

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR ECONOMIC DEVELOPMENT

PUBLIC TRUSTEE ANNUAL REPORT AND AUDITED ACCOUNTS 2015

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

20 October 2016

Dear Sir

The Public Trustee (Bailiwick of Guernsey) Law, 2002 provides, in section 6(1) that the Committee for Economic Development is required to submit the report and accounts to the States of Guernsey on the exercise of the Public Trustee's functions for the preceding year.

I am pleased to enclose a copy of her report and audited accounts for the year ended 31 December 2015.

Section 6 of the Law also provides that the Committee may, at the same time, submit its own report commenting on the activities of the Public Trustee during this period.

The Committee does not wish to add further comments on the activities of the Public Trustee.

I should be grateful if you would arrange to publish this submission as an Appendix to the next available Billet.

Yours faithfully

Deputy P T R Ferbrache
President

**REPORT OF THE PUBLIC TRUSTEE
TO THE COMMITTEE FOR ECONOMIC DEVELOPMENT
FOR THE YEAR ENDED 31 DECEMBER 2015**

Introduction

1. Under Section 6(1) of The Public Trustee (Bailiwick of Guernsey) Law, 2002 (“the Law”), the Public Trustee is required in each calendar year to submit to the Committee for Economic Development a report on the exercise of his or her functions in the preceding year together with the audited accounts of the Office of the Public Trustee.

Appointments

2. On 31 July 2015, Bordeaux Services (Guernsey) Ltd (“Bordeaux”) was placed into Management Administration by the Royal Court at the request of the Guernsey Financial Services Commission. The Public Trustee was appointed by the Royal Court to act as Trustee of all trusts where Bordeaux had been acting as trustee as at that date. As a result, the Public Trustee was appointed to act as trustee on seven trusts, two of which have been terminated in 2016.

Of the remainder:

- one trust is in the process of being terminated;
 - two trusts are in the process of being transferred to an alternative service provider;
 - one trust has been identified as having substantial legal issues which are in the process of being resolved by the Public Trustee with legal input from Collas Crill; and
 - one trust is proving difficult to place with an alternative service provider as the asset value is too small to make it commercially viable.
3. At the end of 2015, as well as the above trusts the Public Trustee remained as trustee of twelve trusts. Seven of the twelve trusts are considered dormant and have been archived as they do not appear to hold any assets. It has not been possible to make contact with the Settlers, Beneficiaries etc.
 4. The Public Trustee is currently reviewing a Guernsey Pension Fund (“the Fund”) in order to establish whether to accept an appointment as trustee. Several of the members have made contact with lawyers in Guernsey as they are concerned that the assets of the Fund may have been dissipated. If the Public Trustee were to be appointed at the present time there is a risk of litigation which would most likely emanate from the person currently responsible for managing the Fund. As a consequence the Public Trustee is exercising a significant amount of caution when deciding whether to be appointed. Investigations are ongoing.

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF ACCOUNT

31ST DECEMBER, 2015

LINCE SALISBURY

Chartered Accountants

Avenue House,

St. Julian's Avenue,

St. Peter Port,

GUERNSEY

OFFICE OF THE PUBLIC TRUSTEE

Office holder

The position of Public Trustee at the year end was held by:

Mrs C. Rowe

Statement of responsibilities for the preparation of financial statements

In accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002 the Public Trustee is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of The Office of the Public Trustee. She is responsible for selecting suitable accounting policies and, in preparing the statement of account the Public Trustee is expected to:

- * apply suitable accounting policies on a consistent basis;
- * make judgements and estimates that are reasonable and prudent;
- * state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the accounts; and
- * prepare the statement of account on a going concern basis, unless it is inappropriate to do so.

The Public Trustee acknowledges responsibility for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of The Office of the Public Trustee.

It is the responsibility of The Office of the Public Trustee to identify and install a system of internal controls, including financial controls, which is adequate for its own purposes. Thus The Office of the Public Trustee is responsible for safeguarding the assets in its care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Public Trustee reports that so far as she is aware there is no relevant audit information of which the auditors are unaware and that she has taken all steps to make herself aware of such audit information and to establish that the auditors are aware of that information.

INDEPENDENT AUDITOR'S REPORT TO THE OFFICE OF THE PUBLIC TRUSTEE

We have audited the financial statements of The Office of Public Trustee for the year ended 31st December, 2015 on pages 3 to 5 which have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice, under the historical cost convention and the accounting policies set out on page 5.

This report is made solely to The Office of Public Trustee. Our audit work has been undertaken so that we might state to you those matters we are required to state in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than The Office of Public Trustee for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of The Office and Auditors

As explained in the Statement of Responsibilities the Public Trustee is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards of Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to The Office's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Public Trustee; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Public Trustee's Report to identify material inconsistencies with the audited financial statements. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

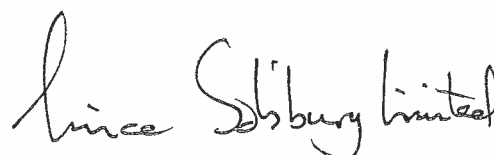
Opinion on the financial statements

In our opinion the financial statements:

- give a true and fair view of the state of The Office's affairs as at 31st December, 2015 and of its result for the year then ended;
- have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice;
- the financial statements have been properly prepared in accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002.

6th October 2016

Avenue House,
St. Julian's Avenue,
St. Peter Port,
GUERNSEY



LINCE SALISBURY LIMITED
CHARTERED ACCOUNTANTS

OFFICE OF THE PUBLIC TRUSTEESTATEMENT OF INCOMEFOR THE YEAR ENDED 31st DECEMBER, 2015

	Note	2015		2014	
		£	£	£	£
Income	1				
Grant from States of Guernsey	1, 3		3		10,941
Trustee fees			<u>75,114</u>		<u>48,210</u>
			75,117		59,151
Expenditure	1				
Audit fees		2,900		3,100	
Bank charges		66		62	
Office administration		1,543		1,249	
Public Trustee remuneration		27,161		11,251	
Movement in provision for doubtful debts		(1,063)		2,079	
Trust and company administration fees		<u>46,484</u>		<u>41,847</u>	
			(77,091)		(59,588)
Operating (deficit)/surplus before tax			(1,974)		(437)
Tax	2		-		-
(Deficit) for the year			<u>£(1,974)</u>		<u>£(437)</u>

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF FINANCIAL POSITION AT 31st DECEMBER, 2015

	Note	2015 £	2014 £
Current assets			
Debtors		405,991	334,788
Bank		<u>17,650</u>	<u>14,409</u>
		<u>423,641</u>	<u>349,197</u>
Current liabilities			
Potential liability - grants	3	389,357	314,001
Accruals	3	3,205	3,990
Creditors	3	<u>22,634</u>	<u>20,787</u>
		<u>415,196</u>	<u>338,778</u>
Net assets		<u>£8,445</u>	<u>£10,419</u>
Funded by:			
The Public Trustee Fund	4	<u>£8,445</u>	<u>£10,419</u>

The balance sheet was approved on 4th October 2016

C. Rowe

C. Rowe
Public Trustee

OFFICE OF THE PUBLIC TRUSTEE
NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED 31ST DECEMBER, 2015

1. ACCOUNTING POLICIES

Basis of Preparation

The financial statements have been prepared in accordance with FRS 102, the Financial Reporting Standard applicable in the United Kingdom and Republic of Ireland.

Historical Cost Convention

The statement of account is prepared under the historical cost convention and in accordance with UK applicable accounting standards.

Grants

Grants from the States of Guernsey Commerce and Employment Department are included on a received basis. Grants have been recognised as revenue items where they are not expected to become repayable to the States of Guernsey. Where grants have been received and a corresponding debtor is considered recoverable from the underlying client the potential liability has been recognised.

Other income and expenditure

Other income and expenditure is included on an accruals basis.

2. TAXATION

The Office of the Public Trustee is not subject to States of Guernsey Income Tax.

3. CREDITORS AND ACCRUALS

	2015	2014
	<u>£</u>	<u>£</u>
<u>Creditors</u>		
Professional trust administration fees and Deputy Trustee charges from Commerce & Employment Department	£ 22,634	£ 20,787
	<hr/>	<hr/>
<u>Accruals</u>		
Audit fee	3,200	3,450
Public Trustee	-	535
Bank charges	5	5
	<hr/>	<hr/>
	£ 3,205	£ 3,990
	<hr/>	<hr/>
<u>Potential Liabilities - Grants</u>		
Grants from States of Guernsey	£ 389,357	£ 314,001
	<hr/>	<hr/>

The Grant from the States of Guernsey is paid in accordance with section 8 of The Public Trustee (Bailiwick of Guernsey) Law, 2002. Any amounts paid by the States of Guernsey to cover expenditure that are subsequently recouped from the structures within the responsibility of the Public Trustee become repayable to States of Guernsey. The potential liability due to the States of Guernsey represents the debts the Public Trustee expects to be recoverable from those structures. Disclosing this amount separately on the balance sheet reflects the understanding of the contingent nature of the corresponding debtor.

4. THE PUBLIC TRUSTEE FUND

	2015	2014
	<u>£</u>	<u>£</u>
Balance brought forward	10,419	10,856
(Deficit) for year	(1,974)	(437)
	<hr/>	<hr/>
Balance carried forward	£8,445	£10,419
	<hr/>	<hr/>

5. The Public Trustee is currently reviewing a Guernsey Unit Trust which was Authorised by the Guernsey Financial Services Commission as a Class B Open Ended Scheme. The Scheme has retained the Authorisation but was suspended in 2009 and is now in termination. The Public Trustee was approached in September 2016 by the lawyer representing the investors. The investors appear to have lost more than Euro 30m, equivalent to approximately 90% of their investment and have requested that the Public Trustee take control as they have lost confidence in the trustee. This matter is well known to the Royal Court and the retirement of the current trustee and appointment of the Public Trustee is due to be blessed by the Court in November 2016.

Accounts and Auditors' Report

6. The accounts of the Office of the Public Trustee for the year to 31 December 2015 together with the Auditors' report thereon, accompany this report.
7. Work levels during the year were significantly higher than in 2014 due to the appointment of the Public Trustee on the Bordeaux trusts.

As in previous years, two historic interrelated trusts continue to present significant difficulties and account for a reasonable proportion of the trust and company administration fees. However the bulk of the fees charged during the year by professional providers of trust services working on behalf of the Public Trustee were in respect of the Bordeaux trusts.

8. The fees charged by professional providers of trust services (£46,484) together with the Public Trustee's own charges make up the total Trustee fees of £75,114 charged to the trusts.
9. Delays continue to be experienced in recovering historic amounts due to the Office of the Public Trustee due to the lack of liquid assets in two of the trusts. However, the Public Trustee is confident that a large proportion (£361,705) of the outstanding debt in relation to this structure is recoverable.

Of the remaining debt, £34,632 was due from Bordeaux related entities and the Public Trustee can confirm that the majority of this has been recovered during 2016.

10. In November 2015, the Public Trustee recouped an amount of money (£4,434.86) from Barclays Bank plc ("Barclays") in respect of one of the dormant, archived trusts noted in (3) above. Barclays had placed the funds into a dormant funds account as the company holding the cash had been dissolved.

The company holding the cash had been 100% owned by the trust prior to the company's dissolution and Barclays agreed to retrieve the funds from the dormant funds account and transfer them to the Public Trustee in her capacity as trustee of the overlying trust.

Some of the cash (£4,091.82) was used to settle the historic debt due to the Office of the Public Trustee. The remainder will be used to settle fees which will be due in 2016.

General

11. Advice was sought in 2015 in relation to the underlying corporate entities owned by the trusts to which the Public Trustee has been appointed. The Law does not specifically state that the Public Trustee is able to act as a director of corporate entities and as a consequence she appoints external service providers to do so. As noted below, the Public Trustee is primarily a trustee of last resort and it is possible that the corporate entities held by the trusts may be experiencing difficulties including legal action and insolvency issues. As a result, it may be difficult or impossible to locate service providers willing or able to act in these cases.

The advice obtained stated that at the present time it is not considered appropriate or necessary to amend the Law to enable the Public Trustee to be appointed. This advice can be revisited if considered necessary in the future.

Conclusion

12. As pointed out in previous reports, the Public Trustee is primarily a trustee of last resort and experience has shown that appointments are usually made to problematic trusts where other professional trustees are unable or unwilling to act. That and the fact that the Public Trustee may not, under the Law, charge fees to any individual trust in excess of actual costs incurred in administering it, mean that there are inevitable implications for costs.
13. However, the general low level of appointments to act as trustee since the Office of the Public Trustee was established in 2004 is a positive factor in this respect may also be taken as an indication of the continuing good health and conduct of the trust industry in the Bailiwick.



Catherine Rowe
Public Trustee
Bailiwick of Guernsey