



Office of the Official Solicitor
and the Public Trustee

The Official Solicitor and the Public Trustee

Annual Report

1 April 2011 – 31 March 2012

Contents

- 1. The year in focus 3
- 2. Financial Performance 5
- 3. Governance 6
- 4. Our People 7
- 5. Noteworthy Cases 8
- 6. Outreach 11

- Annex 1 - Aims, functions and business activities of the Official Solicitor 13
- Annex 2 - Aims, functions and business activities of the Public Trustee 17
- Annex 3 - Case and other statistics 18
- Annex 4 - Activity Measures and Service Standards 20
- Annex 5 - International Child Abduction and Contact Unit - Outcome of Cases 23

I The Year in Focus

- 1.1 The Lord Chancellor appoints us both as independent statutory office holders. We are sponsored by the Ministry of Justice. OSPT is an 'arms length body' which exists to support our work. We are pleased to present this Annual Report for our offices (OSPT).
- 1.2 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 clients. This is especially so against the backdrop of an ever growing caseload. The rise in the Official Solicitor's caseload in the Court of Protection: Healthcare and Welfare area highlighted in our 2009/10 Annual Report shows no sign of abating. The Official Solicitor was acting as litigation friend in April 2008 in 42 of those cases, in April 2009 in 216, in April 2010 in 368, in April 2011 in 425 and in April 2012 in 582. The Official Solicitor has had to introduce a waiting list in relation to his acceptance of invitations to act in such cases similar to the waiting list successfully introduced last year in relation to public law children cases. This enabled those teams to manage their caseload in such a way that with additional staff fully trained, that waiting list is now in suspension. At the end of the year, however, the Court of Protection: Healthcare and Welfare waiting list despite dire predictions in the Press amounted to six cases. Additional lawyers have also been recruited into the Court of Protection: Healthcare & Welfare, Court of Protection: Property & Affairs and Family Lawyer teams. These additional resources have been a very welcome addition to our office.
- 1.3 In June 2011, the Reciprocal Enforcement of Maintenance Orders (REMO) unit took on operational responsibility for the new EU Maintenance Regulation, Council Regulation (EC) No 4/2009. This new Regulation has changed the scope of cross-border enforcement of maintenance orders between member states of the EU to include all maintenance obligations arising from a family relationship, parentage, marriage or affinity. The implementation of the new Regulation has also significantly altered the responsibilities of the REMO unit which, for EU cases, now encompasses a case management responsibility rather than simply a checking and transmission function. As a consequence, more of our resources have had to be diverted to enable the REMO unit to properly fulfill the new requirements.
- 1.4 We are ever conscious of the need to deliver value for money in our services. We are pleased to be able to report that with careful financial management, we have been able this year to manage our increased litigation and international workload whilst remaining within our reduced delegated budgets.

- 1.5 We have also conducted this year a challenging programme of work to review the way in which our respective Trusts and Deputy Services' functions and activities are delivered. As a part of that work, we are working towards contracting out the professional management of the securities and investments we each hold on behalf of the beneficiaries of our respective Estates and Trusts.
- 1.6 We have implemented some stretching throughput targets to ensure we are delivering the most efficient service possible to our respective clients. Although not all of these targets have been met, we have ensured that our limited resources have been directed to delivering essential client services. Our targets (Activity Measures) and the Service Standards that underpin them are at Annex 4.
- 1.7 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 over 82% of our cases have been reviewed either monthly or annually in line with the specific requirements of the case type.
- 1.8 It is pleasing to note that the number of complaints received has reduced significantly from 32 in 2010/2011 to 15 this year. This very small number of complaints, when set against a total case load of in excess of 13,000, reflects the high level of service and expertise that is delivered by our teams.
- 1.9 Our stewardship of the third party funds for which we are respectively responsible has been the subject of an annual audit by the National Audit Office, and we are pleased to be able to report that we received an unqualified audit opinion.

2. Financial Performance

- 2.1 **Unaudited Income and Expenditure Statement** The office is not required to produce its own audited accounts. However, the office's income and expenditure are an integral part of the MoJ's Resource Account, which is subject to audit, and a summary of income and expenditure by activity is disclosed in the notes to the account (segmental analysis). The Budget Analysis is in table 3 in Annex 3.
- 2.2 Our gross **direct** operating costs (total administration costs less fee recoveries) for 2011/12 were £7,570m compared to £6.809m 2010/11.
- 2.3 Income received was £2,421m, of which £0.901m was Trust and Estates. The remainder was made up of Property & Affairs (£0.916m), Child Trust Funds (£0.218m), Civil Litigation (£0.087m), Health & Welfare (£0.281m), and Divorce/Family (£0.018m).
- 2.4 The net assets under the control of OSPT as at 31 March 2012 (£61,731m) are shown in table 2 at Annex 3. The values shown in the table are adjusted to take account of funds distributed in-year and represent the value as at 31 March 2012.

3. Governance

- 3.1 As independent statutory office holders, we are accountable for the performance of our joint office. We each have in place a Memorandum of Understanding with our sponsoring Department, the MoJ, that sets out how we will work together and with the MoJ. We are now working with MoJ to develop Framework Documents to replace the Memoranda of Understanding.
- 3.2 We are advised in our running of OSPT by the non-executive Management Advisory Board, which we jointly chair, and which meets monthly to 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 including fee recovery at a detailed level.
- 3.3 We work with MoJ Internal Audit and Assurance Division and with the National Audit Office to assure the integrity of our management and financial systems 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 15 letters of complaint were recorded, some of which contained more than one grievance. Of these complaints none were fully justified, 20% were partly justified and 80% were not justified. This compares with 32 complaints in 2010/11.
- 3.5 We set ourselves a target of providing substantive answers in 95% of the complaints we receive within 15 days and we achieved 80% this reporting year.
- 3.6 We had 14 formal letters of thanks for our work during this year.

4. Our People

Staffing

- 4.1 At the beginning of April 2011 we had 123.87 permanent staff (FTE), 8.28 agency staff and 8 unfilled vacancies. At 31 March 2012, the staffing profile had changed to 129.07 permanent staff (FTE), 11 agency staff and 3 unfilled vacancies. This staffing picture will change further as we go into the new financial year, when our total staff complement will reduce to 127.25 FTE and when we will have little reliance on agency staff as our remaining vacant posts are filled with permanent employees and as we move staff around the office to fill gaps left by departures.

Sick Absence

- 4.2 Sick absence averaged 10.84 per person during 11/12. This is unfortunately a big increase from 2010/11 when it averaged 7.49 days per person. This increase has been largely due to a high level of unavoidable long term absences and is expected to reduce next year.

Staff Engagement

- 4.3 During 2011 we encouraged staff to complete the Ministry of Justice's staff engagement survey. As a result, we scored an engagement index of 66% set against an overall response rate of 71%. This was very pleasing. We scored particularly highly (over 90% positive responses) on staff having had a performance review in the last 12 months; staff being interested in the work they do; staff having the right skills for their job; staff knowing what is expected of them; staff feeling sufficiently challenged by their work; and staff getting a sense of accomplishment from their work.

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. 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 refresher training on information assurance.

5. Noteworthy Cases

Administrative court

1. OM (by her litigation friend the Official Solicitor), R (on the application of) v Secretary of State for the Home Department [2011] EWCA Civ 909 (JR - administrative detention pending deportation)
2. The Queen on the application of HH v City of Westminster Magistrates Court, HH v Deputy Prosecutor of the Italian republic, Genoa (on behalf of the Italian Judicial Authorities), PH v Deputy Prosecutor of the Italian republic, Genoa (on behalf of the Italian Judicial Authorities), X, Y and Z (through the Official Solicitor, their litigation friend) interveners/interested parties [2011] EWHC 1145 (Admin), Laws LJ (JR - extradition proceedings)
3. AS (by his litigation friend the Official Solicitor) v London Borough of Croydon [2011] EWHC 2091 (Admin), His Honour Judge Anthony Thornton QC (sitting as a deputy judge of the High Court) (JR - leave to remain in United Kingdom – age assessments)
4. R& Ors (Minors), R (on the application of) v The Child and Family Court Advisory and Support Service [2011] EWHC 1774 (Admin), Munby LJ and Thirlwall J (JR - care proceedings – delays in appointment of children's guardians)
5. SH (Afghanistan) v Secretary of State for the Home Department [2011] EWCA Civ 1284 (Appeal from Upper Tribunal - appellant entering United Kingdom and claiming asylum as minor)
6. R (on the application of IA) (by his litigation friend, the Official Solicitor) v Secretary of State for Communities & Local Government & Anor [2011] EWCA Civ 1253 (Application for judicial review of a compulsory purchase order)

Chancery Division - bankruptcy

7. De Louville De Toucy (by the Official Solicitor, his litigation friend) v Bonhams 1793 Ltd and another [2011] EWHC 3809 (Ch), Vos J

Criminal Injuries Compensation Authority

8. Re XY 4/10/2011: Total award: £3,012,293; PSLA: £67,500.

Family

9. A Local Authority v (1) DL, (2) ML, (3) GRL, (4) JP [2011] EWHC 1022 (Fam), Theis J (Harbin v Masterman investigation)

10. O v P [2011] EWHC 2425 (Fam) (Schedule 1 application for a child)
11. RB (Adult), Re (No 3) [2011] EWHC 2576 (Fam) Munby LJ (Inherent jurisdiction - adult lacking capacity)
12. RB (Adult), Re (No 4) [2011] EWHC 3017 (Fam) Munby LJ (Inherent jurisdiction - adult lacking capacity - costs)
13. X (a child) (evidence), Re [2011] EWHC 3401 (Fam) Theis J (Care proceedings – fact-finding hearing – Intervenor seeking order for oral evidence from another child)
14. T (a child) (residential parenting assessment), Re [2011] EWCA Civ 812 (Residential parenting assessment application refused)
15. S & L (Children), Re [2011] EWCA Civ 1022 (Care proceedings - assessments)
16. DL v A Local Authority & Ors [2012] EWCA Civ 253 (Appeal from no.9 above)

Court of Protection

17. W v M & Ors [2011] EWHC 1197 (COP) Baker J (Publication of information in relation to proceedings – ECHR arts 6, 8, 10 - Court of Protection Rules rr 90, 92)
18. The London Borough of Hillingdon v (1) Stephen Neary (by his litigation friend, the Official Solicitor), (2) Mark Neary and The Equality and Human Rights Commission, interested party [2011] EWHC 1377 (CoP), Peter Jackson J, (Articles 5 and 8 ECHR, Mental Capacity Act 2005, Schedule A1)
19. Cheshire West and Chester Council v P (by his litigation friend, the Official Solicitor) and another [2011] EWHC 1330 (Fam), Baker J (Article 5 ECHR - deprivation of liberty) Deprivation of liberty
29. Nicola Jane Haworth (a bankrupt) v (1) Donna Cartmel (trustee in bankruptcy) (2) The Commissioners for HM Revenue and Customs [2011] EWHC 36 (Ch), HHJ Pelling QC, Ch D Bankruptcy order annulled or rescinded - sections 282(1)(a) and 375(1) of the Insolvency Act 1986 - Disability Discrimination Act
30. AH v (1) Hertfordshire Partnership NHS Foundation Trust and (2) Ealing Primary Care Trust [2011] EWHC 276 (COP), Peter Jackson J, CoP Campus closure programme - move not in incapacitated resident's best interests
31. The London Borough of Hillingdon v (1) Stephen Neary and (2) Mark Neary [2011] EWHC 413 (COP), Peter Jackson J, CoP Press attendance at hearing - CoP Rules 90-93

32. P (otherwise known as MIG) and Q (otherwise known as MEG) v (1) Surrey County Council (2) CA (3) LA and Equality and Human Rights Commission, intervener [2011] EWCA Civ 190, Lord Justice Mummery, Lady Justice Smith and Lord Justice Wilson
Appeal from decision of Parker J at 1. above
33. D Borough Council v AB [2011] EWHC 101 (COP), Mostyn J, CoP
Capacity to consent to sexual relations
34. A Local Authority v (1) PB and (2) P [2011] EWHC 502 (COP), Charles J, CoP
General procedural issues
35. A v A Local Authority and others [2011] EWHC 727 (COP), Sir Nicholas Wall P, CoP
Deprivation of liberty - best interests
36. London Borough of Hillingdon v Neary & Ors [2011] EWHC 3522 (COP) Peter Jackson J
(Costs)
37. A Local Authority v H [2012] EWHC 49 (COP) Hedley J (Capacity to consent to sexual intercourse - best interests)
38. KGS v JDS (by his litigation friend, the Official Solicitor) [2012] EWHC 302 (COP) Senior Judge Lush (Application for a gift by P)
39. EM (by his litigation friend, the Official Solicitor) v SC and another [2012] EWHC 1518 (COP) Eleanor King J (Deprivation of liberty)
40. LG v DK [2011] EWHC 2453 (COP), [2012] 2 All ER 115, Sir Nicholas Wall P
(Paternity - DNA sample)
41. K v LBX & Ors [2012] EWCA Civ 79 (ECHR Article 8 - right to family and right to privacy)

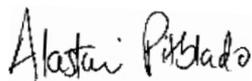
6. Outreach

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 2011.

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

- Presenting at the British Medical Association Conference on Medical Ethics, February 2012
- Presenting at the Mental Capacity Act 2005/Deprivation of Liberty National Conference, February 2012
- The Official Solicitor took part in a Radio 4 programme on Deprivation of Liberty, November 2011
- The Official Solicitor visited Royal Leamington Spa hospital, October 2011
- Presenting at Langley's Mental Capacity Act 2005 York Conference, October 2011
- Meetings with the British Medical Association about Medical Ethics in Permanent Vegetative State and Minimally Conscious State cases, December 2011
- Presenting at Deprivation of Liberty Roundtable Discussion, January 2012
- Hosting meetings of the Working Together with Parents Network Taskforce for Parents with Learning Disability
- Training DVD for the College of Law on the role of the Official Solicitor in family proceedings
- Presenting at the British Medical Association conference, February 2012
- Presenting to the Solicitors for the Elderly (Yorkshire Branch) 2011
- Presenting at the Society of Trust and Estate Practitioners, Berks, Bucks and Herts, November 2011
- Presenting at the LexisNexis Court of Protection Conference, February 2012
- Presenting to the Legal Services Commission's Special Cases Unit, March 2012
- Presenting to 'Rehab Without Walls'
- Presenting at the Irwin Mitchell 'Deprivation of Liberty – the Benefits and Pitfalls in Brain Injury Cases' conference, Leeds, 2012
- Presenting at the Irwin Mitchell Brain Injury Conference, Oxford, March 2012
- Presenting at the 4-5 Gray's Inn Court of Protection Conference, March 2012
- Judicial training, Northampton, May and June 2011

- FPC Clerks training, Yorkshire, September 2011
- FPC Clerks training, Cambridge, November 2011
- Contributing to the Court of Protection Practice 2012
- Presenting to Newcastle medical students, May 2011
- Membership of the Court of Protection User Group
- Membership of the Law Society's Mental Health and Disability committee
- Representation by the ICACU and the REMO unit at the European Judicial Network
- Representation of the UK by the ICACU at the 6th Special Commission on the 1980 Hague Convention
- The ICACU attending the Child Abduction Coordination Group, HC Police seminars, police coordinators meetings.
- Visits to the ICACU by delegations and representatives from Russia, Japan, Slovakia, USA and Poland
- Liaison by the REMO Unit with EU and non-EU colleagues, and with colleagues in Her Majesty's Courts and Tribunals Service
- Membership of the International Family Law Committee



Alastair Pitblado
Official Solicitor



Eddie Bloomfield
Public Trustee

Annex I

Aims, functions and business activities of the Official Solicitor

AI.1 The Official Solicitor's aims are

AI.1.1 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. As litigation friend the Official Solicitor "steps into the shoes" of the client who lacks litigation capacity. His role is to carry on 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 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

- acting as advocate to the court providing advice and assistance to the court and
- under *Harbin v Masterman* 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".

AI.2 He also

- 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 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.

- through the Reciprocal Enforcement of Maintenance Orders (REMO) Unit 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).
- administers estates and trusts as administrator/trustee of last resort, among which he manages a number of trust funds for children, most of which arise from awards by the Criminal Injuries Compensation Authority. He is the property and affairs deputy of last resort appointed under the Mental Capacity Act 2005.

AI.3 Civil Litigation Division: 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.

AI.4 Divorce Litigation Division: 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.

AI.5 Family Litigation Division: 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 CAF/CASS). 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.

AI.6 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".

AI.7 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.

AI.8 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.

AI.9 Costs: as last resort litigation friend, the Official Solicitor has never sought to, and indeed could not in many cases, recover his costs of being litigation friend. But the Official Solicitor may make his involvement in proceedings conditional on his costs of obtaining or providing legal services being secured from external sources, except in cases involving medical treatment, where his involvement has long been regarded a matter of necessity, or where he is invited by the court to provide an advocate to the court or make enquiries under *Harbin v Masterman*.

AI.10 External funding sources: those external sources may be

- the Legal Services Commission where the Official Solicitor's client is eligible for public funding
- the client's own funds where either the client has financial capacity or the Court of Protection has given the Official Solicitor authority to recover the costs from the client

- 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

AI.II 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 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

A2.1 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.

A2.2 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.

A2.3 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

Litigation	New cases accepted			Cases in hand ³		
	10/11	11/12	% change	10/11	11/12	% change
Civil Litigation inc contempts	885	756	-14.57	977	990	1.33
Family Litigation	916	796	-13.10	772	588	-23.83
Divorce	153	105	-31.37	363	314	-13.49
CoP - property & affairs	510	551	8.03	276	330	19.56
CoP - health & welfare	304	358	17.76	425	582	36.94
ICACU	535	611	14.20	399	492	23.30
REMO	1412	1720	21.81			
Child Trust Funds	1811	1168	-35.5%	7931	8670	+9.3%
OS Estates and Trusts	6	6	0%	183	159	-31%
PT Trusts	9	4	-56%	139	106	-24%
Deputyships	1	0	-100%	35	33	-6%

Table 2:
Assets under OSPT control as at 31 March 2012 (£'000s)

Assets under OSPT control as at 31 March 2012 (£'000s)	2010-11	2011-12
Investments	41,343	37,713
Property and Chattels	15,371	14,455
Cash on Deposit	14,705	9,604
Debtors	1,447	496
Creditors	-662	-537
	£72,204	£61,731

³Cases in hand figure at 31 March 2012

Table 3: Budget

Budget Analysis	Litigation (OS)		Trust & Deputy Services		Total	
	10/11	11/12	10/11	11/12	10/11	11/12
	£000s	£000s	£000s	£000s	£000s	£000s
Paybill (excluding agency staff)	4,052	4,275	1,237	1,273	5,289	5,548
Other administrative costs	1,334	1,680	186	342	1,520	2,022
Total Administration costs	5,386	5,955	1,423	1,615	6,809	7,570
Total non cash costs	2,010	1,919	670	639	2,680	2,558
Total Full Cost	7,396	7,874	2,093	2,254	9,489	10,128
Fee Recoveries	-965	-1,302	-826	-1,119	-1,791	-2,421
Net Position	6,431	6,572	1,267	1,135	7,698	7,707
% Recovery	13%	17%	39%	50%	19%	24%

Annex 4

Activity Measures and Service Standards April 2011 – March 2012

1. To respond to all communications in line with service standards 1 to 5	95%	96.24%	95.4%
2. To carry out detailed case reviews of all litigation cases every 3 months and all TDS cases on an annual basis, and ensure all identified issues are actioned	95%	82.14%	95.4%
3. All cases referred to the International Division to be processed within the target times in line with service standards 10 to 15	98%	94.10%	99.9%
4. In Court of Protection property and affairs cases, a substantive response to the application issued within 20 working days of the application being received	90%	75.90%	96.7%
5. Raise at least £1.75m in fees and costs	£1.79m	£2.4m	£1.8m

⁴Activity 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		Target 11-12
Correspondence		
I	We aim to respond fully to all incoming written correspondence, including emails, within 20 working days of receipt	95%
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 within 20 working days	
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	95%
VII	If your case is with the Litigation teams, it will be reviewed quarterly	
VIII	If your case is with the Trusts and Deputy Services Team its various elements will be reviewed annually – tax, investment review, annual account or statement and case progression	
IX	If your case is with the Child Trust Funds Team it will be reviewed annually	
International Cases ⁵		
X	All complete REMO applications will be processed within <u>5 working days</u>	98%
XI	All complete ICACU outgoing return applications will be forwarded to Central Authorities within <u>5 working days</u>	
XII	All complete ICACU incoming applications will be forwarded to Solicitors within <u>1 working day</u> .	
XIII	All complete ICACU applications for access, the European Union Convention and Brussels II will be actioned within <u>10 working days</u>	
XIV	We will seek to ensure that documents sent for translation are returned within the target time	
XV	All incomplete REMO and ICACU applications will be returned within <u>5 working days</u>	

⁵Where 'complete' is specified, this means that all elements of the application including supporting documents and any required translations must have been obtained.

Court of Protection - Property and Affairs

XVI	In Court of Protection property and affairs cases, we will provide a substantive response to the application issued within 20 working days of the application being received	90%
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Fees and Costs

XVII	We will ensure all clients are informed about the charging regime that applies to them when our involvement begins	£1.79m
XVIII	Raise at least £1.75m in fees and costs	

Annex 5

The table below shows the amount of return and contact cases which were processed and case managed by the ICACU during the calendar year, 2011. The table also shows the outcomes of the cases which were concluded during 2011. The cases involved children taken to or taken away from over 40 different countries worldwide.

	Incoming return cases	Out going return cases	Incoming contact cases	Out going contact cases
Cases carried over from 2009	54	143	44	45
New cases arising during 2010	244	200	33	39
Cases Rejected by ICACU	6	9	1	
Cases Rejected by foreign Central Authority				2
Child not Traced		1		
Child Traced to non Convention Country	3	2		
Child Traced to other Convention Country				
Cases Withdrawn	41	41	16	17
Voluntary Return	15	50		
Judicial Return	114	38		
Judicial Refusal	13	19		
Contact ordered or agreed	18	8	8	7
Contact refused				1
Cases pending at end of 2010	88	175	52	57

Please note that the above table provides statistical information for the 2011 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 2010	Incoming request	Outgoing request
Article 15 - Transfer to a court better placed to hear the case		2
Article 39 - Recognition of a judgment concerning parental responsibility	1	
Article 41 - Enforcement of existing contact order	5	4
Article 42 - Return of the child by a certified judgment	1	
Article 55 - Co operation on specific cases	36	10
Article 56 - Placement of a child in another member state	20	2

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Alternative formats considered upon request

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