

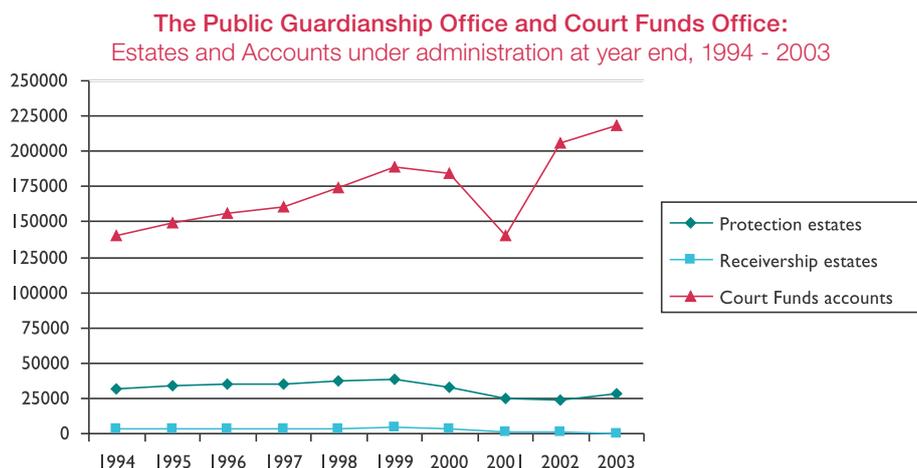
Offices of the Supreme Court

Offices of the Supreme Court include-

- **The Office of Official Solicitor and Public Trustee** - which has a duty to protect the interests of mentally incapacitated adults and children (other than the subject of child welfare proceedings) who are under a legal disability and to act as trustee when there is no-one else or suitable to do so
- **The Tipstaff** - whose main responsibility is for the delivery of persons to the court, prison or elsewhere as ordered by a judge of the Supreme Court
- **The Court of Protection** - which is responsible for the management and administration of the property and affairs of persons suffering from mental disability
- **The Public Guardianship Office** - which deals with private monies either held in court pending a court case, or in trust, or on behalf of the mentally disabled
- **Court Funds Office** - involves receiving, holding and paying out money paid in satisfaction, awards by courts to minors and certain other sums

During 2003-

- new referrals increased by nearly 14% to 2,938 and active caseload decreased by nearly 3% to 5,509 (Table 8.1)
- in the Court of Protection, orders made under the Mental Health Act 1983 by Masters, Assistant Masters and nominated officers increased by just over 34% to 4,890 (Table 8.3)
- the number of accounts at the Court Funds Office at the end of the year increased by 6% to 218,414. They held a nominal value of £3.8 billion.



The Office of the Official Solicitor and Public Trustee

The Official Solicitor (a statutory appointment under section 90 of the Supreme Court Act 1981) acts in legal proceedings for those unable to represent themselves. In particular, he acts for the mentally disabled and children (other than those who are the subject of child welfare proceedings which are now the responsibility of the Children and Family Court Advisory and Support Service) who are vulnerable litigants because they lack capacity. He will also intervene when there is no-one else able or suitable to do so to prevent an injustice which would arise were he not to act for a party. His main objective is to protect the best interests and human rights of those he represents.

In family proceedings he will act as a guardian ad litem of a parent suffering from mental disability within the meaning of the Mental Health Act 1983; and in any civil litigation (e.g. personal injury claims, possession actions or applications in connection with inheritances) he will be invited by the court to act as the litigation friend of a party under disability. He is also brought in to represent incapacitated adults in medical or welfare cases where issues arise as to what lawfully should be done in their best interests. Other cases may involve him representing an estate of a deceased person, usually in circumstances in which there is a need to protect the property of a child or person under mental disability, or some person wishes to claim against an estate for which no personal representative is willing to act. He administers estates and acts as trustee when there is no-one else suitable to do so. He reviews the cases of persons committed to prison for contempt of court. His office represents persons without mental capacity in proceedings concerning their property and affairs before the Court of Protection. He can also be called upon to assist the courts by providing an advocate to the court.

His office administers the Child Abduction Unit in England and Wales (the Central Authority under the Hague and European Conventions on Child Abduction) to ensure that an aggrieved parent may, with minimal delay, make application to enforce orders in the child's home country, and where the claim is made out, secure the return of the child.

In 2003 noteworthy cases in which the Official Solicitor was involved included the following:

LJF and D: Representing babies in judicial review challenges to decisions of the Home Secretary, who had refused them places on a prison mother and baby unit. Each case was successful, resulting in mother and baby remaining together;

D: Fresh guidance was given concerning the circumstances that would warrant an application to the court when this was the best interests of a mentally incapacitated adult to have a termination of pregnancy; and

EP and HM: two further vCJD cases where novel treatment was authorised by the court.

The Public Trustee, appointed under the Public Trustee Act 1906, acts as executor or administrator of deceased persons' estates or trustee of wills or settlements, when nominated to do so and he accepts that nomination. Increasingly, since the policy changes announced by the Lord Chancellor in April 2000 in "Making Changes - the Future of the Public Trust Office", this function has concentrated upon providing a public sector service of last resort where there is a social need for the Public Trustee to act which could not be met in the private sector. Since 1 April 2001, the office has been combined with that of the Official Solicitor following the appointment of the same individual to the two statutory offices.

Table 8.1
Supreme Court - Office of the Official Solicitor and Public Trustee: Cases accepted and carried forward, 2003

	New Referrals	Average Monthly Active Cases
Official Solicitor		
Family Litigation	757	649
Divorce	192	460
Civil Litigation	612	1,013
Court of Protection	537	489
Bails/Contempts	375	86
Child Abduction	376	268
Estates	74	1,089
Public Trustee		
Trusts	4	1,443
Executorships	11	-
Pension and Institutional Funds	-	12
Total	2,938	5,509

Tipstaff

The Tipstaff is appointed under section 27 of the Courts Act 1971, a general provision which enables the Lord Chancellor to appoint officers and other staff in the Supreme Court and county courts.

The duties of the Tipstaff are many and varied but broadly the Tipstaff is the enforcement officer for all issues falling within the jurisdiction of England and Wales. The principal areas of specific duties emanate from the Queens Bench, Chancery and Family Divisions and involve issues of Bankruptcy, Insolvency, Wardship, Contempt of Court, Writ Ne Exeat Regno (no exit from this jurisdiction) and many other miscellaneous orders which involve taking action to enforce, or prevent breach of, orders of the Court.

About 80% of the Tipstaff's work is in the Family Division and usually involves a missing or abducted child. In these cases a Collection Order (return of a child) or a Location Order (the whereabouts of a child discovered) is granted. When the child's whereabouts is known, but there is a fear that there could be a removal from the jurisdiction, a Passport Order could be asked for, seizing certain passports and/or travel documents thus preventing a wrongful removal.

At the moment there is one Tipstaff, with one deputy and three assistants to cover England and Wales, and they are based at the Royal Courts of Justice in London.

During 2003, 22 persons were conveyed to prison by the Tipstaff or his assistants, 2 less than in 2002. In 2003, 356 warrants were executed (258 in 2002) and 75 warrants were suspended, discharged or expired.

Table 8.2
Supreme Court - Tipstaff: Warrants dealt with, 2003

	Warrants executed	Persons conveyed to prison	Warrant suspended or discharged
Warrant issued by			
Chancery Division	10	3	-
Queen's Bench Division	3	2	1
Bankruptcy	3	2	9
Insolvency	8	7	12
Family Division	54	8	44
Collection/Location/Seizure of Passport ¹	278	-	2
Port Alert Orders	-	-	7
Total	356	22	75

¹includes previous editions Child Abduction category

Court of Protection

The Court of Protection is an office of the Supreme Court which exercises judicial functions in respect of the property and financial affairs of persons who are incapable, by reason of mental disorder, of managing and administering their own property and affairs. Such persons are technically known as *patients*.

The Court's powers are conferred by the Mental Health Act 1983, Enduring Power of Attorneys Act 1985, the Court of Protection Rules 2001, and the Court of Protection (Enduring Power of Attorneys) Rules 2001.

These powers are exercisable by the Lord Chancellor, nominated judges (the judges of the Chancery Division and (since 5th May 2000) the judges of the Family Division), the Master, Assistant Masters and other nominated officers of the Court of Protection, and the Public Trustee.

Certain orders can only be made by the Lord Chancellor or a nominated judge but, subject to these exceptions, the jurisdiction is in practice exercised by the other people mentioned.

In 2003 there were three orders made by a nominated judge (two in 2002) with 6,094 orders being made by the Master, Assistant Masters or nominated officers (5,704 in 2002).

Since 1 October 2001, to make the Court more accessible to the public by providing it with a regional presence, a district judge sitting as a part-time Deputy Master of the Court of Protection has heard contentious matters at Preston Combined Court Centre.

Table 8.3

Supreme Court - Court of Protection: Proceedings under the Mental Health Act 1983 and the Enduring Power of Attorney Act 1985, 2003

Nature of proceedings

Orders made on first applications under the Mental Health Act 1983 by Master, Assistant Masters and nominated officers	4,890
Orders made on subsequent applications	371
Orders made by a nominated judge	3
Orders for sale and purchase of property	833
Wills executed for clients and sealed with the Court's seal and orders for settlement and gifts, excluding those made on applications relating to Enduring Powers of Attorney	284
Orders made on applications relating to Enduring Powers of Attorney dealt with by the Judicial Support Unit Department	322
Applications for orders appointing new trustees under sections 36(9) and 54 and 96(1) (k) of the Trustee Act 1925 and section 20(2) (c) of the Trusts of Land and Appointment of Trustees Act 1996	546
Orders determining proceedings on a patient's recovery	47
Visits carried out by the Lord Chancellor's medical visitors	104

The Public Guardianship Office

The Public Guardianship Office (PGO) was established as an Executive Agency on 2 April 2001. The agency operates as part of the Court of Protection, and undertakes the Mental Health functions previously carried out by the Public Trust Office.

The PGO provides an integrated service for its clients, safeguarding their financial interest while avoiding unnecessary state intervention. Its major function is to protect and promote the interests of its clients by overseeing and supporting the activities of Receivers appointed by the Court of Protection to manage their financial affairs. Where the Court of Protection adjudges a person mentally incapable of managing their own financial affairs, and there is no one else willing or suitable to act as Receiver, the PGO will appoint one of the professionals from the panel of Receivers to act on behalf of that person. In exceptional cases if no one can be appointed as Receiver the PGO will take the role itself. In addition, the PGO carries out the administrative functions arising from the Court of Protection's jurisdiction under the Enduring Powers of Attorney Act 1985.

At the end of 2003 the agency was protecting the affairs of some 28,309 Protection Division clients, an increase of 18% on 2002. It was also directly managing the affairs of 521 Receivership clients, a decrease of nearly 18% on 2002. The agency was responsible for approximately £2.24 billion of clients' funds.

Table 8.4
The Public Guardianship Office: Matters under administration, 2003

Nature of Proceedings

Protection Work:

Estates under administration:	
At year start	28,864
Total applications brought in during year	8,117
At year end	28,309
Annual accounts and enquiries passed	15,240
Short Orders issued	1,080
Schedules (other than orders) for dealing with funds	20,898
Lodgement schedules (other than orders) for payment into Court	3,100
Enduring Powers of Attorney:	
Applications received during year	14,621
Number registered during year	11,393
Total remaining registered during year	82,115

Receivership Work:

Estates under administration at year start	585
Estates under administration at year end	521

Estimated value of funds under administration was £2.24 billion

Court Funds Office

Court Funds Office transferred to the Supreme Court Group of the Court Service on the 1 April 2001. Court Funds work involves receiving, holding and paying out money paid in satisfaction, awards by Courts to minors, money held on behalf of Public Guardianship Office, Protection and Receivership clients and certain other sums.

It manages money held in court on behalf of clients who may:

- be involved in a civil legal action
- be patients who, under the Court of Protection, are not able to manage their property and affairs
- be Children under the age of 18

These are non -agency assets and are not included in the accounts. The assets held at the balance sheet date comprised cash, securities and Index Tracker Funds. These items, with their market value as at 28 February 2004 are listed below.

- Cash: held and invested on behalf of the Accountant General through the Commissioners for the Reduction of National Debt's Court Funds Investment Account (CRND) - £4.55bn (2002-2003:£4.35bn)
- The Index Tracker Fund (formerly the Common Investment Fund): administered on behalf of the Accountant General by an appointed Fund Manager. The beneficiaries have units shares in the fund. The fund itself, detailed below, consists of a balanced portfolio managed by the Fund Manager in accordance with the investment strategy in force at the time (2002-2003, 5,139,741 units, valuation £27,371,985.49)

Title of Fund Net Asset Value	Units in issue Per Unit	Net Asset Value of the Fund
Equity Index Tracker £30,382,849	3,868,780	785.33p

- Securities: A combination of units and stock holdings in the name of the Accountant General with a total market valuation of approximately £420 million as at 28th February.[E&OE]. This is based on information on the Fund Accounting system as at 28th February 2004 and the annual reconcilliation exercise to validate this is being finalised

Further information can be obtained as follows:

- Cash holdings: Funds in Court Part A Accounts for 2003/2004
- The Index Tracker Fund: Legal and General's Fund Performance booklet as at 28th February 2004.
- Securities: Funds in Court Part A Accounts for 2003/2004

From 1st April 2003, all Payments in Satisfaction and Payment under Order were made directly into Court Funds Office.

The following information refers to CFO work only.

The Court Funds Office opened 199,633 new accounts in 2003, an increase of approximately 30% on 2002; 108,208 accounts were closed, an increase of 22% on 2002. The net result was an increase of 6%, with 218,414 accounts remaining open at the end of the year. The nominal value of these accounts was £3.8 billion.