

the official custodian for charities

accounts

annual report 02-03



The Official Custodian for Charities (the Official Custodian) is, by virtue of section 2 of the Charities Act 1993, a corporation sole whose function it is to act as a custodian trustee for charities in respect of land or other property vested in the Official Custodian by an Order of the Court or the Charity Commissioners (the Commissioners). The Commissioners designate one of their officers to be the Official Custodian, and he performs these duties in accordance with the directions of the Commissioners.

Under section 22 of the Charities Act 1993, the Official Custodian has the same powers, duties and liabilities as a custodian trustee appointed under section 4 of the Public Trustee Act 1906, except that he has no power to charge fees for his statutory services. The responsibility for managing charity property held in the name of the Official Custodian remains wholly with the managing trustees; the Official Custodian cannot exercise any powers of management. Although section 4 of the Public Trustee Act 1906 determines that all sums payable to or out of the income or capital of the trust property shall be paid to or by the custodian trustee, in practice (and within the provisions of section 4) the Official Custodian allows dividends and other income derived from the trust property to be paid to the managing trustees.

Land and interests in land may be vested in the Official Custodian under section 21 of the Charities Act 1993. The primary advantage of vesting land in the name of the Official Custodian is that there is no further need for new deeds to be made when the trustees of the charity change. The Official Custodian cannot take part in managing land vested in him. Charity trustees keep all the powers and duties of management, and will account for the land (and buildings) in their own financial statements.

The only charity property, other than land, to be held by the Official Custodian is that which has been transferred to him by an Order of the Court or the Commissioners for the protection of the charity under section 18 of the Charities Act 1993. The primary aim of the Official Custodian, in respect of property entrusted to him for a charity's protection, is to safeguard that property until authorised to arrange its transfer to the managing trustees or their appointed representatives. When in the form of cash, it is either held in a current account at the Bank of England, or for more significant sums for a longer period in a deposit account there. When in the form of securities, the Official Custodian may sell any investments only on the instructions of the trustees or their appointed representatives. Where necessary, he uses stockbrokers for this purpose.

The Commissioners have been making use of their powers under section 28 of the Charities Act 1993. In that context, there are arrangements in place to work with banks and other financial institutions to identify funds in dormant accounts and, where appropriate, to issue directions under section 28 of the Charities Act 1993 for transfers to be made to enable the funds to be utilised for charitable purposes. Although this work is not generally expected to involve the vesting of assets into the name of the Official Custodian, some increased activity in the functions of the Official Custodian from this initiative is anticipated for the forthcoming year.

The Treasury and the Official Custodian are currently considering the accountability arrangements for the Official Custodian for Charities' accounts, along with the issue of a new Treasury direction. It is anticipated that both issues will be resolved in time for the 2003-04 accounts.

Jonathan Thorne

The Official Custodian for Charities

John Stoker

Chief Charity Commissioner
and Accounting Officer
28 May 2003

statement of responsibilities

of the official custodian for charities and the accounting officer

Responsibilities of the Official Custodian for Charities

The Official Custodian for Charities (the Official Custodian) is, by virtue of section 2 of the Charities Act 1993, a corporation sole whose function it is to act as a custodian trustee for charities in respect of land or other property vested in the Official Custodian by an Order of the Court or the Charity Commissioners (the Commissioners). The Commissioners designate one of their officers to be the Official Custodian, and he performs these duties in accordance with the directions of the Commissioners.

Under section 2(6) of the Charities Act 1993, the Official Custodian is required to prepare a statement of accounts for each financial year. The financial statements are prepared on a cash basis and must properly present the receipts and payments for the financial year and the balances held at the end of the year. In preparing the financial statements, the Official Custodian is required to apply, on a consistent basis, any accounting guidance given from time to time by the Treasury.

The Official Custodian is responsible for the keeping of proper accounts. He must ensure that proper financial procedures are followed and that accounting records are maintained in the form prescribed, and all assets for which he is responsible are safeguarded.

Responsibilities of the Accounting Officer

As the senior full-time official of the Charity Commission, the Chief Charity Commissioner for England and Wales carries the responsibilities of Accounting Officer. His relevant role and duties as Accounting Officer, including his responsibility for the propriety and regularity of public finances for which he is answerable, and for the keeping of proper records, are set out in the Accounting Officer's Memorandum, issued by Treasury and published in Government Accounting.

The Charity Commissioners have appointed the Official Custodian under section 2(2) of the Charities Act 1993. To exercise his responsibility of Accounting Officer for the accounts prepared by the Official Custodian, the Chief Charity Commissioner oversees the work of the Official Custodian.

Jonathan Thorne

The Official Custodian for Charities

John Stoker

Chief Charity Commissioner
and Accounting Officer
28 May 2003

This statement is given in respect of the Receipts and Payments Account and Statement of Balances for the Official Custodian for Charities (the Official Custodian). As Accounting Officer for this Account, I acknowledge my responsibility for ensuring that an effective system of internal control is maintained and operated in connection with the resources concerned. I carry out this responsibility in conjunction with the Official Custodian, who I have appointed under section 2(2) of the Charities Act 1993.

The system of internal control is framed in the wider context of the system of internal control for the Charity Commission (the Commission) and is designed to manage, rather than eliminate, the risk of failure to achieve policies, aims and objectives. It can therefore only provide reasonable and not absolute assurance of effectiveness.

The system of internal control is based on an ongoing process designed to identify the principal risks to the achievement of policies, aims and objectives, to evaluate the nature and extent of those risks and to manage them efficiently, effectively and economically.

Development and maintenance of the system is undertaken by the Official Custodian in the context of the overall information and control systems of the Commission, for which I produce a separate Statement on Internal Control. This statement is published annually with the Commission's Departmental Resource Account, and details actions taken and proposed in working towards a comprehensive system of internal control.

An enhanced system of internal control covering business risks was formally adopted by the Charity Commission in April 2003. The Commission has developed its approach in close consultation with the Charity Commission's internal auditors.

There is a rolling programme of internal audit for all aspects of the work of the Commission, including that of the Official Custodian. All procedures and internal controls operated by the Official Custodian are documented. The Commission has assembled a risk register for all parts of the organisation and there is a separate section covering the risks associated with the Official Custodian.

My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the executive managers within the department who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports.

John Stoker

Chief Charity Commissioner
and Accounting Officer
28 May 2003

the official custodian for charities

the certificate and report of the comptroller and auditor general to the houses of parliament

I certify that I have audited the financial statements on pages 5 to 7 under section 2(7) of the Charities Act 1993.

Respective responsibilities of the Accounting Officer, the Official Custodian for Charities and Auditor

As described on page 2, the Chief Charity Commissioner for England and Wales carries the responsibilities of the Accounting Officer. The Charity Commissioners have appointed the Official Custodian for Charities under section 2(2) of the Charities Act 1993. He is responsible for the preparation of the financial statements in accordance with section 2(6) of the Charities Act 1993 and Treasury directions made thereunder and for ensuring the regularity of financial transactions. The Accounting Officer and the Official Custodian are responsible for preparing the Foreword on page 1. The Accounting Officer is responsible for the statement on internal control on page 3. My responsibilities, as independent auditor, are established by statute and guided by the Auditing Practices Board and the auditing profession's ethical guidance.

I report my opinion as to whether the financial statements properly present the receipts and payments and statement of balances, and are properly prepared in accordance with the Charities Act 1993 and Treasury directions made thereunder, and whether in all respects the receipts and payments have been applied to the purposes intended and conform to the authorities which govern them. I also report if, in my opinion, the Foreword is not consistent with the financial statements or if the Accounting Officer and the Official Custodian for Charities have not kept proper accounting records, or if I have not received all the information and explanations I require for my audit.

I review whether the statement on page 3 reflects the compliance with the Treasury's guidance "Corporate Governance: Statement on Internal Control". I report if it does not meet the requirements specified by Treasury, or if the statement is misleading or inconsistent with other information I am aware of from my audit of the financial statements.

Basis of audit opinion

I conducted my audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures and regularity of the financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Accounting Officer and the Official Custodian for Charities in the preparation of the financial statements.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by error, or by fraud or other irregularity and that, in all material respects, the receipts and payments have been applied to the purposes intended and conform to the authorities which govern them. In forming my opinion, I also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In my opinion:

- the accounts properly present the receipts and payments of the Official Custodian for Charities for the year ended 31 March 2003 and the balances held at that date and have been properly prepared in accordance with section 2(6) of the Charities Act 1993 and directions made thereunder by Treasury; and
- in all material respects, the payments and receipts have been applied to the purposes intended and conform to the authorities which govern them.

I have no observations to make on these financial statements.

John Bourn

Comptroller and Auditor General
2 June 2003

National Audit Office
157-197 Buckingham Palace Road
Victoria
London SW1W 9SP

receipts and payments account and statement of balances

for the year ended 31 March 2003

Receipts And Payments Account:

	Notes	Protected Funds £	2002/03 General Funds £	Total Funds £	2001/02 Total Funds £
Receipts					
From charities for protection		15,196.26		15,196.26	2,311.41
From investments (interest)		46.55		46.55	387.24
Total Receipts		15,242.81		15,242.81	2,698.65
Payments					
From protected funds	3(b)	111.77		111.77	19,487.98
Remitted to trustees	Capital				(90.32)
	Interest	5.26		5.26	1,804.81
Total Payments		117.03		117.03	21,202.47
Excess of receipts over payments		15,125.78		15,125.78	(18,503.82)
Statement of balances as at 31 March 2003:					
Balance at 1 April		115.89	7,966.69	8,082.58	26,586.40
Balance at 31 March	3	15,241.67	7,966.69	23,208.36	8,082.58

Note 1: Basis of Preparation

In accordance with section 2(6) of the Charities Act 1993, the Account is drawn up in the form directed by the Treasury. For reasons of clarity for 2002-03, both receipts in the form of interest from investments and the remittance of that interest to trustees have been disclosed separately on the face of the account. The comparative figures for 2001-02 have also been split out this way. This split was not shown in the published accounts for 2001-2.

Note 2: Accounting Policies

The Official Custodian for Charities (the Official Custodian) has no funds of his own, other than monies ultimately accountable to the Consolidated Fund.

Since 11th December 1992, the Official Custodian has been divesting himself of investments and cash as directed by the Charity Commissioners under section 29 of the Charities Act 1992.

Investments held by the Official Custodian for more than one charity are registered in aggregated holdings in his name. Where an aggregated investment holding is held, the Official Custodian apportions dividends or interest payments received between the charities concerned.

Note 3: Funds Held

The funds held at the Bank of England are as follows:

	31 March 2003			31 March 2002
	Protected Funds Note (a) £	General Funds Note (c) £	Total Funds £	Total Funds £
● Deposit Account balances	10,208.70		10,208.70	115.89
● Current Account balance	5,032.97	7,966.69	12,999.66	7,966.69
Total Funds	15,241.67	7,966.69	23,208.36	8,082.58

(a) The protected funds held in designated interest bearing deposit accounts in the name of the Official Custodian consisted of the following:

- Bexwell Nursery £5,032.97 (transferred to current account on 20th March 2003)
- Meadowlands Trust Limited £10,208.70

(b) £117.03 protected money (£111.77 capital; £5.26 interest) was released in respect of the Daneez Community Association during this financial year.

(c) The current account also holds £7,966.69 general funds represented as follows:

- £659.09 as unrepresented cheques issued to charities in respect of dividends on stocks held by the Official Custodian or liquidated stock.
- £7,307.60 awaiting submission of a Minute to the House of Commons pursuant to Government Accounting 2000 chapter 25 for transfer to an appropriate charity.

Note 4: Properties protected

At 31 March 2003, there were no properties vested in the Official Custodian under section 18(1)(iii) of the Charities Act 1993 for protection of the charity.

Note 5: Land vested in the Official Custodian

As noted in the foreword to the Accounts, land may be vested in the Official Custodian under section 21 of the Charities Act 1993. Some will be registered at the Land Registry, some not. A recent Land Registry search indicated that there are more than 1,400 parcels of land vested in the Official Custodian under section 21 with a value estimated to be in excess of £1 billion.

Vested land should appear on the balance sheet of the appropriate charity and does not appear in the accounts of the Official Custodian. As part of a 'treasure hunt' initiative and with greater automation of the records held by the Land Registry, more work is planned to gain a better understanding of the nature and extent of the land holdings of the Official Custodian.

Note 6: Securities Held

Securities that are held by the Official Custodian are as follows:

- £40,000 6.5% Convertible Unsecured Loan Stock 2000/2005 Stafflex International (in liquidation).
- £17,479 8% Partly Convertible Unsecured Loan Stock 1992/2002 Acrow plc (in liquidation).

These securities are excluded from the Statement of Balances, having an estimated market value of nil.

The Seal of the Official Custodian for Charities was affixed hereto in the presence of:

Jonathan Thorne

The Official Custodian for Charities

John Stoker

Chief Charity Commissioner and Accounting Officer
28 May 2003

Charity Commission
Harmsworth House
13-15 Bouverie Street
London EC4Y 8DP



The Charity Commission

Telephone: 0870 333 0123

Minicom: 0870 333 0125

Website: <http://www.charitycommssion.gov.uk>

London

Harmsworth House
13-15 Bouverie Street
London EC4Y 8DP
Fax: 020 7674 2300

Liverpool

2nd Floor
20 Kings Parade
Queens Dock
Liverpool L3 4DQ
Fax: 0151 703 1555

Taunton

Woodfield House
Tangier
Taunton
Somerset TA1 4BL
Fax: 01823 345003

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