

The Official Custodian for Charities

Annual Report 2008–09



Report and accounts of the Official Custodian for Charities for the year ending 31 March 2009

Presented to Parliament in accordance with Section 2(9) of the Charities Act 1993.

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The Official Custodian for Charities Accounts

Foreword to Accounts

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 Commission (the Commission). The Commission designates one of its officers to be the Official Custodian, and he performs these duties in accordance with the directions of the Commission. The Commission has appointed the Official Custodian under section 2(2) of the Charities Act 1993.

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 Commission 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 its 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 a bank 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. A webpage on the roles and responsibilities of the Official Custodian has been published and can be viewed on the Commission's website www.charitycommission.gov.uk

The Chief Executive of the Charity Commission (the Commission), as its senior full-time official, carries the responsibilities of Accounting Officer. He has overall responsibility for public funds in respect of all functions performed by officers of the Commission: this includes the Official Custodian. The Statement on Internal Control signed by the Accounting Officer in respect of the internal controls procedures and mechanisms for the Commission covers all the functions of the Official Custodian carried out on behalf of the Commission.

As from the 27 February 2007, the Charity Commissioners for England and Wales ceased to exist, and was replaced by a body corporate called The Charity Commission for England and Wales.

Ken Brew
The Official Custodian for Charities
21 April 2009

Statement on the responsibilities of the Official Custodian for Charities for preparing accounts

Under section 2(6) of the Charities Act 1993, the Official Custodian for Charities (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. These responsibilities are established by a direction to the Official Custodian regarding his accounting responsibilities, issued by the Charity Commission (the Commission) under section 2(3) of the Charities Act 1993.

Statement on internal control relating to the functions of the Official Custodian for Charities

As the Official Custodian for Charities (the Official Custodian), I have responsibility for ensuring that a sound system of internal control is maintained to support the achievement of the policies, aims and objectives of the Charity Commission (the Commission) in respect of my duties.

The system of internal control maintained by the Official Custodian is set in the wider context of the system of risk management for 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.

Risk management in the Commission 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 in the context of the overall information and control systems of the Commission, for which the Chief

Executive of the Commission produces a Statement on Internal Control. This statement is published annually with the Commission's Departmental Resource Account, and details the Commission's capacity to handle risk, the risk and control framework and the Chief Executive's review of effectiveness and actions taken and proposed in maintaining a comprehensive system of internal control.

The Commission has internal auditors (Bentley Jennison) who operate to standards defined in the Government Internal Auditing Standards. The work of the internal auditors is performed by an analysis of the risks to which the Commission is exposed (including those associated with the Official Custodian functions), and annual internal audit plans are based on this analysis. The analysis of risks and the internal audit plans are endorsed by the Commission's Audit Committee and approved by the Chief Executive. At least annually, the internal auditors provide the Chief Executive with a report on internal audit activity in the department. The report includes their independent opinion on the adequacy of the Commission's system of internal control.

There is a rolling programme of internal audit for all aspects of the work of the Commission, including that of the Official Custodian. No internal audit work has been completed on the Official Custodian for Charities during the year. There is no standing risk register for the Official Custodian for Charities, where appropriate risks are reflected within the high level risk register for the Commission. During the year no risks were identified that required inclusion on the Commission risk register.

Regular 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 Commission 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.

Ken Brew

The Official Custodian for Charities
21 April 2009

The Official Custodian for Charities

Receipts & Payments Account – 2008-09

The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the Official Custodian for Charities for the year ended 31 March 2009 under sections 2(7) of the Charities Act 1993. These comprise the Receipts and Payments Account, the Statement of Balances and the related notes. These financial statements have been prepared under the accounting policies set out within them.

Respective responsibilities of the Official Custodian for Charities and Auditor

The Charity Commission (the Commission) has appointed the Official Custodian under section 2(2) of the Charities Act 1993. He is responsible for preparing the Foreword and 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. These responsibilities are set out in the Statement of Responsibilities of the Official Custodian.

My responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements properly present the receipts and payments of the Official Custodian and the balances held at that date, and whether they have been properly prepared in accordance with the Charities Act 1993 and Treasury directions made thereunder. I report to you whether, in my opinion, certain information given in the Foreword, which comprises the history and statutory background of the entity, is consistent with the financial statements. I also report whether in all material respects the receipts and payments have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the Official Custodian has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury is not disclosed.

I review whether the Statement on Internal Control reflects the Official Custodian's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of corporate governance procedures or its risk and control procedures as framed within the context of the relevant procedures for the Charity Commission.

I read the other information contained in the Foreword and consider whether it is consistent with the audited financial statements. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinions

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgments made by the official Custodian 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 fraud or error, and that in all material respects the receipts and payments have been applied to the purposes intended by Parliament and the financial transactions 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.

Opinions

In my opinion:

- the financial statements properly present the receipts and payments, in accordance with section 2(6) of the Charities Act 1993 and directions made thereunder by HM Treasury, for the year ended 31 March 2009;
- the financial statements have been properly prepared in accordance with Section 2(6) of the Charities Act 1993 and Treasury directions made thereunder; and
- information given within the Foreword, which comprises the history and statutory background of the entity, is consistent with the financial statements.

Opinion on Regularity

In my opinion, in all material respects the receipts and payments of the Official Custodian for Charities have been

applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Report

I have no observations to make on these financial statements.

T J Burr

Comptroller and Auditor General
National Audit Office

151 Buckingham Palace Road
Victoria
London
SW1W 9SS
18 May 2009

The Official Custodian for Charities

Receipts and Payments Account and Statement of Balances for the year ended 31 March 2009

Receipts and Payments Account

		2008/09			2007/08	
	Notes	Specific Funds	Protected Funds	General Funds	Total Funds	Total Funds
		£	£	£	£	£
Receipts						
From charities		0	0	0	0	0
From charities for protection		0	0	0	0	0
From investments (interest)		45.86	0	11.72	57.58	97.53
Total Receipts		45.86	0	11.72	57.58	97.53
Payments						
Remittances made Capital		0	0	0	0	0
Interest		0	0	0	0	0
Total payments		0	0	0	0	0
Excess of receipts over payments		45.86	0	11.72	57.58	97.53
Statement of balances as at 31 March 2009						
Balance at 1 April 2008		2,599.74	0	736.13	3335.87	3,238.34
Balance at 31 March 2009	3	2645.60	0	747.85	3393.45	3335.87

Ken Brew

The Official Custodian for Charities
21 April 2009

Notes to the accounts

Note 1: Basis of Preparation

In accordance with section 2(6) of the Charities Act 1993, the Accounts are drawn up in the form directed by the Treasury.

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 (which are retained to meet residual liabilities).

Since the 11th December 1992, the Official Custodian has been divesting himself of investments and cash as directed by the Charity Commission 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 maintained, the Official Custodian apportions dividends or interest payments received between the charities concerned.

Note 3: Funds Held

The funds held at bank are as follows:

	31 March 2009			31 March 2008	
	Specific Funds £	Protected Funds £	General Funds £	Total Funds £	Total Funds £
Deposit Account balances	2,645.60	0	676.03	3,321.63	3,264.05
Current Account balance	0	0	71.82	71.82	71.82
Total Funds	2,645.60	0	747.85	3,393.45	3,335.87

(a) Specific Funds

- In August 2005, an amount of £1,400 was received in respect of £40,000 6.5% Convertible Unsecured Loan Stock 2000/2005 issued by Stafflex International Limited (in compulsory liquidation). The money has been placed in an interest bearing deposit account in the name of the Official Custodian and now amounts to £1,522.39. The identity of the Charity that owns the Loan Stock is as yet unknown.
- In September 2004, an amount of £997.27 was received in respect of £18,300 11.5% Convertible Unsecured Loan Stock 1998 issued by Espley Trust plc (in compulsory liquidation). The money has been placed in an interest bearing deposit account in the name of the Official Custodian and now amounts to £1,123.21. The identity of the Charity that owns the Loan Stock is as yet unknown.

(b) Funds are held by the Official Custodian as follows:

- £ 71.82 in a current account; and
- £ 676.03 in an interest bearing deposit account including interest earned.

Note 4: Property protected

The following property is vested in the Official Custodian by an Order of the Charity Commission made under section 18(1)(iii) of the Charities Act 1993 as amended by the Charities Act 2006:

28th February 2007

The Recreation Ground at Bath, in the County of Somerset being the land comprised in a conveyance dated 1 February 1956.

16th February 2009

Freehold land at 119-121 Grove Road, Walthamstow, London E17 9BU.

Notes to the accounts

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 Land Registry search conducted in 2004 indicated that there were 3,603 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.

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

Ken Brew

The Official Custodian for Charities
21 April 2009

Charity Commission

12 Princes Parade
Princes Dock
Liverpool, L3 1DE



Our Vision

Charity working at the heart of society for public benefit

Our Mission

Increasing public trust and confidence in charities by:

- enabling charities to maximise their impact
- ensuring compliance with legal obligations
- encouraging innovation and effectiveness
- promoting the public interest in charity

Our Values

Effective

Expert

Fair

Independent

Innovative

Responsive

More information about the Commission together with a range of guidance for charities can be found on our website at www.charitycommission.gov.uk or by contacting Charity Commission Direct:

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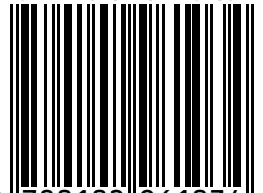
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