

The Official Solicitor  
and the Public Trustee

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# The Official Solicitor and the Public Trustee Annual Report

1 April 2013 to 31 March 2014



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# 1. The Year in Focus

- 1.1 The Lord Chancellor appoints each of us as independent statutory office holders. We are sponsored by the Ministry of Justice ("MoJ"). Our combined offices, 'OSPT', which exist to support our respective work, are treated as if they were an 'arm's length body'. We are pleased to present this Annual Report for 2013-2014.
- 1.2 Our vision is that OSPT will be a modern, dynamic organisation delivering high quality and efficient client-focused services for our respective clients, where those services need to be provided by the public sector, and to deliver those services efficiently and effectively to provide value for money to our clients and the taxpayer.
- 1.3 We are proud of and grateful to, our teams for their hard work and dedication over the course of this year, which has enabled us to achieve so much for our respective clients. This is especially so against the backdrop of changing and ever more challenging priorities. The implementation of the 26 week target in Public Law Children cases, introduced under the Children and Families Act 2014, but extensively fore-shadowed under Pilot Schemes, has necessarily led to a faster throughput of cases in the Official Solicitor's Public Law Family Team. A public commitment has been given to accept and allocate all Public Law care cases within 48 hours of the Official Solicitor's acceptance to act criteria being met. This commitment has been delivered successfully.
- 1.4 The Official Solicitor was successful in the highly significant appeals which he pursued to the Supreme Court in P (by his litigation friend the Official Solicitor) (Appellant) v Cheshire West and Chester Council and another (Respondents) and P and Q (by their litigation friend, the Official Solicitor) (Appellants) v Surrey County Council (Respondent) [2014] UKSC 19. In 'Valuing every voice, respecting every right: Making the case for the Mental Capacity Act': the Government's response to the House of Lords Select Committee Report on the Mental Capacity Act 2005 of June 2014, the Government said

*The implications of the recent Supreme Court judgment on the meaning of deprivation of liberty are still emerging but it is clear that, handled appropriately by the health and social care system, the judgment could have a significant positive effect – both in raising awareness of DoLS and the need for deprivations of liberty to be authorised but also in empowering individuals and protecting their rights. As such, the judgment has been welcomed by many stakeholders and professionals.*

And more generally it said

## ***The Official Solicitor***

*9.9*

*We recognise the importance of the role of the Official Solicitor in providing legal representation to those who lack capacity.*

- 1.5 We are ever conscious of the need to deliver value for money in our services. In spite of the many challenges we have faced and the added pressures of an office move, we delivered in respect of all our responsibilities within the agreed budget and returned a very small under spend (less than 1%) to the MoJ.
- 1.6 Last year we contracted out investment advice and securities management in relation to the securities we each hold on behalf of the beneficiaries of our respective trusts and deputy services. By 31 March 2013 approximately £36m (slightly over 70%) of the total securities we hold had been transferred for those purposes to our chosen provider. The remainder of the securities were transferred out, as planned, by mid August 2013. In total some £50m is now being managed for us on a discretionary basis, subject to our oversight and review, by our external provider Charles Stanley.
- 1.7 We have quantitative targets as one measure of the service we are delivering to our respective clients. We have ensured that our limited resources have been directed to delivering essential client services in our clients' best interests and of a good enough quality. Our targets (Activity Measures) and the Service Standards that underpin them are at Annex 4.
- 1.8 We operate a robust case review system across all of our teams to provide reassurance as to the quality and timeliness of casework activity. In spite of some challenges, we have ensured that 95.5% of the Official Solicitor's litigation cases and 100% of our trusts and deputy services cases have been reviewed either monthly or annually in line with the specific requirements of the case type.
- 1.9 The ICACU and the REMO unit, which both undertake operational responsibilities on behalf of the Lord Chancellor as Central Authority in England and Wales, have both experienced a continuing increase in work arising out of the implementation and delivery of international legislation implemented since 2011. This has had an inevitable impact during the year on the teams' ability to achieve some throughput targets, as shown in the table at Annex 4; however, the primary objectives relating to processing of new cases and responding to correspondence have been met.
- 1.10 There has been a decrease (to 23) in the number of complaints received this year. This is a very small number of complaints, when set against the total case loads set out in Table 1 of Annex 3, and reflects the high level of service and expertise that is delivered by our teams.
- 1.11 Our stewardship accounts for the third party assets for which we are separately responsible have been the subject of their annual audit by the National Audit Office, and we are pleased to be able to report that they received an unqualified audit opinion.

## 2. Financial Performance

- 2.1 **Unaudited Income and Expenditure Statement** we are not required to produce our own audited accounts. Our income and expenditure are incorporated in the MoJ's Annual Report and Accounts, which are subject to audit, and a summary of income and expenditure by activity is disclosed in the notes to those Accounts (segmental analysis). The Budget Analysis is in table 3 in Annex 3.
- 2.2 Our gross **direct** operating costs were £7,143m less fee recoveries of £2.028m, resulted in net direct operating costs of £5.115m, compared to £4.941 in 2012/13.
- 2.3 Income received was £2,029m, of which £0.462m was from trusts and deputy services. The remainder was from Property & Affairs (£1.023m), Child Trust Funds (£0.260m), Civil Litigation (£0.037m), Healthcare & Welfare (£0.173m), and Divorce/Family (£0.074m).
- 2.4 The net assets under our control as at 31 March 2014 (£77.2m) are shown in table 2 at Annex 3. The values shown in the table are adjusted to take account of funds movements in-year and represent the value as at 31 March 2014.

## 3. Governance

- 3.1 As independent statutory office holders, we are accountable for the performance of our respective 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 with the MoJ.
- 3.2 We are advised in our joint running of OSPT by our non-executive Management Advisory Board, which we jointly chair and which meets monthly to discuss progress against annual plans and targets, budgetary matters and issues of concern. We also jointly chair a monthly Finance Sub-committee which reviews budgetary issues in detail. Membership of both the Management Advisory Board and the Finance Sub-Committee comprises senior staff from within OSPT. On a quarterly basis we are given assurance by two external experts in relation to the performance of our outsourced service providers who provide investment advice and securities management in respect of the 3rd party monies and securities we hold.
- 3.3 We work with MoJ Internal Audit and Assurance Division on an ad hoc basis. The National Audit Office's audit of our Stewardship accounts helps to assure the integrity of our management and financial systems in respect of our trusts and deputy services work, and to provide assurance that our internal risk management systems are proportionate.
- 3.4 We take feedback on our services from all sources very seriously. We have a robust complaints process and this year a total of 23 letters of complaint were recorded, some of which contained more than one grievance. Of these complaints 13 were fully or partly justified and 10 were not justified. This compares with 33 complaints in 2012/13.
- 3.5 We set ourselves a target of providing substantive answers in 95% of the complaints we receive within 15 days and we achieved 100% this reporting year.
- 3.6 We had 26 formal letters of thanks for our work during this year.



## 4. Our People

### Staffing

- 4.1 At the beginning of April 2013 we had 124.57 permanent staff (FTE), 14 agency staff and 3 unfilled vacancies. At 31 March 2014, the staffing profile had changed to 124.65 permanent staff (FTE), 13 agency staff and no unfilled vacancies. Some of the agency staff in place at the end of the year are filling vacancies that were created during the course of the year due to increased work in the REMO unit and for which the completion of permanent recruitment exercises is pending; others were short term resources brought in to assist with necessary preparations for the office move to smaller premises, which took place during July and August 2013.

### Sick Absence

- 4.2 Sick absence averaged 9.07 days per person during 13/14, a reduction from 10.08 in 12/13.

### Staff Engagement

- 4.3 During 2013 we encouraged staff to complete the Ministry of Justice's staff engagement survey. As a result, we scored an engagement index of 66% (an increase over the previous year) set against an overall response rate of 67%. This was very pleasing particularly in view of the additional challenge of the office move this year. We scored particularly highly (over 90% positive responses on staff being interested in the work they do; staff having the right skills for their job; staff knowing what is expected of them; and staff having a clear understanding of our purpose and objectives, and how their particular role contributes.

### Learning & Development

- 4.4 We encourage our staff to enhance their professional and personal performance, and to develop new skills through a range of training, including internal and external courses and seminars that are both funded and complimentary. The Official Solicitor and his legal staff must undertake the training required by their professional bodies to comply with their requirements for Continuous Professional Development. Our objective is to provide such development within a tight training budget and, where possible, use is made of free training which takes place both in and out of office hours. Additionally, this year all staff undertook mandatory on-line training on information assurance and on fraud awareness, and all managers undertook mandatory on-line training on disability awareness and unconscious bias.undertook mandatory on-line training on information assurance and on fraud awareness, and all managers undertook mandatory on-line training on disability awareness and unconscious bias.

## 5. Reported Cases

**PC v NC v City of York Council** [2013] EWCA Civ 478 – marriage, sexual relations, residence and contact.

**RC v CC and X Local Authority** [2013] EWHC 1424 (COP) - non-disclosure to the birth mother, P was adopted, of social work statements and an un-redacted report.

**Re SB** [2013] EWHC 1417 (COP) – capacity – termination of pregnancy.

**Re SK** (2013, appln no. COPI1950943) – residence – choice is between available options at the time.

**Sandwell Metropolitan Borough Council v RG & ors** [2013] EWHC 2373 (COP) – capacity to marry.

**The local authority v Mrs D and Mr D** [2013] EWCOP B34 - alleged breaches of a party's rights under Articles 5 and 8 ECHR.

**A NHS Hospital Trust v M and K** [2013] EWHC 2402 – medical treatment – withholding of life-sustaining treatment.

**A local authority v WMA & Ors** [2013] EWHC 2580 (COP) - residence and contact, and deprivation of liberty.

**Re DE** [2013] EWHC 2409 (COP) – medical treatment – vasectomy as a method of contraception.

**An NHS Trust v Dr A** [2013] EWHC 2442 (COP) – medical treatment – hunger strike - interface between the Mental Health Act, Mental Capacity Act and the court's inherent jurisdiction.

**A local authority v HS & ors** COP case COPI201711T – costs against a local authority.

**ML (A Child), R (on the application of) v Youth Justice Board** [2013] EWHC 3083 (Admin) (15 October 2013) ([2013] EWHC 3083 (Admin) - judicial review - decision to progress criminal matters against a child with a likely learning disability.

**A local authority v SY** [2013] EWHC 3485 – interface with the inherent jurisdiction – marriage.

**YLA v PM and MZ** [2013] EWHC 3622 (Fam) – capacity to consent to sexual relations and marriage - general guidance about registrars and forced marriages.

**A local authority v TZ** [2013] EWHC 2322 (COP) – capacity to consent to sexual relations.

**Bentine v Bentine** [2013] EWHC 3098 – costs.

**The local authority v HP & ors** [2013] EWCOP B40 – residence and contact - capacity to consent to contraception.

**Re AB** [2013] EWHC B39 (COP) - statutory will - basis on which the COP can dispense with service.

**PB v RB & ors** [2013] EWCOP B41 – personal welfare deputy – contact.

**A local authority v ED** [2013] EWHC 3069 (COP) – residence.

**ACCG & anor v MN & anor** [2013] EWHC 3850 (COP) – residence – interface with public law jurisdiction.

**An NHS Foundation Trust v VT and A** [2013] EWHC B26 (Fam) – medical treatment – intensive care and resuscitation.

**An NHS Foundation Trust v M & K** [2013] EWCOP 2402 – medical treatment – intensive care.

**TA v AA and Knowsley Metropolitan Borough Council** [2013] EWCA Civ 1661 – s21A – due and proper consideration.

**IM v LM and others** [2014] EWCA Civ 37 - capacity to consent to sexual relations.

**S, R (on the application of) v Secretary of State for the Home Department** [2014] EWHC 50 (Admin) – judicial review - unlawful immigration detention.

**Great Western Hospitals NHS Foundation Trust v AA, BB, CC, DD** [2014] EWHC 132 (Fam) - medical treatment – caesarean section.

**RC v CC and X local authority** [2014] EWHC 131 – appeal against HHJ Cardinal – disclosure of material.

**The London Borough of Redbridge v G & Ors (no. 2)** [2014] EWCOP 959 - interface with the inherent jurisdiction.

**The London Borough of Redbridge v G, C and F** [2014] EWHC 485 (COP) – interface with the inherent jurisdiction.

**A local authority v B, F & G** [2014] EWCOP B18 – use of Hadkinson order – alleged contempt of court.

**Heart of England NHS Foundation Trust v JB** [2014] EWHC 342 (COP) – medical treatment – amputation.

**P (by his litigation friend the Official Solicitor) v Cheshire West and Chester Council & Anor** [2014] UKSC 19 - deprivation of liberty.

**RGS (No. 3), Re** [2014] EWHC B12 (COP) – residence - contempt of court and reporting restrictions.

**Wandsworth Clinical Commissioning Group v IA v TA** [2014] EWCOP 990 – capacity – residence and care.

**NCC v PB and TB** [2014] EWHC 822 (COP) – capacity - residence and case management.

**SS case.** Written judgment - not reported. Statutory will - question of urgency, and the use of discretionary trusts in the will.

**Re AK** (gift application) [2014] EWHC B11 (COP) – gift giving to parents.

## 6. Outreach

6.1 During the year, we have continued to enhance the profile of the office and raise awareness of the breadth of our work both within and outside the Ministry of Justice. We have participated in the Open House event at the Royal Courts of Justice. We also once again fielded a team for the London Legal Walk in May 2013.

6.2 Outreach activities have also taken place during the year. They included:

- Membership of Family Justice Board (Official Solicitor)
- Membership of the Government Legal Service Small and Regulatory Teams Group (Official Solicitor)
- Membership of the Mental Capacity Act Strategic Board (Official Solicitor)
- Membership of the Institute of Medical Ethics (Official Solicitor)
- Membership of the International Family Law Committee
- Membership of the Court of Protection user Group
- Membership of the Law Society's Mental Health and Disability Committee
- Membership of the Working Together With Parents - Expert Advisory Group
- A presentation to charities at Withers, solicitors
- A presentation to Solicitors for the Elderly, Birmingham Branch
- A presentation to the Institute for Legacy Management Training Day at Withers
- Attending CAFCASS Open Board Meeting (Official Solicitor)
- Taking part in the British Medical Association Round Table meeting on "the Mental Capacity Act in action" (Official Solicitor)
- Taking part in the "4 Jurisdictions Conference" organised by the Office of the Public Guardian and HMCTS (Official Solicitor)
- Speaking at the Judicial College in Northants on the Mental Capacity Act and on the office of the Official Solicitor (Official Solicitor)
- Speaking at Langley's Solicitors' Annual Mental Capacity Act Conference in York (attended by the President and Baker J). (Official Solicitor)
- Speaking at a multi-disciplinary seminar for practitioners implementing MCA 2005 organised by Park Lane Plowden Chambers
- Hosting the annual visit by The Rev Prof Bryan Vernon and medical students from Durham University.

- Making 4 training films on litigation capacity in Family proceedings for the Judicial College (Official Solicitor)
- Full page article in the Times by Frances Gibbs on the Official Solicitor's work in respect of serious medical treatment cases.
- Published articles in specialist journals on the Court of Appeal decisions in PC v York and TA v AA (Official Solicitor)
- Attending a 39 Essex Street Seminar on the Supreme Court decision in Aintree, Kings College
- Contributor and reviewer for Court of Protection Practice 2014
- Representation by the ICACU and the REMO unit at the European Judicial Network
- Visit by the ICACU at the invitation of the Polish Central Authority to Warsaw to share best practice on exchange of information in public law cases.
- The ICACU attending the Child Abduction Co-Ordination Group
- The ICACU presented a paper at a seminar organised by a Barrister's chambers on the ICACU's role in EU public law cases.
- The ICACU hosted a visit from the Czech Central Authority
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6.3 The Official Solicitor provided a response to the following Consultations:

- Written response to MoJ legal aid consultation.
- Written and oral evidence on legal aid proposed reforms to Joint Committee on Human Rights.
- Written and oral evidence to the Select House of Lords Committee on the Mental Capacity Act.
- Commented on draft revision of the Family Justice Council's 2010 "Parents Who Lack Capacity to Conduct Public Law Proceedings".



**Alastair Pitblado**



**Eddie Bloomfield**

## Annex I

# Aims, functions and business activities of the Official Solicitor

### AI.1 Aims

AI.1.1 to prevent injustice to the vulnerable by the following business activities:

- acting as last resort litigation friend, and in some cases solicitor, for adults who lack mental capacity and for 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. As litigation friend the Official Solicitor “steps into the shoes” of the client who lacks mental or legal capacity to conduct the proceedings. He does so in relation to the conduct of the proceedings and also provides the party with the service of conducting the litigation in certain classes of cases under his power to do so conferred by the Senior Courts Act 1981. His role is to conduct the litigation on behalf of the client and in his best interests. For this purpose the litigation friend must make all the decisions that the client would have made, had he been able. The litigation friend is responsible to the court for the propriety and the progress of the proceedings
- acting as last resort administrator of estates, trustee and as property and affairs deputy in relation to Court of Protection clients
- being appointed, in place of a parent, to act as the registered contact in the administration of the Government’s Child Trust Fund scheme for looked after children in England and Wales when there is no other suitable person to do so

AI.1.2 to assist the High Court, Court of Protection and Court of Appeal by the following business activities

- acting as advocate to the court<sup>1</sup> providing advice and assistance to the court and
- under *Harbin v Masterman*<sup>2</sup> making enquiries and reporting to the court on any matter which the court thinks fit to direct in order to “ascertain the truth” or “find out the facts”.

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<sup>1</sup> Pursuant to the Joint Memorandum of the Attorney General and the Lord Chief Justice of 19.12.01.

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

## A2 Business activities

- through the International Child Abduction and Contact Unit (ICACU) the Official Solicitor carries out in England and Wales the operational functions of the Lord Chancellor, who is the Central Authority under the 1980 Hague Convention on the Civil Aspects of International Child Abduction and the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children and EU Regulation, No 2201/2003, concerning Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial matters and matters of parental responsibility. Also, with effect from 1 November 2012, the 1996 Hague Convention on Jurisdiction; Applicable law, Recognition; Enforcement and Co-operation in respect of parental responsibility and measures for the protection of children for England only.
- through the Reciprocal Enforcement of Maintenance Orders (REMO) Unit the Official Solicitor carries out in England and Wales the operational functions of the Lord Chancellor who has responsibility for international maintenance claims including, with effect from 18 June 2011, the operational functions of the Lord Chancellor as Central Authority for Council Regulation (EC) No4/2009 ('the Maintenance Regulation).

## A3 Teams

- A3.1 Civil Litigation Team:** there is a wide range of cases in which the Official Solicitor acts as litigation friend e.g. personal injury claims, possession actions or applications in respect of estates. Other cases may involve representing an estate of a deceased person, usually in circumstances in which some person wishes to claim against an estate for which no-one is willing to act and where no grant has been taken out. He acts for claimants in applications for judicial review of decisions of public authorities and acts in applications for the displacement of nearest relatives under the Mental Health Act 1983. An increasing number of cases involve debt and/or bankruptcy proceedings. Most of this litigation is conducted through external solicitors, but a minority is handled in-house.
- A3.2 Family – Private Law Litigation Team:** the Official Solicitor acts as litigation friend in divorce and ancillary relief proceedings, representing adults who lack capacity. In most cases, external solicitors are instructed, save with regard to the main suit, which is (generally) handled in-house.
- A3.3 Family – Public Law Litigation Team:** the Official Solicitor acts as litigation friend of adults who lack litigation capacity and of children in family proceedings (but not of a child whose welfare is the subject of the proceedings, as that is the responsibility of CAFCASS). The majority of the cases in which he acts are public law children proceedings including placement proceedings, but he is also increasingly asked to act in private law children cases as litigation friend. He may be asked to act for any party lacking litigation capacity – in most cases this will be a parent but it may also be an intervenor. In most cases, external solicitors are instructed. proceedings including



placement proceedings, but he is also increasingly asked to act in private law children cases as litigation friend. He may be asked to act for any party lacking litigation capacity – in most cases this will be a parent but it may also be an intervenor. In most cases, external solicitors are instructed.

- A3.4 Court of Protection: Healthcare and Welfare Cases:** the Official Solicitor acts as litigation friend of “P” (and any protected party) in proceedings in the Court of Protection relating to “P”’s welfare. The Official Solicitor acts as solicitor for “P” in healthcare cases and instructs external solicitors to provide litigation services in other welfare cases. “P” is the name given by the 2005 Act and the Court of Protection Rules 2007 to a party who lacks, or may lack, capacity and whose personal welfare is, or property and affairs are, the subject of an application to the Court of Protection. Other parties to Court of Protection proceedings who lack capacity to conduct the proceedings are known, as in proceedings in other courts, as “protected parties”.
- A3.5 Court of Protection: Property and Affairs:** the Official Solicitor acts as litigation friend and solicitor for people who lack capacity in proceedings concerning their property and affairs before the Court of Protection.
- A4 Acceptance criteria:** the Official Solicitor expects three criteria to be established before he will accept appointment as litigation friend:
- that there is undisputed evidence (or the court has made a finding) that the party (or intended party) lacks capacity to conduct the proceedings (or in Court of Protection proceedings evidence or a finding with regard to P’s decision making capacity)
  - that, on the basis of the information available to him, there is no one else suitable and willing to act as litigation friend
  - that there is security for the costs of legal representation of “P” or the protected party or the case falls in one of the classes in which, exceptionally, he funds the litigation services out of his budget, in accordance with long standing practice.
- A5 Costs:** as last resort litigation friend, the Official Solicitor has never sought to recover his costs of being litigation friend. But the Official Solicitor may make his involvement in proceedings conditional on his costs of obtaining for or providing legal services<sup>3</sup> to the party for whom he is acting as litigation friend, being secured from external sources, except in cases involving medical treatment, where his involvement has long been regarded a matter of necessity.

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<sup>3</sup> Legal Aid Agency from April 2013

**A5.1 External funding sources:** those external sources may be

- Legal Aid where the party is eligible for public funding
- the party's own funds where either the party has financial capacity or the Court of Protection has given the Official Solicitor authority to recover the costs from the party
- a Conditional Fee Agreement (e.g. in personal injury claims)
- an undertaking from another party to pay his costs
- the funds in dispute where the case involves a trust or estate

**A6 Trusts, estates and deputyships:** both the Official Solicitor and the Public Trustee operate a strict policy of accepting new cases only in the last resort. The broad acceptance criteria applied are to accept cases only where:

- the beneficiaries (or one of them) are vulnerable or under legal disability (minority or lack of mental capacity) and no-one else is apparently able or suitable to act for them;
- a trustee or personal representative is necessary to resolve legal proceedings and a suitable or agreed alternative cannot be found;
- without intervention, the assets might be lost or fall into the wrong hands because the real beneficiary(ies) have not been ascertained;
- the Public Trustee is named as executor and there is no suitable alternative person available and willing to act.

In addition they will usually wish to be satisfied that funding is available for their respective fees or costs and that the total costs of administration will not exhaust the net estate or fund.

## Annex 2

# Aims, functions and business activities of the Public Trustee

**A7.1** The Public Trustee administers trusts and estates where he has accepted appointment to do so. The Public Trustee acts as executor and also as administrator of the estates of deceased persons and as a trustee of trusts in the interests of vulnerable individuals or persons under disability or where there are differences between executors, trustees or beneficiaries. Additionally, the Public Trustee deals with the recording (for a fee) of applications for Notice to quit under the Law of Property (Miscellaneous Provisions) Act 1994 which are served on property originally occupied by someone who is now deceased and for whom personal representatives are not acting.

**A7.2** Both the Official Solicitor and the Public Trustee operate a strict policy of accepting new cases only in the last resort. The broad acceptance criteria applied are to accept cases only where:

- the beneficiaries (or one of them) are vulnerable or under legal disability (minority or lack of mental capacity) and no-one else is apparently able or suitable to act for them;
- a trustee or personal representative is necessary to resolve legal proceedings and a suitable or agreed alternative cannot be found;
- without intervention, the assets might be lost or fall into the wrong hands because the real beneficiary(ies) have not been ascertained;
- the Public Trustee is named as executor and there is no suitable alternative person available and willing to act.

In addition they will usually wish to be satisfied that funding is available for their fees or costs and that the total costs of administration will not exhaust the net estate or fund.

**A7.3** The Public Trustee's charges in respect of his trusts and estates work are by way of percentage and other fees charged under the Public Trustee's (Fees) Order 2008 (SI 2008/611) made under the Public Trustee Act 1906, as amended.

## Annex 3

### Case and other statistics

Table 1: Case statistics

Table 1: Case statistics	New Cases Referred <sup>4</sup>			Cases in hand <sup>5</sup>		
	12/13	13/14	% change	12/13	13/14	% change
Civil Litigation	695	556	-20	909	765	-16
Family – Public Law	811	669	-18.5	590	292	-50.5
Family – Private Law	90	127	41	280	273	-2.5
CoP - property & affairs	518	686	33	372	413	16
CoP - health & welfare	333	336	1	546	438	-20
ICACU	714	967	35.5	588	690	17
REMO	2841	3262	15	N/A <sup>6</sup>	7464	-
Child Trust Funds	1164	1076	-7.6	9479	10290	9
OS Estates and Trusts	7	6	- 14.3	148	147	-
PT Trusts	0	2	100	78	73	-6.5
Deputyships	0	0	n/a	32	31	-3

Table 2: Assets under OSPT control as at 31 March 2014 (£'000s)

	2012-13	2013-14
Investments	54,497	53,200
Property and Chattels	12,563	12,400
Cash on Deposit	8,419	10,400
Debtors	1,661	1,700
Creditors	-611	-500
	<b>£76,529</b>	<b>£77,200</b>

<sup>4</sup> Cases in hand figure at 31 March 2013

<sup>5</sup> Cases in hand figure at 31 March 2014

<sup>6</sup> The change from acting as a receiving and transmitting agency to a case management function has enabled a record of active cases to be generated for the first time in 13/14

Table 3: Budget

Budget Analysis	Litigation		Trust & Deputy Services		Total	
	12/13	13/14	12/13	13/14	12/13	13/14
	£000	£000	£000	£000	£000	£000
Paybill excl agency staff	4,805	4,739	896	832	5,701	5,571
Other admin costs	1,474	1,435	96	137	1,570	1,572
<b>Total Admin Costs</b>	<b>6,279</b>	<b>6,174</b>	<b>992</b>	<b>969</b>	<b>7,271</b>	<b>7,143</b>
Total Non Cash Costs	2,413	772	494	143	2,907	915
<b>Total Full Cost</b>	<b>8,692</b>	<b>6,946</b>	<b>1,486</b>	<b>1,112</b>	<b>10,178</b>	<b>8,058</b>
Fee Recoveries	-1,782	-1,567	-548	-461	-2,330	-2,028
<b>Net Position</b>	<b>6,910</b>	<b>5,379</b>	<b>938</b>	<b>651</b>	<b>7,848</b>	<b>6,030</b>

## Annex 4

### Activity Measures and Service Standards April 2013 – March 2014

Activity Measures <sup>7</sup>	Target	Outturn 13-14	Outturn 12-13
1. To respond to all communications in line with service standards 1 to 5	95%	94.05%	96.24%
2. To carry out detailed case reviews of all litigation cases every 3 months; and all TDS cases on an annual basis, ensuring all identified actions are completed.	95%	95.45%	82.14%
3. All cases referred to the International Division to be processed within the target times in line with service standards 10 to 15	98%	98.48%	94.10%
4. Raise at least £2.3m in fees and costs	£2.3m	£2.03m	£2.33m

<sup>7</sup> Activity Measures are underpinned by the attached set of service standards that both feed into the Activity Measures and provide additional management information on progress

Service Standards	
Correspondence	
I	We aim to respond fully to all incoming written correspondence, including emails, <u>within 20 working days</u> of receipt
II	If we are not going to be able to provide you with a full response in that time, we will either send you an acknowledgment immediately, or a letter <u>within 10 working days</u> to let you know when we will be able to reply fully
III	If you have complained, we aim to respond to you fully <u>within 15 working days of receipt</u>
IV	Written requests under the Freedom of Information Act 2000 (where it applies) will be dealt with <u>within 20 working days</u>
V	Written subject access requests under the Data Protection Act will be dealt with <u>within 40 calendar days</u>
Case progression	
VI	To ensure that we act promptly and effectively, we will carry out regular detailed case reviews of all ongoing cases in addition to the current activity
VII	If your case is with the Litigation teams, it will be reviewed quarterly
VIII	If your case is with the Child Trust Funds Team it will be reviewed annually
IX	If your case is with the Trusts and Deputy Services Team we will: <ul style="list-style-type: none"> <li>a) ensure tax returns are completed and any necessary taxes paid by 31 January each year</li> <li>b) undertake an annual review of investments</li> <li>c) provide an annual account or statement</li> <li>d) review case activity annually.</li> </ul>

International Cases <sup>8</sup>	
ICACU	
X	All complete ICACU outgoing return applications will be forwarded to Central Authorities within 5 working days <u>5 working days</u>
XI	All complete ICACU incoming applications will be forwarded to Solicitors within <u>2 working days</u>
XII	All complete ICACU applications for access, the European Union Convention and Brussels II will be actioned within <u>10 working days</u>
XIII	All active cases will be reviewed quarterly REMO
XIV	All complete REMO applications and requests for Special Measures will be acknowledged or processed within 30 calendar days of receipt
XV	A status update will be provided on all REMO EU Maintenance and 2007 Hague Convention cases within 60 calendar days of the date of acknowledgement
XVI	All active EU Maintenance and 2007 Hague Convention cases will be reviewed bi-annually once a status update has been provided
Fees and Costs	
XVIII	We will inform all clients about the charging regime that applies to them when our involvement begins

<sup>8</sup> Where 'complete' is specified, this means that all elements of the application including supporting documents and any required translations must have been obtained



## Annex 5

### ICACU - Annual case statistics for calendar year 2013

The table below shows the amount of return and contact cases which were processed and case managed by the ICACU during 2013. The table also shows the outcomes of the cases which were concluded during 2013. The cases involved children taken to or taken away from over 50 different countries worldwide.

	Incoming return cases	Out going return	Incoming contact cases	Out going contact
Cases carried over from 2012	6	133	43	44
New cases arising during 2013	234	222	53	30
Cases Rejected by ICACU/foreign Central Authority	4	10		5
Child not Traced		2		
Child Traced to non Convention Country		3		
Child Traced to other Convention Country	4		2	
Cases Withdrawn	13	90	37	15
Voluntary Return	13	44		
Judicial Return	104	37		
Judicial Refusal	9	24		
Contact ordered or agreed	11	7	7	10
Contact refused				1
Cases pending at end of 2012	56	138	50	42

Please note that the above table provides statistical information for the 2013 calendar year. In line with the 'Guide to Good Practice' Central Authorities are encouraged to maintain accurate statistics concerning the cases dealt with by them under the convention, and to make annual returns of statistics to the Permanent Bureau in the Hague.

### Other cases brought under specific articles of the Revised Brussels II Regulation

The table below shows the number of requests the ICACU processed under the various articles of the Revised Brussels II Regulation. The statistics do not necessarily show all cases, as action in some instances can be taken without going via the Central Authority. For example in Article 15 cases, co operation can either be direct between courts or through the central authorities.

New cases arising during 2013	Incoming request	Outgoing request
<b>Article 15</b> - Transfer to a court better placed to hear the case	3	5
<b>Article 39</b> - Recognition of a judgment concerning parental	0	4
<b>Article 41</b> - Enforcement of existing contact order	10	8
<b>Article 42</b> - Return of the child by a certified judgment	0	0
<b>Article 55</b> - Co operation on specific cases	122	154
<b>Article 56</b> - Placement of a child in another member state	40	15



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Alternative formats considered upon request