant and equipment	432	978
Amortisation – Intangible assets	868	619
Diminution in value of tangible fixed assets	-	253
Loss on disposal of fixed assets	-	54
External auditor's remuneration	53	52
Increase/(decrease) in provision for doubtful debts	(94)	53
Provision for liabilities:		
Provided in the year	2,275	69
Provisions not required written back	(70)	(8)
	<u>7,320</u>	<u>6,306</u>

7. Fees and charges

The Agency is required, in accordance with *Managing Public Money*, to disclose results for the areas of its activities undertaken throughout the financial year, where fees and charges were made. This information is provided for fees and charges purposes, not for IFRS 8 purposes.

A subsidy is provided as planned to ensure clients are not denied access to services through the inability to afford the requisite fees. The calculation of cost recovery includes expenditure for claims and losses charged to the income and expenditure account.

	Total
(By business segment)	£'000
Operating income	<u>18,419</u>
Fees remitted	<u>3,159</u>
Total income	<u>21,578</u>
Total expenditure	<u>23,286</u>
(Deficit)/surplus	<u>(1,708)</u>
Cost recovery (%)	<u>93%*</u>

* Due to a one-off increase to provisions, the cost recovery has been diluted, without this increase the cost recovery would have been 101%.

Reconciliation	£'000
Fees and charges – (deficit)	(1,708)
Fees remitted	(3,159)
Financial losses	(88)
Marketing and research	(69)
Bad debts	(80)
Financial loss notional premium	58
Marketing and research notional costs	60
CoP outbound recharge*	(3,769)
Staff early release	(448)
Reported income and expenditure account (deficit)	(9,203)

OPG – Court of Protection outbound recharge expense breakdown			
	Gross OPG	CoP	Net OPG
	£'000s	£'000s	£'000s
Staff costs	14,879	1,935	12,944
Postage costs	876	134	742
Storage costs	59	59	-
Other costs	4,970	164	4,806
Other operating costs	5,905	357	5,548
Notional and other non-cash charges	7,320	1,477	5,843
Total expenditure	28,104	3,769*	24,335

* Where possible, CoP recharges are based on the proportion of work done for CoP by the relevant area within the OPG. Otherwise the recharge is based on the percentage of total staff working for the Court.

8. Analysis by administration and programme

OPG income and expenditure is classified as a 100% programme, based on an assessment of the work carried out by the OPG, which is mainly front-line services. This classification has been agreed with HM Treasury.

9. Property, Plant and Equipment

	Leasehold improvements	Furniture and fittings	Plant and equipment	Information technology	Assets under construction	Total
Cost or valuation	£'000	£'000	£'000	£'000	£'000	£'000
At 1 April 2009	4,900	657	679	1,270	127	7,633
Additions	192	48	83	54	49	426
Revaluation	(136)	(1)	(29)	90	-	(76)
Transfers	-	-	-	(916)	-	(916)
At 31 March 2010	4,956	704	733	498	176	7,067
Depreciation						
At 1 April 2009	(4,425)	(481)	(469)	(931)	-	(6,306)
Provided in year	(212)	(46)	(97)	(77)	-	(432)
Revaluation	123	1	24	(48)	-	100
Transfers	-	-	-	811	-	811
At 31 March 2010	(4,514)	(526)	(542)	(245)	-	(5,827)
Net book value at 31 March 2010	442	178	191	253	176	1,240
Net book value at 31 March 2009	475	176	210	339	127	1,327

All assets are owned by OPG.

Transfers contain £916,000 and £811,000 relating to assets under DISC managed service agreement.

9. 2008/09

	Leasehold improvements	Furniture and fittings	Plant and equipment	Information technology	Assets under construction	Total
Cost or valuation	£'000	£'000	£'000	£'000	£'000	£'000
At 1 April 2008	4,790	798	698	374	67	6,727
Additions	-	72	80	4	60	216
Disposals	-	(224)	(109)	-	-	(333)
Revaluation	110	11	10	(24)	-	107
Transfers	-	-	-	916	-	916
At 31 March 2009	4,900	657	679	1,270	127	7,633
Depreciation						
At 1 April 2008	(3,725)	(614)	(493)	(53)	-	(4,885)
Provided in year	(615)	(37)	(80)	(246)	-	(978)
Disposals	-	175	106	-	-	281
Revaluation	(85)	(5)	(2)	-	-	(92)
Transfers	-	-	-	(632)	-	(632)
At 31 March 2009	(4,425)	(481)	(469)	(931)	-	(6,306)
Net book value at 31 March 2009	475	176	210	339	127	1,327
Net book value at 31 March 2008	1,065	184	205	321	67	1,842

All assets are owned by OPG.

9a. Intangible assets

	Software licences	Internally generated software	Assets under construction	Total
	£'000	£'000	£'000	£'000
Cost or valuation				
At 1 April 2009	429	3,101	659	4,189
Additions	165	877	(659)	383
Revaluation	110	796	-	906
At 31 March 2010	704	4,774	-	5,478
Amortisation				
At 1 April 2009	(136)	(1,510)	-	(1,646)
Provided in year	(103)	(765)	-	(868)
Revaluation	(57)	(543)	-	(600)
At 31 March 2010	(296)	(2,818)	-	(3,114)
Net book value at 31 March 2010	408	1,956	-	2,364
Net book value at 31 March 2009	293	1,591	659	2,543

All assets are owned by OPG.

9a. 2008/09

	Software licences	Internally generated software	Assets under construction	Total
	£'000	£'000	£'000	£'000
Cost or valuation				
At 1 April 2008	462	3,335	249	4,046
Additions	-	-	410	410
Disposals	-	(2)	-	(2)
Revaluation	(33)	(232)	-	(265)
Transfers	-	-	-	-
At 31 March 2009	429	3,101	659	4,189
Amortisation				
At 1 April 2008	(50)	(977)	-	(1,027)
Provided in year	(86)	(533)	-	(619)
Revaluation	-	-	-	-
At 31 March 2009	(136)	(1,510)	-	(1,646)
Net book value at 31 March 2009	293	1,591	659	2,543
Net book value at 31 March 2008	412	2,358	249	3,019

All assets are owned by OPG.

10. Trade receivables and other current assets

	31 March 2010	Restated 31 March 2009	Restated 1 April 2008
	£'000	£'000	£'000
Amounts falling due within one year			
Balances with other central Government bodies			
Amount due from other central Government bodies	1,683	4,890	4,389
Input VAT recoverable	50	48	34
Balances with bodies external to Government			
Prepayments	90	54	42
Staff receivables	19	67	60
Trade receivables	4,499	4,039	2,824
Accrued income	32	31	155
	<u>6,373</u>	<u>9,129</u>	<u>7,504</u>

Trade receivables are shown net of a provision for doubtful debts of £97,500 (2008/09: £191,000).

11. Cash and cash equivalent

	31 March 2010	31 March 2009	1 April 2008
Balance at 1 April	668	563	405
Net cash inflow	761	105	158
Balance at 31 March	<u>1,429</u>	<u>668</u>	<u>563</u>
Of this amount, the following balances at 31 March are held at Office of HM Paymaster General (OPG)	1,429	668	563

12. Trade payables and other current liabilities

	31 March 2010	Restated 31 March 2009	Restated 1 April 2008
	£'000	£'000	£'000
Amounts falling due within one year			
Accruals	1,556	879	998
Trade payables	71	170	373
Amount due to other central Government bodies	408	1,440	
Deferred income		36	49
Non-current asset payables		346	290
	<u>2,035</u>	<u>2,871</u>	<u>1,710</u>
Amounts falling due after more than one year	-	-	36
Total	<u>2,035</u>	<u>2,871</u>	<u>1,746</u>

13. Provisions for liabilities and charges

	Early Retirement	Other	Total	2009	Restated 1 April 2008
	£'000	£'000	£'000	£'000	£'000
Balance 1 April 2009	62	989	1,051	1,058	1,073
Provided in the period	229	2,046	2,275	69	10
Provisions not required written back	-	(70)	(70)	(8)	-
Provisions utilised in the period	(48)	(51)	(99)	(68)	(25)
Balance 31 March 2010	243	2,914	3,157	1,051	1,058
Analysis of expected timings of discounted flows					
In the remainder of the Spending review period (to March 2011)	89	94	183		
Between April 2011 and March 2016 (1-5 years)	146	2,820	2,966		
Between April 2016 and March 2021 (6-10 years)	8	-	8		
Thereafter	-	-	-		
Balance as at 31 March 2010	243	2,914	3,157		

Early departure costs

The agency meets the additional costs of benefits beyond the normal PCSPS benefits in respect of employees who retire early by paying the required amounts annually to the PCSPS over the period between early departure and normal retirement date.

The agency provides for this in full when the early retirement programme becomes binding on the agency by establishing a provision for estimated payments discounted by the real rate set by HM Treasury.

Other

The above provision represents potential liabilities that the Agency, in accordance with IAS 37, considers should be recognised at the balance sheet date, (including financial losses – see Statement on Internal Control), where there is a present obligation that probably requires an outflow of resources.

14. Revaluation reserve

	Notes	31 March 2010	31 March 2009	Restated 1 April 2008
	£'000	£'000	£'000	£'000
Balance at 1 April		200	340	172
Arising on revaluation during the year	9	828	95	344
Backlog depreciation	9	(500)	(92)	(132)
Transfer to general fund of realised element of revaluation reserve	13		(143)	(44)
Balance at 31 March		528	200	340

The revaluation reserve reflects the unrealised element of the cumulative balance of indexation and revaluation adjustments.

15. Capital commitments

Capital commitments at 31 March 2010 for which no provision has been made were £223,000 (2008/09: £1,500,000).



16. Commitments under leases

16.1 Operating leases

Total future minimum lease payments under operating leases are given in the table below.

	31 March 2010 Buildings £'000	31 March 2009 Buildings £'000	31 March 2010 Other	31 March 2009 Other
Not later than one year	800	685	£'000	£'000
Later than one year and not later than five years	3,200			
Later than five years				
Total	4,000	685	-	

The total of future minimum sublease payments expected to be received under non-cancellable subleases at the end of the reporting period is £324,000.

17. Contingent liabilities

The agency had no contingent liabilities at 31 March 2010 (31 March 2009: Nil).

18. Related party transactions

The agency is an executive agency of the MoJ. The Department is regarded as a related party. During the period, the agency had various material transactions with the Department. In particular, the agency's payroll cash flow (and accounting for advances and recoveries of salaries) was managed by the Department. In addition, the Department also provides internal audit services to the agency.

The agency funds the Public Guardian Board (PGB), which has seven members independent of the OPG. There is no significant influence relating to financial or operating decisions. Costs are recorded in the financial statements and are included in the Remuneration Report where appropriate.

The agency also had transactions with other government departments and entities. Most of these transactions have been with CAFCASS, which is the sub-under lessee of the Agency's rented accommodation at Archway Tower.

None of the members of the Board of the agency, key managerial staff or other related parties has undertaken any material transactions with the agency during the financial year.

19. Events after the Reporting Period

There were no reportable events between the end of the reporting period and the date the accounts were authorised for issue. The accounts were authorised for issue on the same date the Comptroller and Auditor General certified the accounts.

20. Financial instruments

IFRS 7, Financial Instruments: Disclosures, complements the principles for recognising, measuring and presenting financial assets and liabilities in IAS 32 and IAS 39. Jointly, the standards enable users to evaluate the significance of financial instruments for the entity's financial position and performance, and the nature and extent of risks arising and how the entity manages those risks. Because of the largely non-trading nature of its activities and the way in which Government departments are financed, the Agency is not exposed to the degree of financial risk faced by business entities.

Moreover, financial instruments play a much more limited role in creating or changing risk than would be typical of the listed companies to which the above standards mainly apply. The Agency has very limited

powers to borrow or invest surplus funds. Financial assets and liabilities are generated by day-to-day operational activities and are not held to change the risks facing the Agency in undertaking its activities.

Liquidity risk

The Agency's net revenue resource requirement is financed by resources voted annually by Parliament to the MOJ, just as its capital expenditure largely is. It is not, therefore, exposed to significant liquidity risks.

However, within the normal Parliamentary supply procedure, the Agency has to budget for resources (both revenue and capital) in the nine-month period preceding the financial year in which it will be granted.

Note 20a: Categories of Financial Instruments

		31 March 2010	Restated 31 March 2009
	Note	£'000	£'000
Financial assets			
Cash	11	1,429	668
Loans and receivables			
Trade receivables (gross)	10	4,596	4,230
Other receivables (gross)	10	32	31
Carrying amount of financial assets		6,057	4,929
Financial liabilities			
Trade payables	12	(71)	(170)
Carrying amount of financial liabilities		(71)	(170)

Note 20b: Net income and expenses from financial assets

	2010	2009
	£'000	£'000
Loans and receivables		
Impairment of financial assets	(84)	(117)
Net loss on receivables	(84)	(117)

Note 20c: Fair value of financial instruments

	Total carrying amount	Aggregate net fair value
	£'000	£'000
Financial Assets		
Cash	1,429	1,429
Loans and receivables		
Trade receivables (net)	4,499	4,499
Other receivables (net)	32	32
Total financial assets	5,960	5,960
Financial liabilities		
Financial liabilities at amortised cost	-	-
Trade payables	(71)	(71)
Total financial liabilities	(71)	(71)



Note 20d: Credit risk

	£'000
The agency is exposed to minimal credit risk as loans and receivables are comprised of trade and other debtors, where a mix of high-volume low-value fees together with annual billing underpinned by client directed debit facilities mitigates the risk. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This amount is equal to the total amount of these outstanding debtors of:	4,628
The agency has assessed the risk of the default on payment and has allocated a doubtful debts allowance account of:	(97)
The agency manages its credit risk by undertaking background and credit checks prior to allowing a debtor relationship	
The agency has no collateral to mitigate against credit risk	

Ageing of financial assets at 31 March 2010

	Not past due nor Impaired £'000	Past due 1-30 days £'000	Past due 31-60 days £'000	Past due 61-90 days £'000	Past due 90+ days £'000
Not impaired					
Cash	1,429	-	-	-	-
Trade receivables (gross)	3,341	187	99	83	789
Other receivables (gross)	32	-	-	-	-
Impaired					
Trade receivables (gross)	-	-	-	-	97
Total	4,802	187	99	83	886

Maturity of financial liabilities at 31 March 2010

	On demand £'000	Within 1 year £'000	Between 1-5 years £'000	After more than 5 years £'000	Total £'000
Trade payables	-	71	-	-	71
Total	-	71	-	-	71

Interest-rate risk

100% of the Agency's financial assets and 100% of its financial liabilities carry nil or fixed rates of interest, and it is not therefore exposed to significant interest rate risk.

Foreign currency risk

The Agency's exposure to foreign currency risk is not significant.

21. Accountability

Fees remitted

There were 23,259 cases where fees were remitted. The total value was £3,159,000 (2008/09: 18,292 cases – losses £3,289,000).

Cash losses

There were five cases involving cash losses totalling £7,000 (2008/09: 36 cases – losses £29,000).

Special payments

There were 607 special payments totalling £136,000 (2008/09: 658 special payments, totalling £140,000).

Payments exceeding £250,000

There were no payments exceeding £250,000 (2008/09: there were no payments exceeding £250,000).

22. Prior period adjustments

The responsibilities of the Court of Protection (CoP) transferred from OPG to HMCS on 1 April 2009 and this has been accounted for using merger accounting in accordance with the FReM. The 2008/09 accounts are therefore presented as if the functions of the CoP had always been part of HMCS.

Consequently, the results and balances for 2008/09 have been restated to exclude those relating to the CoP. The adjustments to the accounts are set out as below:

Account	Detail	Note	£000	£000
Income and expenditure account restated 2008/09 figures			Decrease in costs	Decrease in income
Income	Net fee income	3		4,670
Staff costs	Staff costs: Wages and salaries	4.1	2,786	
	Staff costs: Social security costs	4.1	216	
	Staff costs: Superannuation	4.1	384	
	Agency staff	4.1	398	
Other operating costs				
	Maintenance		5	
	Other running costs		242	
	Postage		8	
Statement of financial position restated 2008/09 figures			Decrease in assets	Decrease in liabilities
Current assets	Trade and other receivables	10	812	
Current liabilities: amounts falling due within one year		12		(13)
			Increase in equity	Decrease in equity
General fund	Balance at start of year			194
	Net cost of operations			631
Statement of cash flow			Increase in cash inflow	Decrease in cash inflow
Net cost of operations				631
Adjust for movements in working capital other than cash	Decrease in the change in receivables		618	
	Increase in the change in payables		13	
Statement of financial position Restated 1 April 2008			Decrease in assets	Decrease in liabilities
Current assets	Trade and other receivables		194	
			Increase in equity	Decrease in equity
General fund	General fund			194

Three year financial record

A financial comparison since the formation of the OPG on 1 October 2007. This has not been audited.

		2007/08 (six months)	2008/09	2009/10
		£'000	£'000	£'000
Invoiced fees	Lasting Powers of Attorney	1,303	7,995	10,865
	Enduring Powers of Attorney	1,292	2,334	2,203
	Supervision*	4,282	4,905	5,318
	Other	8	28	33
		6,885	15,262	18,419
Fees remitted	Lasting Powers of Attorney	63	892	1,812
	Enduring Powers of Attorney	42	143	222
	Supervision*	202	816	1,124
	Other	0	2	1
		307	1,853	3,159
Total operating income		7,192	17,115	21,578
Total expenditure		7,184	16,935	23,286
(Deficit) / surplus		8	180	(1,708)
Cost recovery		100%	101%	93%

* Includes appointment of deputy

		2007/08 (six months)	2008/09	2009/10
Fee volumes				
LPA fees		9,109	59,244	106,106
EPA fees		11,116	20,623	20,053
Search fees		332	760	884
Appointment of Deputy fees		21,469	10,913	11,587
Type 1 supervision fees		484	1,539	1,520
Type 2A supervision fees		-	-	5,977
Type 2 supervision fees		19,419	26,652	25,435
Remissions volumes				
LPA fees		566	6,267	14,447
EPA fees		434	1,278	1,829
Search fees		2	22	27
Appointment of Deputy fees		1,541	3,199	2,913
Type 1 supervision fees		0	65	204
Type 2A supervision fees		-	-	460
Type 2 supervision fees		15	2,947	3,379
Payment methods – volumes				
Cheque		43,307	108,679	123,292
Credit card		-	392	1,002
Direct debit		1,775	8,536	8,707
Total		45,082	117,607	133,001

Measuring our performance

KPI 1: Powers of Attorney

EPAs, must be registered when the Donor loses capacity. LPAs, although similar in principle, require the Public Guardian to have a more active role in the notification process. There is a 42-day statutory waiting period for the registration of an LPA, once the OPG sends out notification to the party or parties who did not make the application.

KPI Purpose	Calculation Method	Data Source	Target 09/10	Achieved to 31 March 2010
<p>Register and return 95% of applications for registration of attorneyship (LPA/ EPA) within 11 weeks of receipt; improve performance to achieve 80% within eight weeks, by the end of the financial year</p> <p>This measure excludes applications that cannot be registered; for example where an objection is received prior to registration, or where the application is flawed and cannot be corrected, ie INVALID. For the purposes of measurement, 11 weeks and eight weeks will be calculated on the basis of 55 and 40 working days respectively</p>	<p>Data will be collected through the MERIS casework system, drawing on the following inputs in order to deliver the relevant reports</p> <p>'Date of receipt' is taken from the post room stamp, ie the day of receipt by the OPG</p> <p>'Date notices sent' is the date they are sent by caseworkers when they check the application (unless application is invalid)</p> <p>Status of case</p> <p>'Date of dispatch' is the dispatch of the registered EPA/ LPA as the last part of the process in an application</p>	A monthly report from MERIS	We will register 95% of applications within 11 weeks of receipt	Unable to report due to time-lag in availability of data. The target has been missed. We were achieving 90% as at end February 2010 but the large increase in volumes of LPA registration applications will mean we will miss the yearly target of 95%
See above	See above	See above	Improve performance to achieve 80% within eight weeks, by the end of the financial year	Unable to report: The target has been missed. We achieved an average of 79% to November 2009 when the volumes began to increase by an average of 15-20% per month

KPI 2: Supervision

All Deputyship cases require a supervision regime based on a risk assessment. Risk criteria include whether a Deputy has been refused credit or is an un-discharged bankrupt; whether the Deputy has any financial interests that conflict with those of the client; the value of the client's estate; the relationship of the Deputy to the client and any objections which were made to the appointment of the Deputy.

KPI Purpose	Calculation Method	Data Source	Target 09/10	Achieved to 31 March 2010
To ensure the appropriate monitoring of the Deputy in his duties. To ensure Deputies are notified of their responsibilities within a specified timescale, and to ensure that the client's interests are being protected as soon as possible	Percentage performance is calculated against target by dividing the number of cases where a supervision level was set within the specified period, by the number of cases due to be given a supervision level, and multiplying the quotient by 100	Case Data held on internal data management system – CASREC	Notify 90% of new Deputies of the supervision level assigned to their case within 20 working days of the OPG receiving the Court Order	Target met: 97%

KPI 3:

Carry out a case review, and commission further action as appropriate, in 10,000 existing Deputyships subject to intermediate or light touch supervision.

KPI Purpose	Calculation Method	Data Source	Target 09/10	Achieved to 31 March 2010
To review intermediate and lighter touch (Type 2 and Type 3) Deputyship cases and ensure any potential problems are resolved; to provide a deterrent against financial abuse; and to recommend to the Court of Protection any action that may be required	Cyber query will be used to produce the reports of the number of annual reports, visits and reviews of supervision level recorded on CASREC. This data will be collated using Excel. The data will be cross-referenced to ensure that any cases that have been subject to more than one review in the year are only counted once	Case Data held on internal data management system – CASREC	We will carry out a case review on no less than 10,000 Type 2/Type 3 cases during the year	Target met: 122%: 12,280 cases

KPI 4a:

The Public Guardian has a very important role in the safeguarding of vulnerable adults. A significant part of this is the investigation of concerns that are raised, either directly with the Public Guardian or via the court of Protection, about the way in which registered Attorneys or Court-appointed Deputies are exercising their powers in respect of the vulnerable adults for whom they act.

KPI Purpose	Calculation Method	Data Source	Target 09/10	Achieved to 31 March 2010
<p>On receipt of an allegation within the Public Guardian's jurisdiction to assess risk* within two working days</p> <p>*includes taking immediate action where appropriate</p>	<p>Monthly calculations will be based upon the number of risk assessments due in that month.</p> <p>For example, if there are 25 concerns received with risk assessment targets in April 2009, and 23 of them are completed to target, the calculation will be $\frac{23}{25} \times 100 = 92\%$.</p> <p>The annual achievement figure will be based upon the total number of risk assessments completed to target, divided by the total number of risk assessments due, multiplied by 100</p>	<p>Data will be collected on the Compliance and Regulation Unit investigations database by the Team Leader and Branch Manager.</p> <p>The following data is logged:</p> <ul style="list-style-type: none"> ■ KPI Type; ■ The date the concern/S49 Order was received in the OPG; and ■ The date the risk assessment was carried out 	<p>On receipt of notification of an allegation within the Public Guardian's jurisdiction, assess risk in 95% of cases within two working days</p>	<p>Target not met:</p> <p>This reflects the increasing number of cases referred to the OPG for investigation</p> <p>82%</p>

KPI 4b:

The Public Guardian has a very important role in the safeguarding of vulnerable adults. A significant part of this is the investigation of concerns that are raised, either directly with the Public Guardian or via the court of Protection, about the way in which registered Attorneys or Court-appointed Deputies are exercising their powers in respect of the vulnerable adults for whom they act.

KPI Purpose	Calculation Method	Data Source	Target 09/10	Achieved to 31 March 2010
On receipt of an allegation within the Public Guardian's jurisdiction, to conclude 75% of investigations within three months	<p>Monthly calculations will be based upon the number of investigations due in that month.</p> <p>For example, if there are 25 investigations with completion targets in April 2009 and 23 of them are completed to target, the calculation will be $\frac{23}{25} \times 100 = 92\%$.</p> <p>The annual achievement figure will be based upon the total number of investigations completed to target, divided by the total number of investigations due, multiplied by 100</p>	<p>Data will be collected on the Compliance and Regulation Unit investigations database by the Team Leader and Branch Manager.</p> <p>The following data is logged:</p> <ul style="list-style-type: none"> ■ KPI Type; ■ The date the concern/ S49 Order was received in the OPG; and ■ The date the investigation was completed 	To conclude 75% of investigations within three months	<p>Target met:</p> <p>76%</p>

KPI 5:

The KPI target is set to ensure that OPG clients receive value for money through effective and efficient service delivery.

KPI Purpose	Calculation method	Data Source	Target 09/10	Achieved to 31 March 2010
Recover 100% of OPG costs from fees for services published for 2009-10	<p>The model is driven by ratios and staff numbers. For service areas, eg Finance, Performance and Change and Post Room, a set of ratios is used to allocate their cost to an operational area. The following data is incorporated in the model:</p> <ul style="list-style-type: none"> ■ Full forecast outturn from monthly Management Accounts; ■ Staff numbers from the monthly staffing returns from Heads of Divisions; and ■ HQ recharges 	<p>The cost recovery outturn is calculated using a full cost model to compare the income and expenditure streams of the OPG.</p> <p>The cost estimates used in the model are based upon the full year forecast outturn for the OPG, as taken from the Management Accounts each period, which represents the full resource-based cost of the organisation including non-cash items and HQ recharges</p>	100%	<p>Target not met:</p> <p>93%*</p>

* Due to a one-off increase to provisions, the cost recovery has been diluted, without this increase the cost recovery would have been 101%.

Glossary of terms

Deputyship An appointment by the Court of Protection that authorises a person (the Deputy) to manage the financial and/or health and welfare affairs of a person who is, on medical evidence, incapable of doing so for themselves.

Enduring Power of Attorney (EPA) Document whereby a donor appoints an Attorney to manage his or her financial affairs. (Note: EPAs have now been replaced by Lasting Powers of Attorney. It is no longer possible to make a new EPA, but they may still be registered.)

Executive agency Part of a Government department set up as a discrete operational unit to concentrate on providing a service to members of the public.

Fees Amounts charged to clients for services provided by the Office of the Public Guardian and Court of Protection.

Key Performance Indicator (KPI) A measure of performance in key areas of our business.

Lasting Power of Attorney (LPA) Replaces Enduring Powers of Attorney and includes provision for a donor to appoint someone to make decisions on their behalf in relation to finance and property and/or health and welfare matters, should they lose the mental capacity to do so.

Mental Capacity Act, 2005 (MCA) Implemented on 1 October 2007, the Act makes provisions for the protection of people who lack capacity to make their own decisions. It provides clear guidelines for people who make decisions on behalf of others, and emphasises the rights of people to make their own decisions for as long as they are capable of doing so.

Ministry of Justice (MoJ) Formed on 9 May 2007, the Ministry of Justice combines the functions of the Department for Constitutional Affairs (including Her Majesty's Courts Service, the Tribunals Service and the Public Guardianship Office (now the Office of the Public Guardian) with those of the National Offender Management Service (including Her Majesty's Prison Service and National Probation Service). The MoJ also hosts the tri-lateral Office for Criminal Justice Reform.

Office of the Public Guardian (OPG) An executive agency of the Ministry of Justice, responsible for the administration and supervision of Enduring or Lasting Powers of Attorney and court-appointed Deputyships.

Panel Deputy A person who has demonstrated they have the skills and experience to act as a Deputy in cases where there is nobody willing and suitable to do so.

Protection of vulnerable adults (POVA) A public body initiative set up to specifically address the abuse of vulnerable adults. The POVA list is a register of individuals who have abused, neglected or otherwise harmed vulnerable adults in their care.

Review of the Mental Capacity Act

Implementation (RMIP) This review started in October 2008 with the aim of identifying and simplifying any unnecessarily complex processes and assessing how the MCA has impacted on society.

Safeguarding Vulnerable Adults policy This sets out how the OPG will work with local authorities in safe-guarding vulnerable adults who lack mental capacity.

Stakeholder Any person, or group of people, who have an interest in the work of the OPG or the Court of Protection. This includes decision-makers (Deputies and Attorneys), local authorities, legal professionals and the general public.

Visit A visit to the client made by a court-appointed visitor to ensure their needs are being adequately met by their deputy.

Visitor An experienced person, often with a health or social care background, responsible for visiting clients on the instruction of the Court of Protection or the OPG.

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