



Official Solicitor

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Public Trustee

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

For the period 1 April 2013 to 31 March 2014

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## Foreword by the Official Solicitor and by the Public Trustee

### Statutory Background

1. We are separate independent statutory office holders. The OSPT are our conjoined offices and treated by the Ministry of Justice (MoJ) as an arms length “body” of the MoJ that exists to support our respective work. The working relationships between each of us with the MoJ are set out in Memoranda of Understanding dated 5 May 2010 (OS/MoJ) and 8 January 2010 (PT/MoJ).

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

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

He also

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

The holder of the office is a quasi-corporation and deemed to be a trust corporation for the purposes of the 1925 property legislation (Law of Property (Amendment) Act 1926 s.3 (1)).

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

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

In addition, the Public Trustee:

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

By virtue of the 1906 Act the Public Trustee is a corporation sole.

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

<sup>2</sup> [1896] 1 Ch 351.

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

“ensuring that we provide necessary support for those who need it most”

#### **Auditor**

5. The Accounts have been audited by the Comptroller and Auditor General<sup>3</sup>. The Auditor's notional remuneration for the audit of the financial statements of the Official Solicitor and of the Public Trustee for 2013/14 was £41,000 (2012/13 £42,000). So far as we, as the Accounting Officers, are aware, there is no relevant information of which the Auditor is unaware. We have taken all steps that we ought to have taken to make ourselves aware of any relevant audit information and to establish that the Auditor is aware of that information.

#### **Annual review of the Official Solicitor's and of the Public Trustee's businesses to which the Stewardship Accounts apply**

6. Our key activities during 2013/14 relating to the Third Party assets which are subject to the Stewardship Accounts were to

- continue to administer our respective ongoing trusts and estates
- close and retire from trusts and estates which could properly be either closed and distributed or transferred to another trustee
- apply the last resort criteria in respect of acceptance of new cases
- (Official Solicitor only) manage the Official Solicitor's deputyships
- conclude the project to outsource our respective investment advice and management of securities
- receive assurance from 2 external industry experts regarding decisions made by the external investment manager, to ensure that decisions are being made in accordance with our obligations as trustees
- commence the project to transfer OS Deputyship cases to panel deputies
- commence preparations for TABs switch-off in September 2014
- Conclude implementation of the Lloyds i-site application to provide a more effective and visible process of banking.

7. We started the 2013/14 year with a combined total of 258 cases which had reduced to 251 by the end of the financial year because we had closed those trusts and estates which could properly be closed and distributed, and continued to apply our last resort policies. We have a robust case review system to provide reassurance as to the quality and timeliness of casework activity. We have ensured that 100% of our cases have been reviewed annually in line with the specific requirements of the case type. To support case manager reviews, the Head of Trust and Deputy Services also meets monthly with each case manager to discuss progress on each of their cases.

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

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

9. Our total joint net third party assets for 2013-14 were £76.9 million. This was made up of cash of £7.4 million; properties and chattels of £12.1 million, securities of £53.2 million, debtors of £4.7 million and creditors of £0.5 million. The current value of securities fluctuates in accordance with the market. The value of the invested assets within the portfolios are subject to market movement. This value will also be affected by new cash investments, deceased accounts and money being withdrawn from investment.

10. The OSPT continued to rely on its Trust Accounts and Banking System (TABS) as the accounting system to support its work during the 2013-14 accounting period. During 2012-13, we reviewed our cash banking arrangements and made a decision to adopt Lloyd's i|Site Application to provide a more effective and visible process of banking operations. Implementation of the i|Site Application successfully concluded in September 2013. i|Site currently runs in parallel with TABS.

11. We receive assurance as to the investment performance of the external service provider through its reporting and benchmarking, and from the 2 external industry experts.

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

12. We will continue to review, adapt and change, where appropriate, the way that we work to meet the changing requirements of, and the budgetary allocations to, our offices. We will focus on best outcomes, ensure that our services and resources are targeted to meet the needs of our mainly vulnerable clients, and seek to ensure that we are only acting in those cases where our involvement is necessary and meet our 'Last Resort' criteria.

13. Throughout 2014/15, the Trust and Deputy Services (TDS) team will work to transfer the OS Deputyship cases through the Court of Protection to members of the Court of Protection's panel of Deputies. The creation by the Court of Protection of its own panel of Deputies means that the OS can no longer be regarded as a Deputy of last resort and it would therefore be inappropriate for the OS to remain as Deputy in these cases. This will result in the transfer out, and therefore closure of 26 Deputyship cases.

14. Lessons learnt sessions have been held with the external Investment Manager to fully understand certain issues around data reconciliation. We have received assurance that the issues which arose over the course of 2013-14 accounting period

1. were in part due to the fact that the transfer of securities and investments straddled 2 accounting periods (2012/13 and 2013/14), which led to data reconciliation issues which have now been resolved.,
2. that the effect in practice of our unique requirements are now fully understood and internal systems have been adapted to accommodate our information requirements.

We have received assurances from the service provider's senior management that such issues will not reoccur in the future. This will continue to be closely monitored, in line with the quarterly reconciliations that the Investment Manager will provide for securities movements..

15. TABs will be switched off in September 2014. A Project Team has been formed to oversee the process which will lead to the TABs switch off, together with bringing on-line Casper (our case management system) to be used once TABs is switched-off. Current plans are that there will be parallel running between Casper and TABs through to September 2014, after which time, TABs will be switched-off and decommissioned. The Project Team meets fortnightly to oversee this work and includes representation from MoJ Corporate Finance.

16. Work is underway to look at the possibility of the paper based systems for applications to register Title on Death becoming digital and payments being made on-line. An exploratory meeting has been held with the MoJ Digital Team and work is now underway to scope out this work further in conjunction with the Digital Team.

17. The delegated authority documents relating to decision making and instructions to staff in

the administration of Trusts and Estates where the Public Trustee is Trustee, where the Official Solicitor is Trustee, and where the Official Solicitor acts as Deputy have now been finalised and were signed-off in July 2014. These documents clearly set out the level of authority that each member of staff within TDS has across a range of case related TDS matters and office procedures. These documents have been copied to NAO for information.

18. Work has taken place to successfully move to quarterly reconciliations, as agreed with the external Investment Manager and MoJ. The first quarter reconciliation for 2014/15 has taken place and has been without any issue(s).

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

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

### **Statement of Accounting Officers' Responsibilities**

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

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

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

24. We are required to prepare these annual stewardship accounts in accordance with the accounts direction issued by the Ministry of Justice reproduced on pages 25 to 26

25. We follow the investment strategy agreed by us respectively with the service provider for each individual trust (see note 11 to the accounts).

Alastair Pitblado  
Official Solicitor to the Senior Courts

Eddie Bloomfield  
Public Trustee

Date 23 October 2014

Date 23 October 2014

## **Governance Statement**

### **Introduction**

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

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

3. We are satisfied that the information presented to and by the MAB is sufficient to enable us jointly to make the necessary management decisions. The information presented to the MAB comes from senior managers who work closely with their teams to maintain appropriate monitoring and tracking tools which have been fully tested to ensure their accuracy.

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

### **Governance framework**

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

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

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

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

8. The quarterly accountability review meetings are an external check on the offices' performance in so far as the key discussions that take place at the MAB, the information that is available to

support those discussions and ultimately any key decisions that we take, are made available for discussion and challenge at the review meetings.

9. The make-up of the MAB encompasses a wide range of senior management from across the office, both legal and operational and therefore provides us with sufficient input and advice across all areas. Furthermore, observers from within the office attend at each Board which aids transparency and increases engagement.

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

11. Full details of the membership and attendance records of the MAB and its Finance Sub-committee are shown at table 1.

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

### **Risk and Control Framework**

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

15. We inform the MoJ about, and discuss with the MoJ, those risks with a significant high score (based on a combined total of assessing both impact and likelihood) and discuss actions and planning required. Separate Risk Registers are developed for key business changes (e.g. a separate detailed risk register is maintained for the TABs replacement project and an overarching risk reflected on the corporate risk register).

16. Whilst ensuring we have sufficient oversight of our respective complete risk profiles, we focus in particular on those risks which are red risks.

18. Risks regarding the office move to Victory House and the transfer of investment and securities to Charles Stanley (both of which are now complete) were managed through their respective highlight reports which were tabled at the monthly MABs. Both of these risks were new risks to the business which were also added to the corporate risk register. The office move had its own project team which met fortnightly to discuss move issues, including a dedicated move risk register. There was a dedicated move co-ordinator at OSPT who worked in partnership with MoJ Estates to manage and drive forward all aspects of the office move to ensure its success. The office move did not have any adverse impact on any data transfer.

19. As regards the outsourcing project, any project related risks were managed via the outsourcing highlight report. This report was produced by our Head of Trusts and Deputy Services and tabled for discussion and approval, by us, at the monthly MAB. This report set out detailed tracking of progress with the physical transfer, an overview of case movement (cases either being added or removed from the scope of the project), a projection as to timescale for completion of the project, a summary of priorities for the forthcoming reporting period and an overview of any project related risks and issues. Weekly meetings took place between the Head of Trusts and Deputy Services and the case work manager leading on the transfer to discuss any issues and risks and put in place any mitigating actions required. None of the business/operational risks materialised with respect to either the move or the outsourcing project



during the 13/14 accounting period. The issue around the problems with data reconciliation were closely managed as detailed further in paragraph 24.

20. A key risk we have faced for many years now is in respect of IT and integrity of the accounts data. Our accounting system – TABS is over 20 years old with limited capabilities. There is a risk of service collapse due to the age of TABS and its servers. A decision has now been taken to switch TABs off in September 2014. A Project Team has been compiled to oversee the preparations for TABs switch off, together with preparations for a suitable replacement. Casper, a solicitor's case management system with the ability to record both office and client funds, and which we have used for a number of years now already, will be used once TABs is switched-off. Current plans are that there will be parallel running between Casper and TABs through to September 2014, after which time, TABs will be switched-off and decommissioned. The Project Team meets fortnightly to oversee the work around TABs replacement and includes representation from MoJ Corporate Finance. A detailed risk and issues log is maintained for the TABs replacement project, together with an overarching risk being reflected on the corporate risk register. None of the risks materialised with respect to the TABs replacement project during the 13/14 accounting period.

21. We are satisfied with our governance arrangements, management and risk control systems. We report on them in the Annual Assurance Statement we provide to the Permanent Secretary.

22. Our Head of Trusts and Deputy Services has assumed the role of Risk and Compliance Manager and has undertaken an initial review of existing controls. Recommendations have been put forward for consideration by the OS and the PT, within the MAB, to strengthen existing controls, and will be taken forward during the course of the next Accounting Year (2014-15).

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

24. During the course of the 2013-14 Stewardship Accounts, there have been issues around ensuring that Charles Stanley fully understood what was required of them in terms of our information needs and the data that we require for the purposes of the Stewardship Accounts. Charles Stanley has worked to ensure their internal systems are able to meet our information needs. There have been lessons learnt meetings with Charles Stanley to ensure that moving forward everyone is clear of expectations. It is anticipated that the move to quarterly reconciliation will also greatly assist the production of the Stewardship Accounts moving forward. We envisage that it will enable reconciliation of more manageable chunks of data. MoJ Corporate Finance have also engaged with us over the course of the accounting period to assist with any problems as regards data reconciliation.

25. In terms of monitoring the performance of investments managed by the external Investment Manager, the following takes place. TDS case managers carry out 2 investment reviews a year, one following the 30<sup>th</sup> April and one following 30<sup>th</sup> September. Following this review, any cause for concern would be flagged to the senior TDS lawyer for advice. There are also quarterly assurance meetings that take place with 2 external Investment Advisers in attendance who will look at investment performance in specific cases, in particular, looking at the portfolio benchmark and whether this needs to be changed to reflect the needs of the case and the client. Any recommendations made by the Investment Advisers will then be discussed with the OS or the PT for final approval.

26. Work has taken place throughout 2013-14 and will continue throughout 2014-15 to continually strengthen internal controls where required. Robust training plans have been put in place to ensure all accounts staff are producing quality accounts. This is supported by the Head of Accounts undertaking a 100% check on account production until such time as it is felt that this is no longer required. There has been Up-skilling of staff within the Control Unit team to enable proper support to be provided to the Stewardship Manager for the 2013-14 Stewardship Accounts. One member of the team who is part way through becoming a fully qualified Accountant has been working closely with the Stewardship Manager to shadow him for this set of accounts. This will provide further support to enable the accounts to be thoroughly reviewed and

to ensure that expertise does not rest solely with one individual internally. The review of internal controls across the whole of Trust and Deputy Services is a constant priority for our Head of Trust and Deputy Services,

### **Risk Management**

27. The systems of governance, management and risk control are designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance. The systems of governance, management and risk control are based on an ongoing process designed to identify and prioritise the risks to the achievements of our policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The systems of governance, management and risk control were in place for the whole year ending 31st March 2014 and accord with HM Treasury guidance.

28. As trustees, executors and administrators, budget holders and Accounting Officers, and in the case of the Official Solicitor, as deputy, we acknowledge our overall responsibility for the effective management of risk in relation to our stewardship of the third party assets. We have an appropriate management structure in place to ensure adequate control of risks, which includes the creation and maintenance of a risk register. Individual managers in each business area contribute to the register which is scrutinised by us at the monthly MAB meetings.

29. We have a documented Risk Management Strategy and Policy available to all OSPT staff on our Intranet. This is further supported by a Fraud Policy Statement and Fraud Response Plan.

### **Conclusion**

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

Alastair Pitblado  
Official Solicitor to the Senior Courts

Date 23 October 2014

Eddie Bloomfield  
Public Trustee

Date 23 October 2014

**Tables 1: Attendance at Management Advisory Board (MAB) and Finance Sub-committee**

The MAB and Finance sub-committee met twelve times during the financial year (monthly).

<b>Executive and Non Executive MAB and Finance sub-committee Members</b>	<b>No. of MAB Meetings Attended</b>	<b>No. of Finance Committee Meetings Attended</b>
Alastair Pitblado, Official Solicitor (Co-chair)	6	6
Eddie Bloomfield, Public Trustee (Co-chair)	11	11
Janet Ilett, Deputy Official Solicitor	9	9
John Ingham, Deputy Official Solicitor	9	9
Beverly Taylor, Deputy Official Solicitor	9	9
Janet Peel, Head of Operations	11	11
Devone Lawrence, Manager International Division	6	6
Michelle Ruskin, Head of Finance, Fees and Costs Recovery	11	11
Mark Stevens, Head of Corporate Services	6	6
Julie Taylor, Head of Trust and Deputy Services	7	7
Nina Dopson, Litigation Group Manager	10	10
<b>Meetings of the Advisory Board were also attended by:</b>		
Mbina Mir, Risk and Compliance Officer	2	
Jackie White, Senior TDS Case Manager	2	
Darren Whyte, Corporate Services Manager	1	
James Flattery, Senior Litigation Manager	1	
Suzanne Marks, Senior TDS Case Manager	1	

13 observers from the office attended from time to time on an ad hoc basis.

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

I have audited the stewardship accounts for third party monies held by the Official Solicitor and by the Public Trustee respectively for the year ended 31 March 2014. These comprise the Balance Sheet, the Capital Account, the Income Account, the Portfolio and Investment Income Statement and the related notes. These stewardship accounts have been prepared under the accounting policies set out within them.

### **Respective responsibilities of the Accounting Officers and auditor**

As explained more fully in the Statement of the Accounting Officers' Responsibilities, the Accounting Officers are responsible for the preparation of the stewardship accounts and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the stewardship accounts. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the stewardship accounts**

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

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the income and expenditure is incurred in accordance with the intentions of Parliament, and the authorities that govern them.

### **Opinion on Regularity**

In my opinion, in all material respects the expenditure and income of those funds under the stewardship of the Official Solicitor and of the Public Trustee have been applied in accordance with the intentions of Parliament, and the authorities which govern them.

### **Opinion on Financial Statements**

In my opinion:

- the stewardship accounts give a true and fair view of the financial position of the funds under the stewardship of the Official Solicitor and of the Public Trustee as at 31 March 2014 and of the movement in net assets, the capital account and the income account for the year ended 31 March 2014 relating to those funds; and

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

### **Opinion on other matters**

In my opinion:

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

### **Matters on which I report by exception**

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

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

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

Date 06 November 2014

## Balance Sheet as at 31 March 2014

	Notes	2013/14	2012/13
		£'000	£'000
Assets:			
Property	3	11,940	12,778
Securities		53,271	51,457
Chattels		162	66
Debtors	4	4,677	2,094
Cash and Bank balances	5	7,444	8,422
		<u>77,494</u>	<u>74,817</u>
Liabilities:			
Creditors	6	(577)	(711)
		<u>76,917</u>	<u>74,106</u>
Representing			
Capital Account		60,373	56,658
Accumulation Account		2,586	3,021
Revaluation Reserves	7	13,958	14,427
		<u>76,917</u>	<u>74,106</u>

The notes on pages 18 to 24 form part of these accounts.

### Accounting Officers

Alastair Pitblado  
Official Solicitor to the Senior Courts

Date 23 October 2014

Eddie Bloomfield  
Public Trustee

Date 23 October 2014

## Capital Account for the year ended 31 March 2014

	Notes	2013/14	2012/13
		£'000	£'000
Balance at 1 April		56,658	47,270
Add:			
Surplus on disposals		2,468	3,086
Capital introduced from new clients		5,184	11,882
Net transfer from Income Account		822	760
		<u>65,132</u>	<u>62,998</u>
Less:			
Taxation payable		(67)	(739)
Investment management charges		(319)	(68)
Professional Fees		(249)	(478)
OSPT bills and fees		(222)	(397)
Distributions		(3,408)	(4,456)
Other expenditure		(371)	(80)
Revaluation Losses		<u>(123)</u>	<u>(122)</u>
Balance at 31 March		<u><u>60,373</u></u>	<u><u>56,658</u></u>

The notes on pages 18 to 24 form part of these accounts.

**Income Account for the year ended 31 March 2014**

	Notes	2013/14	2012/13
		£'000	£'000
<b>Income</b>			
Rental income		7	5
Investment income		1,490	936
Interest income		48	91
Other income		510	707
		<u>2,055</u>	<u>1,739</u>
<b>Expenses:</b>			
Taxation		(340)	(151)
Investment management charges		(41)	(5)
Professional Fees		(7)	(28)
OSPT bills and fees		(74)	(67)
Net transfer to Capital Account		(822)	(760)
		<u>(1,284)</u>	<u>(1,011)</u>
Balance Transferred to Accumulation Account		<u>771</u>	<u>728</u>
<b>Accumulation Account</b>			
Balance at 1 April		3,021	3,876
Add:			
Income for the year		771	728
		<u>3,792</u>	<u>4,604</u>
Less			
Distributions		(1,206)	(1,583)
		<u>2,586</u>	<u>3,021</u>

The notes on pages 18 to 24 form part of these accounts.



## Portfolio and Investment Income Statement

	Profit (Loss) on disposal Y.E 31-3-14 £'000	Net Income Y.E 31-3-14 £'000	Market Value At 31-3-14 £'000	Market Value At 31-3-13 £'000
<b>UK</b>				
Fixed Interest	(290)	125	3,068	10,965
Listed Equities & Funds	1,668	921	25,235	16,586
Common Investment Schemes	561	376	19,922	18,090
Unlisted equities			-	27
<b>Non-UK</b>				
Listed Equities	261	68	5,046	5,525
Unlisted Equities			-	264
<b>Total Securities</b>	<b>2,200</b>	<b>1,490</b>	<b>53,271</b>	<b>51,457</b>

The notes on pages 18 to 24 form part of these accounts.

## **Notes to the Financial Statements**

### **1. Accounting Policies**

#### **Basis of Accounting**

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

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

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

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

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

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

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

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

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

#### **Property**

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

## **Securities**

Investments in securities are carried out on an arms-length basis following best practice standards. Securities are stated in the accounts at the market value on the balance sheet date. The net impact of unrealised surpluses and deficits on revaluation are taken to the revaluation reserve and disclosed separately on the balance sheet. Surpluses and deficits realised on disposal of assets are recognised in the capital account.

## **Basis of Valuation: Other Assets – Chattels**

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

## **Foreign Currencies**

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

## **Recognition of Income**

Dividends and interest from investments in securities that are not mandated directly to beneficiaries are credited to the Income Account when received. Following the Transfer of securities and investments to Charles Stanley, there are only three cases where dividends and interest from investments are directly mandated.

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

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

## **Fees and Charges**

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

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

## Taxation

Provision is made in the capital or income accounts as applicable for Income Tax, Rate Applicable to Trusts, Inheritance Tax, Accrued Income Scheme and Schedule A Tax at the current rates. Provision is made in the capital account where capital gains and Inheritance Tax liabilities are known; otherwise charged to the capital account as cash is paid.

	<b>31 March 2014</b>	<b>31 March 2013</b>
	<b>£'000</b>	<b>£'000</b>
Tax charge to capital account	67	739
Tax charge to income account	340	151
Total at 31 March	<u>407</u>	<u>890</u>

## Distributions

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

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

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

	<b>31 March 2014</b>	<b>31 March 2013</b>
	<b>£'000</b>	<b>£'000</b>
Capital distributions	3,408	4,456
Income distributions	1,206	1,583
Total at 31 March	<u>4,614</u>	<u>6,039</u>

## 2. Segmentation Analysis

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

	<b>Estates</b>	<b>Trusts</b>	<b>Litigation</b>	<b>Total at 31 March 2014</b>	<b>Total at 31 March 2013</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
<b>Assets:</b>					
Property	8,387	3,553	-	11,940	12,778
Securities	46,351	6,920	-	53,271	51,457
Chattels	97	65	-	162	66
Debtors	4,617	60	-	4,677	2,094
Cash and Bank Balances	5,478	1,155	811	7,444	8,422
<b>Liabilities:</b>					
Creditors	(260)	(197)	(120)	(577)	(711)
 Net Assets	 <u>64,670</u>	 <u>11,556</u>	 <u>691</u>	 <u>76,917</u>	 <u>74,106</u>

## 3. Property

	<b>Freehold</b>	<b>Leasehold</b>	<b>Total at 31 March 2014</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Balance at 1 April 2013	10,108	2,670	12,778
Introduced from clients	235		235
Distributed to clients	(1,933)	(95)	(2,028)
Revaluation and indexation	546	320	866
Correction of prior period error	89	-	89
 Balance at 31 March 2014	 <u>9,045</u>	 <u>2,895</u>	 <u>11,940</u>

At 31 March 2014 the OSPT managed 57 (62 as at 31<sup>st</sup> March 2013) properties on behalf of client trusts.

## 4. Debtors

	<b>31 March 2014</b>	<b>31 March 2013</b>
	<b>£'000</b>	<b>£'000</b>
Loans receivable and accrued income	425	431
Cash held by Brokers	2,959	778
Cash held by Agents	1,293	885
	<u>4,677</u>	<u>2,094</u>

## 5. Cash and Bank balances

	<b>31 March 2014</b>	<b>31 March 2013</b>
	<b>£'000</b>	<b>£'000</b>
Cash at Bank	6,236	7,345
Cash on long term deposit at other institutions	1,208	1,077
	<u>7,444</u>	<u>8,422</u>

## 6. Creditors

	<b>31 March 2014</b>	<b>31 March 2013</b>
	<b>£'000</b>	<b>£'000</b>
Bills payable to the Official Solicitor	59	74
Fees payable to the Public Trustee	151	113
Other creditors	367	524
	<u>577</u>	<u>711</u>

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

## 7. Revaluation Reserves

	<b>31 March 2014</b>	<b>31 March 2013</b>
	<b>£'000</b>	<b>£'000</b>
Securities	8,709	9,934
Properties	5,249	4,493
	<u>13,958</u>	<u>14,427</u>

## 8. Contingent Liabilities

There were no contingent liabilities at the balance sheet date.

## 9. Post Balance Sheet Events

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

There are no Post Balance Sheet Events to report.

## **10. Related Party Transactions**

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

The Public Trustee, Eddie Bloomfield, also serves as the Deputy Accountant General, and as such is responsible for overseeing the administration of Funds in Court on behalf of the Accountant General. In his role as a property and affairs deputy, the Official Solicitor provides a last resort service to a number of deputyship clients whose cash is deposited at the Court Funds Office. The value of those cash balances at 31 March 2014 was £0.34 million.

The Official Solicitor and the Public Trustee provide a last resort trustee service to a number of beneficiaries whose assets include MoJ equity investments managed by Legal & General on behalf of the Accountant General. The market value of those securities at 31 March 2014 was £6.9 million. During the year, there were disposals of MoJ equity investments of £1.9 million (the OS £1.7 million and the PT £0.2 million). There were no additions.

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

## **11. Financial Instruments**

The investment of the funds of each trust or estate are designed to further the objectives of the relevant trust or estate. The funds of each trust are invested on a discretionary basis in line with the investment objectives and risk parameters agreed for each trust or estate between Charles Stanley and the Official Solicitor or the Public Trustee and recorded the individual Trustee's Policy Statement for the trust or estate.

### **Market price risk**

Market price risk is the risk that the value of the securities will fluctuate as a result of changes in market prices caused by factors other than interest rate or foreign currency movement. Market price risk arises mainly from uncertainty about future prices of financial instruments held by the Official Solicitor or the Public Trustee as trustee, executor or administrator. The investment portfolio is exposed to market price fluctuations, which are monitored by Charles Stanley to whom we have outsourced our investment advice and securities management. The funds of each trust are invested on a discretionary basis in line, where possible, with the investment objectives and risk parameters agreed between Charles Stanley and the Official Solicitor or Public Trustee and the Trustee's Policy Statement.

### **Foreign currency risk**

The Trusts and Estates of the Official Solicitor and of the Public Trustee are rarely exposed to foreign currencies. They do not hold any foreign currency cash. Securities denominated in foreign currencies are held in their base currencies.

### **Interest rate risk**

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

**Liquidity risk**

Each Trust and Estates case is closely monitored to ensure there is asset and liability matching and overdrafts are prevented. Where there will be an inability to pay future creditors, measures are taken to achieve a distribution of the case in consultation with stakeholders or the Official Solicitor or the Public Trustee will provide interim Vote Loans in circumstances where they will be fully recoverable.

**Credit risk**

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



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

The MoJ gives the following Accounts Direction:

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

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

*General*

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

Signed:

Ann Beasley

MoJ Director General, Finance and Corporate Services

Date: 13 March 2012