



Information Commissioner's Office Annual Report

July 2011 - June 2012

Opening Doors to Information

The Information Commissioner and ICO Staff 2011-2012



Deputy Information Commissioner, Jan Liebaers; Registrar of Hearings and Operations Administrator, Nadira Lord; Information Commissioner, Jennifer Dilbert; Appeals and Compliance Analyst, Clara Smith; and Office Manager, Christina Smith

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March 2013

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July 2011 - June 2012 Annual Report

Presented by the Information Commissioner, Jennifer P. Dilbert MBE, JP
to the Legislative Assembly of the Cayman Islands pursuant to section 40 of the
Freedom of Information Law, 2007

Information Commissioner's Foreword

I am pleased to present the Annual report of the Information Commissioner's Office (ICO) for the year July 2011 to June 2012. Along with general information on the operation of the ICO, this Report constitutes the mandatory annual reporting as required under section 40 of the *Freedom of Information Law, 2007*. This includes the ICO's audited accounts for the 2011/2012 financial year.

The ICO has faced many challenges this year and I am pleased to be able to report that we have continued to uphold the principles of Freedom of Information and to meet our obligations as set out in the Law. Despite limited resources, including a reduction in staff, and ever increasing budgetary restrictions, the ICO successfully assisted with 27 appeals and completed 8 hearings. This means that the processes set up under the Law are for the most part working well, and information is being released to the public that would otherwise have not come to light.

The success of the FOI Law is now evident in the daily lives of people in Cayman with numerous examples of disclosure due to both Freedom of information requests and proactive disclosure by public authorities.

In the first quarter along with processing the increased number of appeals filed with the Office, the ICO embarked on an 'own-initiative' investigation of public authorities' websites. The investigation reviewed the accessibility of FOI information on government websites and the way in which websites were used to proactively publish information. This survey unfortunately indicated that the majority of government websites were underused, not up to date, and not generally very useful to the public in making FOI requests or gaining information. The ICO subsequently issued guidelines to public authorities to assist them with improving their websites in this area.

During the second quarter our focus was largely on the annual Right to Know Week activities to promote FOI and role of the ICO to the public.



Jennifer Dilbert MBE, JP
Information Commissioner

The theme for Right to Know Week 2011 was "Information is KEY" and as in previous years, the ICO team was out in force promoting the FOI Law and the public's right to access records held by government. We also conducted a media-based promotional campaign with daily features in the press. The ICO interacted with the public through meet-and-greets at the Market at the Grounds, the George Town Hospital and the new Government Administration Building. A special church service was also held at Agape Family Worship Centre. On International Right to Know Day, the Governor joined myself and the Deputy Commissioner in addressing a group of MLAs, Chief Officers and Principal Officers. The week ended successfully with two Information Manager training sessions.

In recognition of Right to Know Week, the ICO team visited Cayman Brac and held a clinic for members of the public, made a presentation to UCCI and CBHS students, and co-hosted and afternoon tea with the District Commissioner. The ICO continues to engage public authorities and Information Managers in Cayman Brac and promote FOI access rights to the public in the Sister Islands.

In addition to conducting training sessions and presentations to both the public and private sector, the ICO offered training to the general public in October and November.

We continued to hold Information Manager Seminars to provide a forum for small groups of IMs to meet and discuss some of the issues that they face in their roles.

In October, the ICO was faced with a new obstacle when both the Registrar of Hearings, Mrs. Pasha Delahunty, and Intake Analyst, Mr. Sonji Myles, tendered their resignations, the timing of which was completely coincidental. Pasha moved to the United Kingdom with her family and Sonji was successful in his application to join the team at the Complaints Commissioner's Office. This represented a promotion for Sonji and we are proud of his accomplishments, and wish him the best in his new position. I should like to put on record my sincere thanks to Pasha and Sonji for the role they played in the establishment and development of the ICO.

The newly vacated roles were advertised in November and interviews took place in mid-December. The interview panel consisted of the Commissioner, the Deputy Commissioner, the Deputy Auditor General and the Head of Human Resources at the Cayman Islands Monetary Authority. The successful candidates were Mrs. Nadira Lord for the Registrar's post and Mrs. Clara Smith for the post of Appeals and Compliance Analyst and I welcome them to the ICO team.

The fourth quarter was an especially busy and challenging one for the ICO. Along with having the largest ever number of active appeals, we undertook training and orientation for two new members of staff and dealt with several complex ongoing hearings. Whilst this presented a challenge, it also provided an opportunity to examine and improve the way we operate, and our internal policies and procedures were amended accordingly.

As reported last year, the Deputy Commissioner continues to represent the ICO at regular meetings of the Data Protection Working Group, tasked with drafting a Data Protection Law for the Cayman Islands. His involvement in this project requires substantial preparation and research in order to ensure that any future legislation is as effective and workable as possible, and that the ICO is prepared for the expanded role it will likely fulfill under the new legislation.

As at the end of June 2012, the review of the FOI Law as required under section 58 was not completed.

As I look back on the year, I am very proud of all my Office has accomplished. With a demanding workload and varying challenges, we have nonetheless met our timelines with respect to the hearing of appeals, and successfully promoted Freedom of Information and access rights to both the public and private sectors. FOI is proving to be a very important tool for promoting accountability and transparency, and I am committed to ensuring that the public continues to be able to exercise their 'Right to Know'.

As in previous years, I thank my staff for their work and support, and the Honourable Speaker of the House for her on-going approval of the ICO expenditures. I am especially grateful for the Information Managers throughout government who strive to meet their obligations under the Law, and to the media who ensure maximum coverage of FOI related matters. Finally, my thanks to the general public for their interest, support and encouragement of the work of my office, and to applicants for continuing to ensure that they seek information to which they are entitled.



Jennifer P. Dilbert
Information Commissioner

Information Rights

The *Freedom of Information Law, 2007* grants the public a general right to access records held by public authorities, subject to a limited number of exemptions which balance that right against the legitimate need for government to withhold some information.

Part VIII of the 2009 Constitution - Institutions Supporting Democracy - states that:

Freedom of Information

A law enacted by the Legislature shall provide for a right of access to information held by public authorities, for the conditions for the exercise of that right and for the restrictions and exceptions to that right in the interests of the security of the Cayman Islands or the United Kingdom, public safety, public order, public morality or the rights or interests of individuals.

The objects of the Freedom of Information Law (FOI Law) are set out in the Law itself, and are

“to reinforce and give further effect to certain fundamental principles underlying the system of constitutional democracy, namely-

- (a) governmental accountability;
- (b) transparency; and
- (c) public participation in national decision-making ...”

Access to information promotes a culture of openness and accountability across the public sector, while enabling the public to better understand how government works, why it makes the decisions it does and how it spends public funds.

The Information Commissioner's Office

The Information Commissioner's Office (ICO) monitors the compliance of public authorities with the FOI Law and promotes the rights of the public to access information held by Government. The ICO ensures that there is a workable system in place for the public to request records, and to appeal any decision of Government to withhold records from an applicant. The ICO also seeks to educate the public on the provisions of the Law and how to use it to access information.

Role of the Information Commissioner

Section 39 of the *Freedom of Information Law, 2007*, sets out the role of the Information Commissioner. In addition to the powers and responsibilities provided for in the Law, the Commissioner may —

- a. hear, investigate and rule on appeals filed under this Law;
- b. monitor and report on the compliance by public authorities with their obligations under this Law;
- c. make recommendations for reform both of a general nature and directed at specific public bodies;
- d. refer to the appropriate authorities cases where it appears that a criminal offence has been committed; and
- e. publicise the requirements of this Law and the rights of individuals under it.

Information is KEY

...to an open government
...to an informed electorate
...to an effective democracy
...to an empowered people
...to making Cayman a better place



The ICO Team

Jennifer Dilbert, MBE, JP **Information Commissioner**

Jennifer Dilbert is the Cayman Islands' first Information Commissioner having been appointed to this position on 5 January 2009.

From 2005-2008 she was the Cayman Islands Government Representative in the United Kingdom, and Executive Director of Deutsche Bank (Cayman) Ltd. from 1996 to 1999. Prior to this, she served in various capacities in the Cayman Islands Government for 17 years, 15 of which were spent in supervision of the financial services industry. She is an economics graduate of the University of Western Ontario in Canada.

Mrs. Dilbert was appointed a Member of the Order of the British Empire (MBE) in the Queen's Birthday Honours List in 2005, and as a Justice of the Peace in and for the Cayman Islands in 2006. She is married to Leonard Dilbert. They have two children and two grandchildren.

Christina Smith **Office Manager and Information Manager**

Christina joined the ICO in March 2009 and provides full administrative, secretarial and management support. She handles personnel issues, budget related matters, and as Information Manager assists the public with processing FOI requests and deals with FOI requests to the ICO.

Nadira Lord **Operations Administrator** **& Registrar of Hearings**

Nadira joined the ICO in March 2012 and is responsible for the delivery of confidential operational and administrative support to the Information Commissioner and the ICO team. She coordinates outreach initiatives and reporting as well as the hearing process and ensures that procedures during a hearing are in line with administrative fairness and natural justice.

Jan Liebaers **Deputy Information Commissioner**



Mr. Liebaers joined the Information Commissioner's Office in the Cayman Islands as Deputy Information Commissioner in June 2010. He brings with him extensive knowledge of Freedom of Information legislation, having sat as a member of

the FOI Working Group, the drafting committee of the Cayman Islands FOI Bill from 2005 to 2007, as well as the FOI Steering and Implementation Planning Committees which assisted in the development and planning of FOI in the Cayman Islands. Mr. Liebaers currently sits on the Data Protection Working Group which is preparing data protection legislation for the Government of the Cayman Islands.

Prior to this he held several positions relating to FOI, archives and records management in Europe, Canada and the Cayman Islands. From 1997 to 2007 Mr. Liebaers was Head of Archives and Records Management and Deputy Director in the Cayman Islands National Archive, where he created the Records Policy Unit and spearheaded the development and implementation of new public records legislation, the National Archive and Public Records Law, 2007.

Clara Smith **Appeals and Compliance Analyst**

Clara joined the ICO in February 2012 and is responsible for investigating appeals filed with the Information Commissioner. She assists the Deputy Commissioner in preparing final reports for formal hearings before the Commissioner. She also obtains and analyses statistical data from public authorities and monitors compliance with the FOI Law.



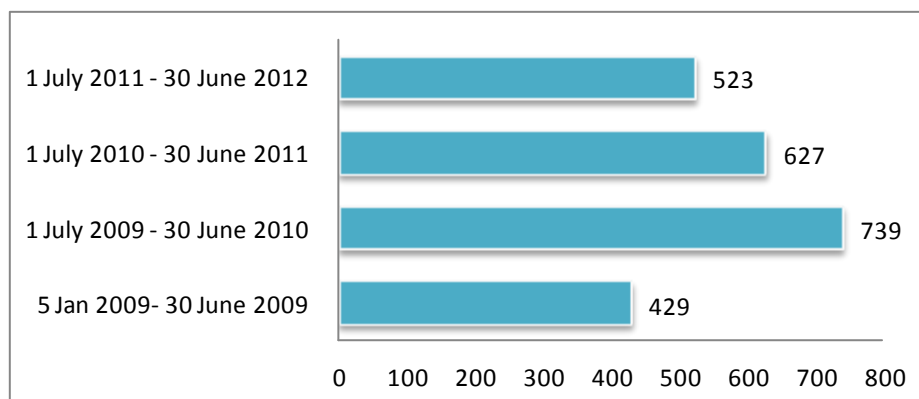
Freedom of Information requests

2318

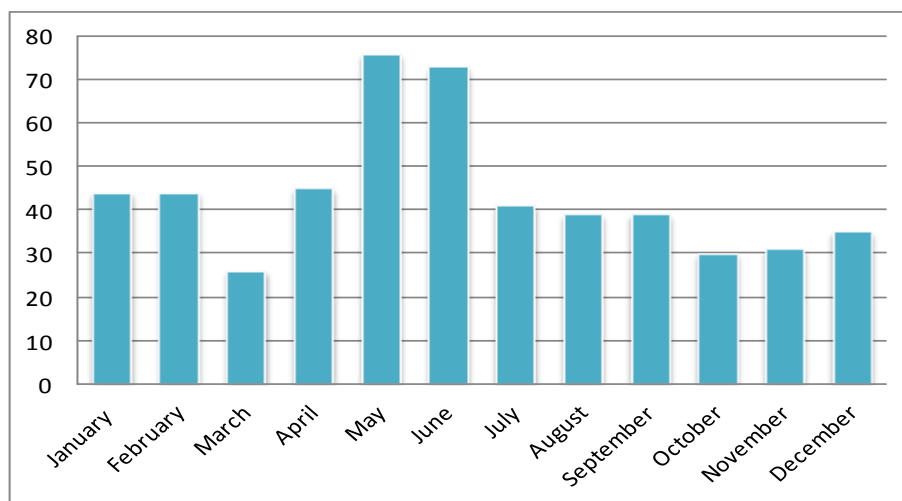
Total number of Freedom of Information requests to date

Since the Freedom of Information Law, 2007 was enacted on 5 January 2009, public authorities in the Cayman Islands have officially recorded in the JADE tracking system a total of 2318 applications for access to records. Of these, 523 were made during this financial year. The ICO acknowledges that the majority of public authorities receive considerably more FOI requests than those recorded in the tracking system. These requests are dealt with and responded to in an efficient manner as per the normal course of business and not necessarily tracked as an official FOI request.

FOI requests received:



FOI requests received per month, July 2011-June 2012:



Total number of requests for amendment or annotation

0

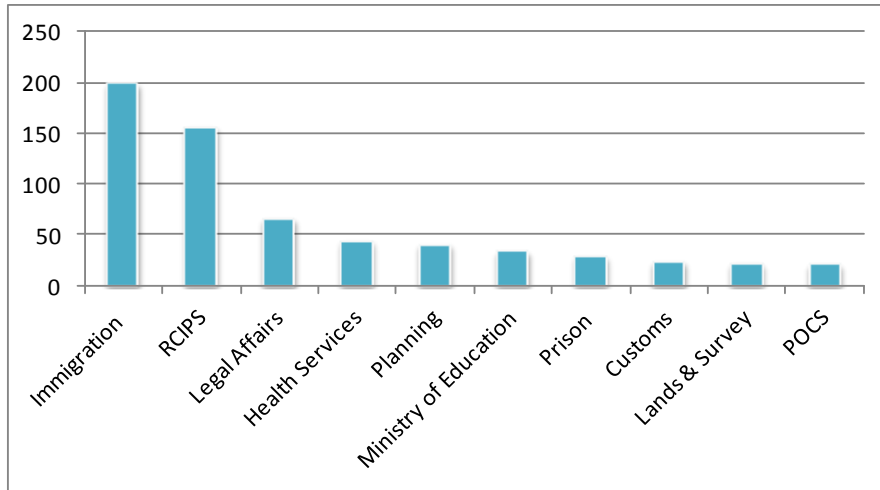
Although Part IV of the FOI Law allows amendment and annotation of personal information in government records, no requests were reported in this regard.

Public authorities receiving FOI requests

74

Of 92 public authorities 74 received FOI requests during this period. As in previous years the two public authorities receiving the most number of new FOI requests were Immigration Department(199) and the Royal Cayman Islands Police Service (156).

Ten most popular public authorities receiving 1 or more FOI requests per month, July 2011-June 2012:

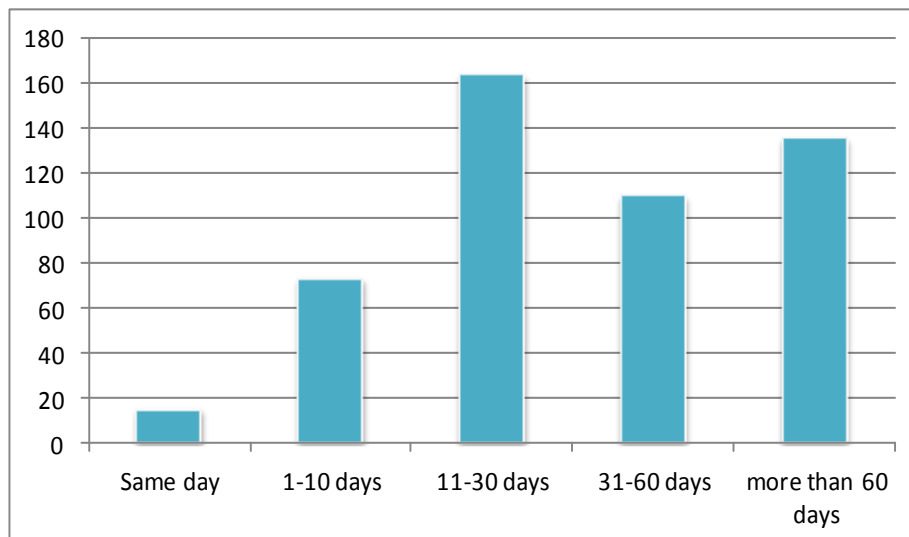


Average response time

11-30 days

Section 7(4) of the FOI Law requires that a public authority respond with an initial decision as soon as practicable, but not later than thirty calendar days after receiving the FOI request. Public authorities are allowed to extend this a further 30 days for good cause.

Mean average response times for closed FOI requests, July 2011-June 2012



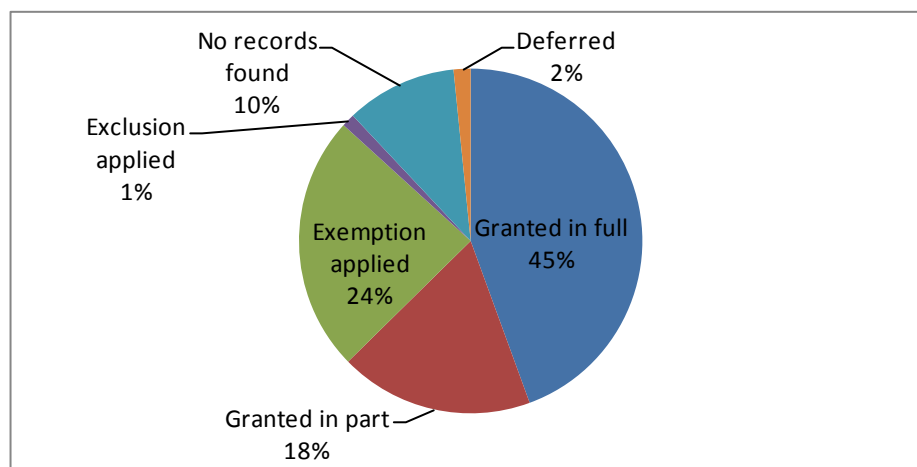
Outcomes of Requests

63% granted

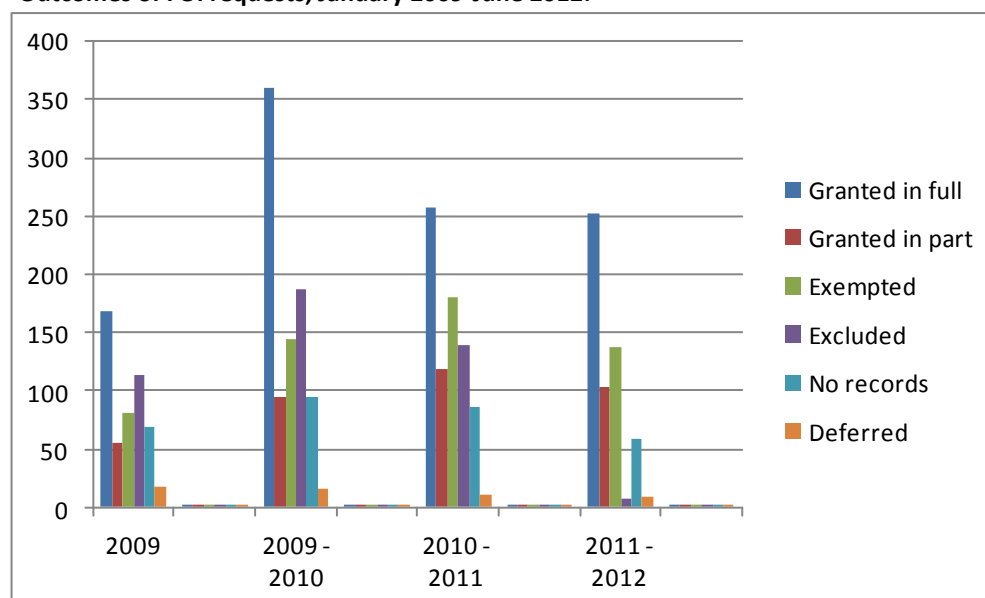
Public authorities have a number of options when receiving an application for access to government records under the FOI Law. The Law provides that all records must be open, unless the public authority can show a reason under the Law why they should remain closed. Public authorities can use one or more exemptions in order to withhold a record from an applicant. There are also a number of exclusions and administrative reasons for not disclosing a record, e.g. where disclosure would be too costly, or where the request was answered before.

63% of requests were granted in full or in part, an increase from 46% in 2010-2011. An exemption was claimed in 24%, and an exclusion or administrative closure in 1% of requests. No responsive records were found in 10% of requests, and disclosure was deferred in 2% of cases.

Outcomes of FOI requests, July 2011-June 2012:



Outcomes of FOI requests, January 2009-June 2012:



Exemptions applied to FOI requests

Section	Description	Request
3(1)(c)	Records are outside the FOI Law as per section 50 of the Monetary Authority Law.	1
3(5)(b)	The FOI law does not apply to the security or intelligence services (as defined in subsection (8)) in relation to their strategic or operational intelligence-gathering activities	1
3(7)	Another law takes precedence	5
6(4)(a)	Record already open to public pursuant to another enactment as part of a public register or otherwise	3
6(4)(b)	Record already available through purchase in accordance with administrative procedures established for that purpose	3
9(a)	Request for record is deemed to be vexatious	5
9(b)	The public authority has recently complied with a substantially similar request from the same person	4
9(d)	Information requested is already in the public domain	2
11(2)(b)	Access deferred, as record was prepared for presentation to the Legislative Assembly or a particular person or body; and will be deferred until a reasonable period after it is presented	6
11(2)(c)	Access deferred until the cost incurred by the authority in granting access, has been paid by the applicant	3
15 (a)	Record exempt as disclosure would prejudice the security, defence or international relations of the Islands	3
15 (b)	Records exempt as they contain information communicated in confidence to the Government by or on behalf of a foreign government, or international organization	3
16(a)	Records exempt as they relate to law enforcement and disclosure would or could reasonably be expected to endanger a persons life or safety	3
16(b)(i)	Records exempt as they relate to law enforcement and disclosure would or could reasonably be expected to affect the conduct of an investigation or prosecution of a breach or possible breach of the law.	8
16(b)(ii)	Records exempt as they relate to law enforcement and disclosure would or could reasonably be expected to affect the trial of any person or adjudication of a particular case.	4
16(c)	Records exempt as they relate to law enforcement and disclosure would or could reasonably be expected to disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, in relation to law enforcement	1
16(d)	Records exempt as they relate to law enforcement and disclosure would or could reasonably be expected to reveal lawful methods or procedures for preventing, detecting investigating or dealing with matters arising out of breaches or evasions of the law, where such revelation would, or could be reasonably likely to, prejudice the effectiveness of those methods or procedures.	5
16(e)	Record exempt as disclosure would facilitate the escape of a person from lawful detention	1
16(f)	Record exempt as disclosure would jeopardize the security of prison	1
17(a)	Record exempt as it would be privileged from production in legal proceedings on the ground of legal professional privilege	11
17(b)(i)	Record exempt as disclosure would constitute and actionable breach of confidence.	3
17(b)(ii)	Record exempt as disclosure would be in contempt of court.	1
17(b)(iii)	Record exempt as disclosure would infringe the privileges of Parliament	1

Exemptions applied to FOI requests continued

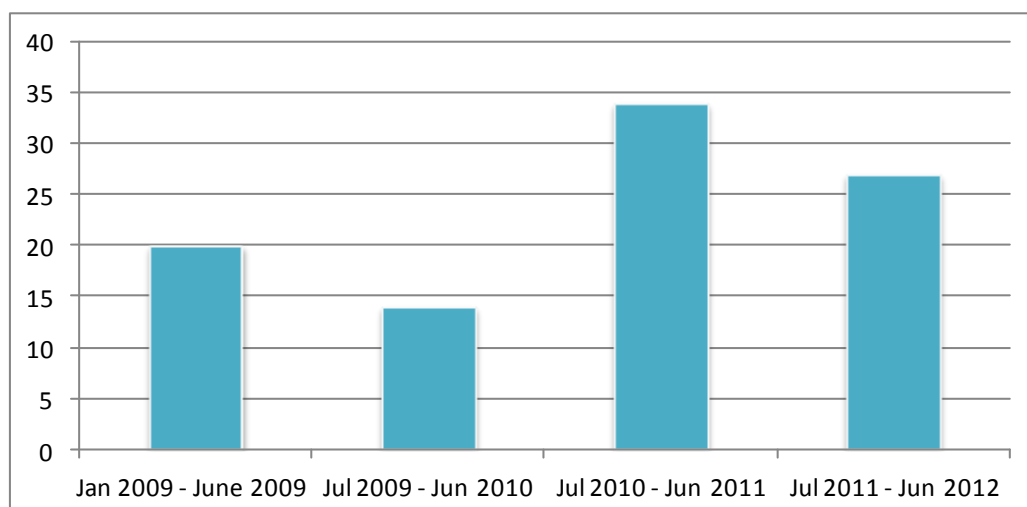
18(1)	Records exempt from disclosure if disclosure, or premature disclosure would, or could reasonably be expected to have a substantial adverse effect on the Caymanian economy, or Governments ability to manage the economy.	8
19(1)(a)	Record exempt as it contains opinions, advice or recommendations prepared for proceedings of the Cabinet or of a committee thereof	1
19(1)(b)	Record exempt as it would reveal consultations or deliberations arising in the course of proceedings of the Cabinet or of a committee thereof.	7
20(1)(a)	Record exempt as its disclosure would or would be likely to, prejudice the maintenance of the convention of collective responsibility of Ministers	1
20(1)(b)	Record exempt as its disclosure would, or would be likely to, inhibit the free and frank exchange of views for the purpose of deliberation.	7
20(1)(c)	Record exempt as it is legal advice given by or on behalf of the Attorney-General	1
20(1)(d)	Record exempt as its disclosure would otherwise prejudice, or would be likely to prejudice, the effective conduct of public affairs.	12
21(1)(a)(i)	Record exempt as its disclosure would reveal trade secrets.	2
21(1)(a)(ii)	Record exempt as disclosure would reveal information of commercial value, which value would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.	5
21(1)(b)	Record exempt as it contains information concerning the commercial interest of a person or organization, where disclosure would prejudice those interests.	8
22(1)(a)	Record exempt as disclosure would, or could reasonably be expected to result in the destruction of damage to, or interference with, the conservation of any historical, archaeological or anthropological resources	1
22(1)(b)	Record exempt as disclosure would, or could reasonably be expected to result in the destruction of damage to, or interference with, the conservation of anything which is eligible for placement on the Heritage Register under section 21 of the National Trust Law (1997 Revision) or any other law relating to the preservation of the heritage of the Islands	1
22(1)(c)	Record exempt as disclosure would, or could reasonably be expected to result in the destruction of damage to, or interference with, the conservation of any species of plant or animal life so designated or which is endangered, threatened or otherwise vulnerable	1
22(1)(d)	Record exempt as disclosure would, or could reasonably be expected to result in the destruction of damage to, or interference with, the conservation of any other rare or endangered living resource	2
23(1)	Record exempt as disclosure would involve the unreasonable disclosure of personal information, of any person, living or dead.	32
24(a)	Record exempt as disclosure would, or would be likely to endanger the physical or mental health of any individual.	2
24(b)	Record exempt as disclosure would, or would be likely to endanger the safety of any individual.	1
	TOTAL	170



Appeals to the Information Commissioner

27

The Information Commissioner's Office received 27 new appeals during the reporting year, of which 8 proceeded to a formal hearing before the Commissioner.



Reasons for appeal

An applicant may appeal any perceived infringement of the FOI Law by a public authority to the Information Commissioner. The most common reason, unsurprisingly, is the denial of a request for access to records by government, followed by the violation of legal time lines and other procedural infringements. These infringements are often addressed by means of an investigation only, but where procedural lapses are combined with a dispute about disclosure, they are dealt with in mediation and/or a hearing.

Reasons for appeals as noted by the Appeals and Compliance Analyst include:

- Records withheld from disclosure to the Applicant by the Public Authority
- Records partially withheld from disclosure or redacted
- Public authority deferred disclosure to a later date
- Wrongfully/unwarranted application of fees for disclosure
- Failure to meet an obligation to respond to an applicant's request in a specific timeframe
- Decision to transfer the FOI request to another public authority
- Refused on several grounds to respond to an FOI request
- Decision to release a third party's personal information
- No reasonable search for records was conducted by the Public Authority
- Failure to comply with an obligation under the law

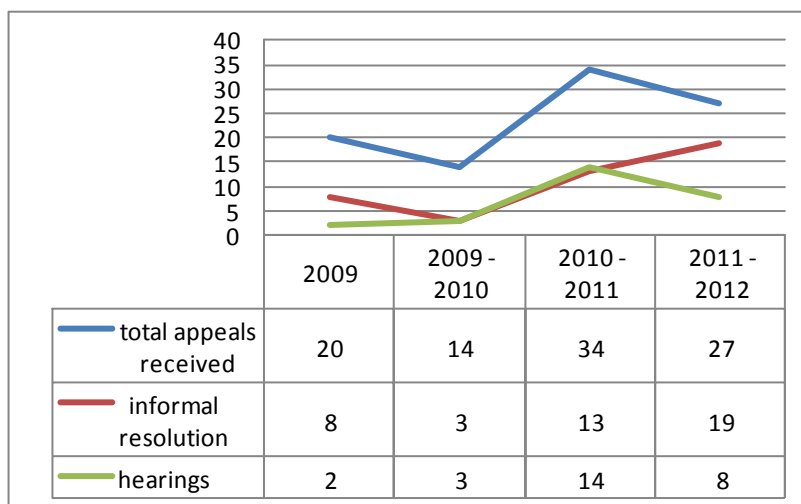
Internal Reviews

The ICO was not able to obtain accurate reporting statistics relating to the number of requests closed this period which progressed to the internal review stage within the public authorities, as the ICO does not have direct access to gather statistics from the Government reporting system. Efforts made to obtain the data from the FOI Unit were not successful.

Informal Resolution

When an appeal is received, the ICO routinely seeks to amicably resolve the dispute between the applicant and public authority, by means of an informal resolution process. Of the 27 new appeals received in 2011-2012, 19 were resolved, and 8 progressed to full hearing before the Commissioner.

Appeals January 2009—June 2012:

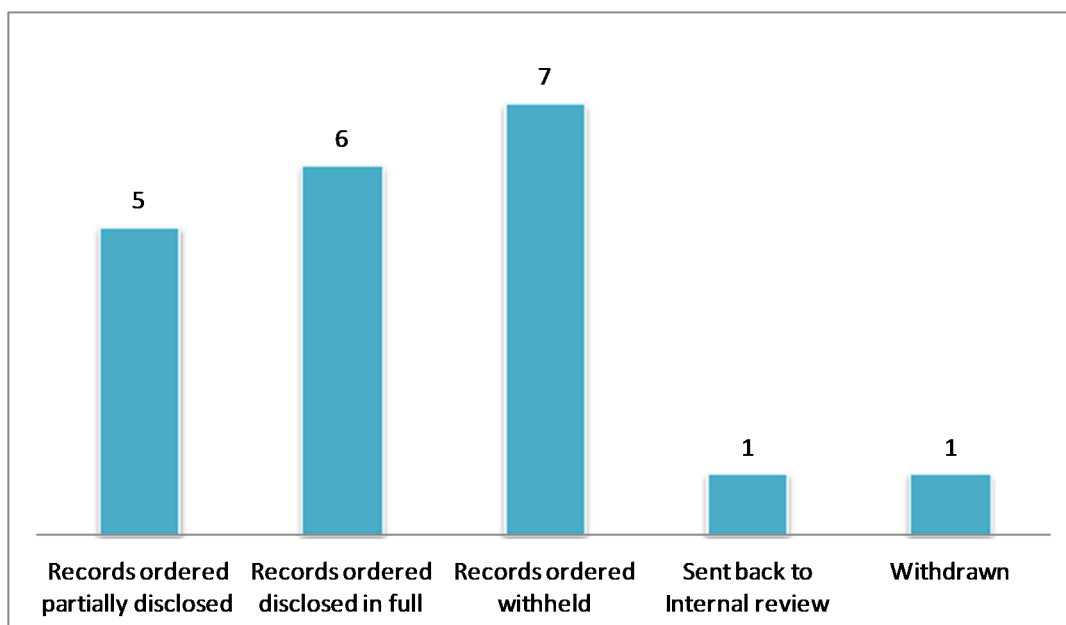


Hearings completed

8

The Commissioner held 20 formal hearings between January 2009 and June 2012. Of these, 8 were completed in the 2011-2012 reporting period. Two more hearings commenced close to the end of the reporting period but were not completed by the end of June 2012.

Results of Hearing Jan 2009—June 2012:



Summary of Hearings

Below is a summary of the Information Commissioner's Hearing Decisions for the period July 2011—June 2012. Full versions of these Decisions can be accessed online at www.INFOCOMM.ky

<u>Hearing</u>	<u>Decision date</u>	<u>Public Authority</u>	<u>Sections of the FOI Law applied</u>	<u>Record(s) under review</u>	<u>Decision</u>
13-00511	29 July 2011	Finance, Tourism & Development (Ministry)	9(d), 11(2)(b), 19(1)(a), 20(1)(d), 23(1)	Legal Aid Review Report	Records ordered partially disclosed
14-00711	22 July 2011	RCIPS	11(2)(c), 20(1)(d)	The 2010 Promotion Examinations Exam Paper and the Marking Matrix	Records ordered withheld
15-00611	2 September 2011	Finance, Tourism & Development (Ministry)	17(b)(i), 20(1)(d), 21(1)(a)(ii), 21(1)(b)	Tender bids for Government financing	Records ordered withheld
16-00811	25 October 2011	NPO	3(7), 20(1)(d), 21(1)(b), 23(1)	Pension records and correspondence	Sent back to Internal Review
17-01711	10 November 2011	RCIPS	6(1), 16(b)(i), 16(b)(ii)	Personnel records and Complaints filed and investigations conducted	Records ordered partially disclosed
18-01311	11 November 2011	Judicial Administration	3(5)(a)(ii), 16(b)(i), 23(1)	Memo written to Detective Chief Superintendent Needham of the RCIP	Records ordered partially disclosed
19-01911	13 December 2011	Port Authority of the Cayman Islands	20(1)(b), 20(1)(d)	Records relating to notes, correspondence and minutes that concern the GLF project	Records ordered disclosed
20-0012	7 May 2012	PSPB	11(2)(b)	A copy of the 1 Jan 2008 Actuarial Report completed on the Public Service Pension Funds	Records ordered disclosed

ICO Hearing Decision Summaries

Hearing Decision 13 – 00511 Ministry of Finance, Tourism & Development, 29 July 2011

An Applicant was refused access by the Ministry of Finance, Tourism and Development to the Legal Aid Review Committee's report on Legal Aid dated March 2010.

The Information Commissioner found that some parts of the responsive record could be withheld under sections 9(d), 20(1)(b) and 23(1) of the *Freedom of Information Law, 2007*. However the remainder was not exempt and the Ministry of Finance, Development and Tourism was ordered to disclose these parts of the responsive record to the Applicant.

Hearing Decision 14 – 00711 Royal Cayman Islands Police Force , 22 July 2011

An Applicant was refused access by the Royal Cayman Islands Police Service to a copy of the “2010 Promotion Examinations Exam Paper and the Marking Matrix”. While the initial response of the Public Authority was to defer access to the responsive record, during the Internal Review, it was asserted that disclosure would likely prejudice the effective conduct of public affairs.

The Information Commissioner upheld the Internal Review decision of the Public Authority and found that the responsive record was exempt from disclosure. In considering the public interest test, the Commissioner found in favour of the Public Authority in that the integrity of the exam process must be secured.

Hearing Decision 15 - 00611 Ministry of Finance, Tourism & Development , 2 September 2011

An Applicant was refused access by the Ministry of Finance, Tourism and Development to “*Tender No. CTC MFT&D TSY 10-11 060, the list of all companies that bid, the date their bid was received, the respective bid offers and the final recommendations from the Central Tender Committee.*” The responsive records consist of the actual bids submitted by the tendering companies.

The Acting Information Commissioner noted that some information had already been provided by the Ministry, and upheld the decision of the Ministry of Finance, Tourism and Development to withhold access to the actual bids in Tender No. TSY 10-11 060 under section 17(b)(i) of the *Freedom of Information Law 2007* since disclosure would constitute an actionable breach of confidence.



Hearing Decision 16 – 00811 National Pensions Office, 25 October 2011

An Applicant was refused access by the National Pensions Office (NPO) to audited accounts and records of correspondence relating to Multiple and Single Employer Pension Plans from July 2006 to June 2010. The Information Commissioner did not make a ruling on the release of the responsive records, and required the responsible Chief Officer to re-examine the request and the responsive records and to take such steps as may be necessary to bring the National Pensions Office into compliance with its obligations under the Law.

During the period, the ICO continued to work with the applicant and the NPO to facilitate the disclosure of the records to the applicant. The applicant received some records but continued to be dissatisfied and appealed to the ICO for a ruling on the release of further records.

Hearing Decision 17 – 01711 Royal Cayman Islands Police Service, 10 November 2011

An Applicant was refused access by the Royal Cayman Islands Police Service (RCIPS) to records relating to a number of complaints and investigations pertaining to the Applicant, as well as personnel records of the Applicant. The Information Commissioner overturned the decision of the RCIPS to partially withhold the responsive records and required the RCIPS to disclose to the Applicant all the responsive records that were provided to the Commissioner.

As the responsive records were not released by the deadline set out in the Law, and no application for Judicial Review was made, the Information Commissioner on 9 January, advised the Chief Justice of the failure of the RCIPS to comply with her decision pursuant to Part VII of the FOI Law. The records were subsequently released, and the Chief Justice on 7 February advised that as there had been compliance, albeit belated, no contempt proceedings would be pursued.

The ICO compared the records received by the applicant to the responsive records provided to the ICO during the Hearing, and determined that except for a few insignificant records the applicant had eventually received copies of the responsive records.

Hearing Decision 18 - 01311 Judicial Administration, 11 November 2011

An Applicant was refused access by the Judicial Administration to “any memorandum written to Detective Chief Superintendent Needham of the RCIP on 30th July 2007...”

The Information Commissioner found that the Freedom of Information Law applied to the responsive record, and except for one paragraph, the record was not exempt from disclosure. She ordered that the record be disclosed with the final paragraph redacted.



Hearing Decision 19 - 01011 Port Authority of the Cayman Islands, 13 December 2011

An Applicant was refused access by the Port Authority to "...a copy of all notes and or minutes of meetings between the Government and the Port Authority (as well as any other governmental body) that touches and or concerns the [GLF] project ... from December 2010 to date." The Information Commissioner overturned the decision of the Port Authority to withhold the responsive records and required that it disclose to the Applicant all the responsive records that were provided to the Commissioner in the appeal. The deadline for the release of the responsive records was 27 December 2011.

In an unusual turn of events, the original Applicant advised the Commissioner that they no longer required the records. However, given that another applicant had requested the same responsive records, and that the records had been found not to be exempt under the FOI Law, the Commissioner required the Port Authority to comply with the Decision and provide the new applicant with the records. The Port Authority refused to do this and on 7 February the Commissioner advised the Chief Justice of this failure. The Port Authority objected and questioned the validity of the Commissioner applying the original Decision to a new applicant.

The Commissioner subsequently decided that for the courts to determine whether the records should be released by the enforcement of her existing Decision would most likely involve a long and costly legal battle. A better way forward would be for the new applicant to go through the normal process as set out in the FOI Law, and make a new request. The Commissioner therefore withdrew her letter to the Chief Justice.

The Port Authority published the responsive records on 25 February 2012.

Decision: Hearing 20 – 00112 Public Service Pensions Board , 7 May 2012

The Public Service Pensions Board deferred an Applicant access to *"...a copy of the 1 January 2008 Actuarial Report completed on the Public Service Pensions funds ..."*

The Information Commissioner overturned the decision of the Public Service Pensions Board to defer access to the Actuarial Valuation of the Public Service Pension Plan as of January 1, 2008, and required that the Public Service Pensions Board release the responsive record.

Judicial Review

0

To date, no decision of the Information Commissioner has been subject to a Judicial Review.



Investigating

The ICO conducts two separate types of investigations—each based on the powers set out in section 46 of the FOI Law. Own-initiative investigations usually pertain to issues which affect all public authorities and will normally examine how all or a number of government authorities deal with a common matter.

Procedural investigations are carried out following a complaint received by the ICO, where a public authority has not processed a request as required. Once procedural issues have been addressed, the matter may proceed to a formal hearing before the Information Commissioner.

In addition, the ICO has initiated Good Practice Assessments (GPAs), which will assist the ICO in assessing the legal compliance and adherence to best practices of targeted public authorities, while at the same time providing public authorities with a tool to measure and improve their FOI processes.

Investigation reports are available on the ICO website at: www.infocomm.ky/appeals

Own Initiative Investigations (s.46)

1

ICO Own Initiative Investigation No. 4 Website Survey for All Public Authorities 15 July 2011

The focus of this investigation was to survey the web presence of public authorities in the Cayman Islands with a view to determine if the internet is being effectively used to promote transparency and disseminate information to the public under the *Freedom of Information Law 2007*.

The investigation concluded that the majority of public authorities are not taking advantage of the internet to publish information about themselves and promote FOI.

Own Initiative Investigations 5 (Audit of Information Manager Job Descriptions & Internal Review Process) and 6 (Website Re-evaluation) were launched, but due to pressures of a large number and complexity of appeals and hearings and the limited resources at the ICO's disposal, the investigations were not completed as planned.

Good Practice Assessments

1

Good Practice Assessment No. 0111 Health services Authority

The Information Commissioner's office conducted an assessment of the Health Services Authority's practices in support of complying with the Freedom of Information Law 2007, and the Freedom of Information (General) Regulations 2008.

The final Report of this Assessment was released on 20 October 2011 which included recommendations of the ICO and an Action Plan agreed by the HSA.

Procedural Investigations (s.44)

1

Section 44 Investigation Decision 10 – 02711 Civil Aviation Authority of the Cayman Islands 21 December 2011

An Applicant brought to the attention of the ICO the handling by the Civil Aviation Authority of the Cayman Islands (CAACI) of a request for records. The Commissioner found that the CAACI had failed to comply with obligations under the *Freedom of Information Law, 2007*.

Following the commencement of the investigation, on 20 December the CAACI provided the Applicant with the responsive records. In view of the release of the responsive records to the Applicant prior to the Decision, the Commissioner did not require the CAACI to take any steps to ensure the Applicant's right to access, except to advise them of their right of appeal.

Promoting and Educating

The ICO continues to promote access rights to help both the general public and public authorities understand their rights and obligations under the Law. During the reporting year, the ICO conducted a number of outreach initiatives and hosted training sessions and presentations, all aimed at raising awareness of FOI.

Educating

Information Managers Training	12
Presentations to private sector	12
Presentations to Government	6
Conferences and training courses	12
Access clinics (Grand Cayman, Cayman Brac & Little Cayman)	2
Staff training	0

Communicating

Press Releases	12
Media Advertisements	5
Articles in the Media	57
Radio & Television Interviews/Appearances	14
Printed Matter distribution outlets	37
Internet and Web Presence	4

Publishing

ICON newsletters published	4
Flyers designed and printed	5
Posters designed and printed	5
Operational Reports published	4

Right to Know Week

Right to Know (RTK) Week 2011, the third annual event held by the ICO, proved again to be successful in educating the public and promoting the access rights afforded to them under the Freedom of Information Law. The theme for this year was 'Information is Key', and included a number of powerful tagline statements, which linked the right to access information with good governance, empowerment and democracy. While in previous years the ICO concentrated its efforts on informing the public about their access rights and how they could exercise those rights, the aim of this year was to help to highlight the fundamental importance of access legislation as a basis of democracy and a fundamental human right.

The ICO was able to plan, organize and execute a number of public events and training seminars despite ongoing financial constraints. Our overall budget was again cut for this financial year, which required us to be even more frugal with our promotional spending. In addition, the Office is one person smaller than in previous years which certainly affected the number and scale of the events we were able to organise.



RIGHT TO KNOW WEEK • 2011

"Information is key"

In order to make the best use of our resources, the ICO targeted the general public at a number of 'meet-and-greets', and spoke directly to public servants at a number of training seminars. As a whole, the objectives of RTK Week 2011 were achieved through events, media coverage and presentations. The Right to Know Week 2011 Project Summary can be found at: www.infocomm.ky/document-library.

Publication schemes

The FOI Unit coordinated the collection of updated publication schemes. Those received were Gazetted on 16 January 2012. The ICO took responsibility to compile a master list and included it on the ICO website for improved public access.

Information Manager Seminar Series

Each month the Information Commissioner invited a small group of Information Managers from among the 92 public authorities to meet in an informal setting to discuss roles and responsibilities and compliance with the Freedom of Information Law, 2007. The ICO conducted twelve Information Manager (IM) Seminars which were attended by representatives from 31 public authorities. Those in attendance this year included:

- Department of Children & Family Services
- Department of Community Rehabilitation
- Education Standards and Assessment Unit
- Youth Services Unit
- Cayman Islands Development Bank
- Office of the Auditor General
- Tax Information Authority
- Treasury Department
- Office of Telecommunications
- Cayman Islands National Archive
- Government Information Services
- General Registry
- Health Regulatory Services Department
- National Pensions Office
- Cayman Islands Stock Exchange
- National Housing & Development Trust
- Economics & Statistics Office
- Education Services Department
- Financial Services Secretariat
- Public Libraries
- Children & Youth Services (CAYS)
- Cadet Corps
- Department of Commerce
- Director of Public Prosecutions
- District Administration
- Planning Department
- Commissions Secretariat
- Department of Environmental Health
- Department of Sports
- Department of Tourism
- Department of Vehicle & Equipment Services



The IM Seminars have developed into a very relevant training tool for the IMs, and the Commissioner considers these to be an integral part of IM training as required under the Law. Feedback from all those attending has been very positive, with IMs expressing their appreciation to meet with the Commissioner and ICO staff in a small informal setting. While most public authorities have sent one or more representatives to an IM Seminar, there remain a few that have not taken up the invitation of the Commissioner to attend. These few public authorities are being targeted for attendance in the upcoming months. A new series of IM Seminars focused on section 23(1) of the FOI Law, the personal information exemption, will be launched in the next fiscal year.

Information Commissioner's Office Newsletter

The ICON, Information Commissioner's Office Newsletter is published each quarter and contains information regarding the work of this Office and useful articles. It is widely distributed to Information Managers, civil servants and the public.



Information Commissioner's Office Newsletter
Cayman Islands
• Issue 8 • June 2011 •

INFORMATION IS KEY



Information Commissioner's Office Newsletter
Cayman Islands
• Issue 9 • September 2011 •



Merry Christmas & Happy New Year



Information Commissioner's Office Newsletter
Cayman Islands
• Issue 10 • December 2011 •

From the Information Commissioner

It has been another busy quarter for the ICO, and as 2011 comes to a close, we look forward to a new year filled with exciting developments and change.

Following our Right to Know Week 2011 activities in September, my Deputy Jan Liebers and I travelled to Ottawa, Canada for the International Conference of Information Commissioners. Although in its 7th year, this was the first time we were able to participate and represent Cayman at such an important event. We made contact with people from countries across the world which have access legislation in place. It was particularly interesting to learn what a profound effect FOI has had on many countries in empowering people and effecting real change in society.

Later on in October, the ICO was faced with a new obstacle when both my Registrar of Hearings and Intake Analyst tendered their resignations during the same week. The timing of these events was completely coincidental, and while we wish them well on their new endeavors, we must now find suitable replacements. The recruitment process has started and interviews are due to take place in mid-December.

As I look back on the year, I am very proud of all my Office has accomplished. With a demanding workload and varying challenges, we have achieved so much. By the year's end, we will have completed a total of 19 hearings, with 5 in this quarter alone.

My staff joins me in wishing you a very blessed Christmas. We hope that you too can reflect positively on your year and wish you all the best in 2012.



Jennifer Dilbert, MBE, JP
Information Commissioner



In this edition

- From the Commissioner
- Information Manager Seminars
- Hearings and Investigations
- Presentations
- Local Artist, Wray Banker
- Statistics
- New ICO Staff

Coming up

Meet the Information Commissioner and ICO staff in CAYMAN BRAC
Join us at the Alexander Hotel,
10 May, 4:00-7:00pm
or call 747-5802
to arrange a meeting.

www.INFOCOMM.ky

To access the full versions of the Commissioner's decisions and investigations, please visit the 'Appeals' section of our website at www.INFOCOMM.ky

Information Commissioner's Office Newsletter
• Issue 11 • March 2012 •





Information
Commissioner's
Office

Annual Financial Statements
For The Year Ended
30th June 2012

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Information Commissioner's Office
Statement of Responsibility for the Financial Statements
June 30, 2012

These financial statements have been prepared by the Information Commissioner's Office in accordance with the provisions of the Public Management and Finance Law, (2012 Revision). The financial statements comply, in all material respects, with generally accepted accounting practice as defined in International Public Sector Accounting Standards.

We accept responsibility for the accuracy and integrity of the financial information in these financial statements and their compliance with the Public Management and Finance Law, (2012 Revision).

As Information Commissioner and Chairman of the Oversight Committee, we are responsible for establishing; and have established and maintained a system of internal controls designed to provide reasonable assurance that the transactions recorded in the financial statements are authorized by law, and properly record the financial transactions of the Information Commissioner's Office.

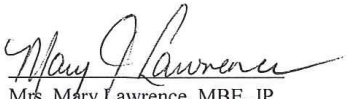
We are also responsible for the preparation of the Information Commissioner's Office financial statements and for the judgments made in them.

The financial statements fairly present the Statement of Financial Position, Statement of Financial Performance, Statement of Cash Flows and Statement of Changes in Equity for the financial year ended 30 June 2012.

To the best of our knowledge we represent that these financial statements:

- (a) Completely and reliably reflect the financial transactions of the Information Commissioner's Office for the year ended 30 June 2012;
- (b) Fairly reflect the financial position as at 30 June 2012 and financial performance for the year ended 30 June 2012; and
- (c) Comply with International Public Sector Accounting Standards under the responsibility of International Accounting Standards Board.

The Office of the Auditor General conducts an independent audit and expresses an opinion on the accompanying financial statements. The Office of the Auditor General has been provided access to all the information necessary to conduct an audit in accordance with International Standards of Auditing.


Mrs. Mary Lawrence, MBE, JP
Chairman of Legislative Oversight Committee and
Hon. Speaker of the Legislative Assembly
Date: 31/10/2012


Jennifer Dilbert, MBE, JP
Information Commissioner
Date: 31/10/2012

Auditor General's Report

To the Information Commissioner and the Members of the Legislative Assembly

I have audited the accompanying financial statements of the Information Commissioner's Office (the "ICO"), which comprises the statement of financial position as at 30 June 2012, the statement of changes in net worth, the statement of financial performance and statement of cash flows for the year then ended and a summary of significant accounting policies and other explanatory notes in accordance with the provisions of Section 60(1)(a) of the *Public Management and Finance Law (2012 Revision)*.

Management's Responsibilities for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with International Standards on Auditing. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend upon the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, these financial statements present fairly, in all material respects, the financial position of the ICO as at 30 June 2012 and the results of its financial performance and its cash flows for the year then ended in accordance with International Public Sector Accounting Standards.

A handwritten signature in blue ink, appearing to read 'A Swarbrick', with a stylized flourish at the end.

Alastair Swarbrick, MA (Hons), CPFA
Auditor General

Cayman Islands
October 31, 2012

INFORMATION COMMISSIONER'S OFFICE
STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2012
(Expressed in Cayman Islands Dollars)

Prior Year Actual	Description	Note	Current Year Actual	Final Budget	Variance (Budget vs Actual)
	Current Assets				
91,063	Cash and cash equivalents	3	132,827	69,653	63,174
1,804	Trade receivables	5	12,205	-	12,205
643	Other receivables	6	643	-	643
3,582	Prepayments		-	-	-
<u>97,092</u>	Total Current Assets		<u>145,675</u>	<u>69,653</u>	<u>76,022</u>
	Non-Current Assets				
52,065	Property, plant and equipment	14	33,793	66,947	(33,154)
<u>52,065</u>	Total Non-Current Assets		<u>33,793</u>	<u>66,947</u>	<u>(33,154)</u>
<u>149,157</u>	Total Assets		<u>179,467</u>	<u>136,600</u>	<u>42,867</u>
	Current Liabilities				
18,000	Trade payables	4	18,000	4,600	13,400
5,819	Other payables and accruals	7	10,527	-	10,527
15,383	Employee entitlements	8	13,165	-	13,165
39,118	Repayment of surplus		39,118	-	39,118
<u>78,320</u>	Total Current Liabilities		<u>80,810</u>	<u>4,600</u>	<u>76,210</u>
<u>78,320</u>	Total Liabilities		<u>80,810</u>	<u>4,600</u>	<u>76,210</u>
<u>70,837</u>	Net Assets		<u>98,658</u>	<u>132,000</u>	<u>(33,342)</u>
	NET WORTH				
70,837	Contributed capital		122,837	132,000	(9,163)
-	Accumulated deficits		(24,180)	-	(24,180)
<u>70,837</u>	Total Net Worth		<u>98,658</u>	<u>132,000</u>	<u>(33,342)</u>

The accounting policies and notes on pages 10 to 19 form an integral part of these financial statements.

INFORMATION COMMISSIONER'S OFFICE
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2012
(Expressed in Cayman Islands Dollars)

Prior Year Actual			Current Year Actual	Final Budget	Variance (Budget vs Actual)
	Revenue				
653,068	Outputs to Legislative Assembly	9	574,836	574,836	-
<u>653,068</u>	Total Revenue		<u>574,836</u>	<u>574,836</u>	<u>-</u>
	Expenses				
448,705	Personnel costs	10	434,395	413,298	21,097
135,764	Supplies and consumables	11	146,301	128,191	18,110
18,272	Depreciation	14	18,272	10,347	7,925
11,255	Litigation costs		-	23,000	(23,000)
(46)	(Gains)/losses on foreign exchange transactions		47	-	47
<u>613,950</u>	Total Expenses		<u>599,016</u>	<u>574,836</u>	<u>24,180</u>
 <u>39,118</u>	Net Surplus or (Deficit) for the period		 <u>(24,180)</u>	 <u>-</u>	 <u>(24,180)</u>

The accounting policies and notes on pages 10 to 19 form an integral part of these financial statements.

INFORMATION COMMISSIONER'S OFFICE
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2012
(Expressed in Cayman Islands Dollars)

Prior Year Actual		Note	Current Year Actual	Final Budget	Variance(Budget vs Actual)
CASH FLOWS FROM OPERATING ACTIVITIES					
	<i>Receipts</i>				
653,068	Outputs to Legislative Assembly		564,434	574,836	(10,402)
	<i>Payments</i>				-
(433,323)	Personnel costs		(436,613)	(413,298)	(23,315)
(117,974)	Supplies and consumables		(138,011)	(128,191)	(9,820)
(11,208)	Other payments		(46)	(23,000)	22,954
<u>90,563</u>	Net cash flows from operating activities	13	<u>(10,236)</u>	<u>10,347</u>	<u>(20,583)</u>
CASH FLOWS FROM FINANCING ACTIVITIES					
500	Equity Investment		52,000	52,000	-
<u>500</u>	Net cash flows from financing activities		<u>52,000</u>	<u>52,000</u>	-
91,063	Net increase/(decrease) in cash and cash equivalents		41,764	62,347	(20,583)
-	Cash and cash equivalents at beginning of period		91,063	7,306	83,757
<u>91,063</u>	Cash and cash equivalents at end of period		<u>132,827</u>	<u>69,653</u>	<u>63,174</u>

The accounting policies and notes on pages 10 to 19 form an integral part of these financial statements.

INFORMATION COMMISSIONER'S OFFICE
STATEMENT OF CHANGES IN NET WORTH
FOR THE YEAR ENDED 30 JUNE 2012
(Expressed in Cayman Islands Dollars)

	Contributed Capital	Accumulated Surplus/(deficits)	Total Net worth	Final Budget	Variance (Budget vs Actual)
Balance at 30 June 2010	-	-	-	80,000	(80,000)
Equity Investment from Cabinet	70,837	-	70,837	-	70,837
Surplus/(deficit) for the period 2010/11	-	39,118	39,118	-	39,118
Repayment of surplus to Cabinet	-	(39,118)	(39,118)	-	(39,118)
Balance at 30 June 2011	70,837	-	70,837	80,000	(9,163)
Equity Investment from Cabinet	52,000	-	52,000	52,000	-
Net Surplus/(deficit) for the period 2011/12	-	(24,180)	(24,180)	-	(24,180)
Repayment of surplus/Dividends to Cabinet	-	-	-	-	-
Balance at 30 June 2012	122,837	(24,180)	98,658	132,000	(33,342)

The accounting policies and notes on pages 10 to 19 form an integral part of these financial statements.

**Information Commissioner's Office
Notes to the Financial Statements
For the year ended 30 June 2012**

1. Establishment and principal activities

The Information Commissioner's Office (ICO) was established in 2009 as an independent entity responsible for monitoring compliance with the Freedom of Information Law by public authorities. Individuals denied access or who believe their request was mishandled may appeal the matter to the Commissioner, who has the authority to review the matter, make all findings of fact and law, and issue a binding decision. The Commissioner is also responsible for promoting general awareness of the FOI Law, the public's rights and the obligations of government under the Law.

On 28 April 2010, the Legislative Assembly passed an amendment to the Public Finance and Management Law, 2010 which identifies the Information Commissioner as a Chief Officer. With this change in effect, the Commissioner is directly responsible for the ICO budget and managing the financial operations of the office. A Committee of the Whole House was formed on 30 June 2010 to which the Information Commissioner is responsible.

As at 30 June 2012, the ICO had 5 employees. The ICO is located on the 2nd Floor of the Elizabethan Square Building C, George Town Grand Cayman, Cayman Islands. Correspondence may be sent to P.O. Box 1375, Grand Cayman KY1-1108, Cayman Islands.

2. Significant accounting policies

These financial statements have been prepared in accordance with International Public Sector Accounting Standards (IPSAS) issued by the International Accounting Standards Board (IASB). The significant accounting policies adopted by the ICO in these financial statements are as follows:

(a) Basis of preparation

The Financial Statements of the Information Commissioner's Office are presented in Cayman Islands Dollars and comply with International Public Sector Accounting Standards for the accrual basis of accounting. The measurement base applied is historical cost adjusted for revaluations of assets.

The financial statements have been prepared on a going concern basis and the accounting policies have been applied consistently throughout the period.

(b) Use of estimates

The preparation of financial statements in accordance with IPSAS requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities; and disclosure of contingent assets and liabilities at the date of the financial statements as well as the reported amounts of income and expense during the year.

**Information Commissioner's Office
Notes to the Financial Statements
For the year ended 30 June 2012**

2. Significant accounting policies (continued)

The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results could differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the reporting period and in any future periods that are affected by those revisions.

(c) Foreign currency translation

Assets and liabilities denominated in currencies other than Cayman Islands dollars are translated at exchange rates in effect at the financial statement date. Revenue and expense transactions denominated in currencies other than Cayman Islands dollars are translated at exchange rates at the date of those transactions. Gains and losses arising on translation are included in the statement of Financial Performance.

(d) Cash and cash equivalents

For the purpose of the statement of cash flows, Cash and cash equivalents are considered as cash held on demand and fixed deposits with an original maturity of three months or less.

(e) Accounts receivable

Accounts receivable are recognized initially at fair value and are subsequently reviewed for impairment. Where there is objective evidence that a debt will not be collected by the ICO according to the agreed terms, a provision for bad debt is established.

(f) Property, Plant and Equipment

Property, Plant and Equipment, is recorded at historical cost less accumulated depreciation. Items of property, plant and equipment are initially recorded at cost. Where an asset is acquired for nil or nominal consideration, the asset is recognized initially at fair value, where fair value can be reliably determined, and as revenue in the Statement of Financial Performance in the year in which the asset is acquired.

Depreciation is expensed on a straight-line at rates calculated to allocate the cost or valuation of an item of property, plant and equipment (other than land); less any estimated residual value, over its estimated useful life. Leasehold improvements are depreciated either over the unexpired period of the lease or the estimated useful life of improvements, whichever is shorter.

**Information Commissioner's Office
Notes to the Financial Statements
For the year ended 30 June 2012**

(f) Property, Plant and Equipment (Continued)

<u>Asset Type</u>	<u>Estimated Useful Life</u>
Furniture	12 years
Office Equipment	5 years
Computer Equipment	3-4 years
Leasehold Improvements	5 years

(g) Revenue recognition

The ICO earns revenue primarily from the provision of Outputs to the Legislative Assembly. Revenues are recognized when the outputs agreed in the Annual Plan and Estimates have been delivered.

(h) Operating Lease

Lease payments are recognized as an expense on a straight-line-basis over the lease term.

(i) Financial Instruments

i. Classification

A financial asset is classified as any asset that is cash, a contractual right to receive cash or another financial asset, exchange financial instruments under conditions that are potentially favorable or an equity instrument of another enterprise. Financial assets are comprised of cash and cash equivalents and prepayments.

A financial liability is any liability that is a contractual obligation to deliver cash or another financial instrument or to exchange financial instruments with another enterprise under conditions that are potentially unfavorable. Financial liabilities are comprised of accounts payables and accrued expenses.

ii. Recognition

The ICO recognizes financial assets and financial liabilities on the date it becomes party to the contractual provision of the instrument. From this date, any gains and losses arising from changes in fair value of the assets or liabilities are recognized in the statement of financial performance.

iii. Measurement

Financial instruments are measured initially at cost which is the fair value of the consideration given or received. Subsequent to initial recognition, all financial assets are recorded at historical cost, which is considered to approximate fair value due to the short-term or immediate nature of these instruments.

**Information Commissioner's Office
Notes to the Financial Statements
For the year ended 30 June 2012**

(i) Financial Instruments (continued)

iv. Derecognition

A financial asset is derecognized when the ICO realizes the rights to the benefits specified in the contract or loses control over any right that comprise that asset. A financial liability is derecognized when it is extinguished, that is when the obligation is discharged, cancelled or expired.

(j) Provisions and Contingencies

Provisions are recognized when an obligation (legal or constructive) is incurred as a result of a past event and where it is probable that an outflow of assets embodying economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Contingent liabilities are not recognized but are disclosed in the financial statements unless the possibility of an outflow of resources embodying economic benefits is remote. Contingent assets are not recognized but are disclosed in the financial statements when an inflow of economic benefits is probable.

(k) Subsequent events

Post year-end events that provide additional information about the ICO position at balance sheet date (adjusting event) are reflected in the financial statements. Post year-end events that are not adjusting events, if any, are disclosed in the notes to the financial statements when material.

(l) Revenue from Non Exchange Transactions

The ICO receives various services from other government entities for which payment is made by the Cayman Islands Government. These services include computer repairs and software maintenance by the Computer Services Department and human resource management by the Portfolio of the Civil Service. ICO has designated these non-exchange transactions as Services in-kind as defined under IPSAS 23 Revenue from non-exchange transactions. When the fair values of such services can be reliably estimated then the non-exchange transaction is recorded as an expense and an equal amount is recorded in other income as a service in-kind. When the service in-kind offered are directly related to construction or acquisition of a fixed asset, such service in-kind is recognized in the cost of the fixed asset.

**Information Commissioner's Office
Notes to the Financial Statements
For the year ended 30 June 2012**

3. Cash and cash equivalents

The ICO operates checking and payroll accounts with Royal Bank of Canada. The accounts totaled \$132,827 as at 30th June 2012. Petty cash on hand as at 30th June 2012 amounted to \$500.

Prior Year Actual	Description	Current Year Actual
89,673	CI\$ Operational Current Account	136,527
890	Payroll Current Account	(4,200)
500	Petty Cash	500
\$91,063	TOTAL	\$132,827

4. Trade payable

Trade payables represent the value of goods and service received for which no cash consideration has been provided as at the balance sheet date. As at 30th June 2012, the ICO had the following trade payables.

Prior Year Actual	Description	Current	Non-Current	Current Year Actual
18,000	Creditors Ministries/Portfolios	18,000	-	18,000
\$18,000	Total	\$18,000	-	\$18,000

5. Trade Receivables

Prior Year Actual	Description	Current	Non-Current	Current Year Actual
-	Debtor - Cabinet	10,401	-	10,401
1,804	Debtor - Other Ministries	1,804	-	1,804
\$1,804	Total Trade Receivables	\$12,205	-	\$12,205

6. Other Receivables

These amounts represent \$643 in excess premiums paid to CINICO; the ICO expects to receive refunds for these amounts in fiscal year 2012/2013.

**Information Commissioner's Office
Notes to the Financial Statements
For the year ended 30 June 2012**

7. Other Payables & accruals

Accrued expenses represent adjustments for expenses already incurred but for which no transaction has been recorded. The table below shows the accrued expenses of the ICO as at 30th June 2012.

Prior Year Actual	Description	Current	Non-Current	Current Year Actual
2	Payroll Deductions	-	-	
3,276	Accrued Expenses	10,527	-	10,527
2,538	Inter-entity due to	-	-	0
3	Accrued Entity Interest	-	-	0
\$5,819	Total Accrued Expenses	10,527	-	\$10,527

8. Employee entitlements

Employee entitlements represent the unpaid portion of accrued vacation as at the balance sheet date. The value of this liability as at 30th June 2012 is shown in the table below.

Prior Year Actual	Description	Current Year Actual
15,383	Annual Leave	13,165
\$15,383	Total Employee entitlements	\$13,165

9. Outputs to the Legislative Assembly

The ICO provides statutory services to the Legislative Assembly of the Cayman Islands under an agreement established in the Annual Plan and Estimates. The 2011/12 Annual Plan and Estimates established legal provisions for the ICO to provide a maximum of \$574,836 in services.

Prior Year Actual	Revenue type	Current Year Actual
653,068	FIL 1 Compliance with Freedom of Information Legislation	574,836
\$653,068	Total Revenue	\$574,836

**Information Commissioner's Office
Notes to the Financial Statements
For the year ended 30 June 2012**

10. Personnel Costs

Personnel Costs refers to salaries, wages, health care costs, pension and other financial considerations associated with services provided by the employees of the ICO.

Prior Year Actual	Description	Current Year Actual
379,335	Salaries, wages and allowances	343,293
31,763	Health care	39,362
21,769	Pension	41,763
15,382	Leave	(2,217)
456	Other personnel related costs	12,194
\$448,705	Total Personnel Costs	\$434,395

11. Supplies and consumables

Supplies and Consumables include various goods and services provided to the ICO where otherwise not classified in the statement of Financial Performance. Examples include lease costs, office supplies, utilities and professional fees.

Prior Year Actual	Descriptions	Actual 2011/12
6,806	Supplies and Materials	39,635
27,658	Purchase of services	9595
46,899	Lease of Property and Equipment	46,762
22,408	Utilities	14,728
18,000	Interdepartmental expenses	17,000
7,417	Travel and Subsistence	14,455
6,576	Recruitment and Training	4,126
\$135,764	Total Supplies & consumables	\$146,301

12. Litigation cost

The Information Commissioner is a quasi-judicial office and an independent entity which processes, investigates, and hears appeals. For the purpose of judicial review, the Commissioner will require legal services. From time to time, the Commissioner will consult with a private law firm for general guidance and advice. The Attorney General's Office provides litigation services to public authorities and therefore cannot provide the same service to the ICO as this would be a conflict of interest. During 2011-2012 no legal services were utilized.

13. Reconciliation of net cash flows from operating activities to surplus/(deficit)

Prior Year Actual	Description	Current Year Actual
39,117	Surplus/(deficit) from ordinary activities	(24,180)
18,272	Depreciation Expense	18,272
(6,027)	Increase in assets	(6,819)
23,819	Increase in current liabilities	4,708
15,382	Increase/(decrease) in provisions for employee costs	(2,217)
\$90,563	Net cash flows used in operating activities	(10,236)

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14. Property, Plant & Equipment

The table below shows fixed asset balances as at June 30, 2012.

	Furniture	Office Equipment	Computer Equipment	Leasehold Improvements	Total
<u>Cost</u>					
Balance as at July 1, 2011	21,648	3,167	7,625	69,644	102,084
Additions/Disposals	-	-	-	-	-
Balance as at June 30, 2012	21,648	3,167	7,625	69,644	102,084
<u>Accumulated Depreciation:</u>					
Balance as at July 1, 2011	(4,338)	(1,336)	(4,583)	(39,763)	(50,019)
Depreciation charge for the year	(1,804)	(633)	(1,906)	(13,929)	(18,272)
Balance as at June 30, 2012	(6,142)	(1,969)	(6,489)	(53,692)	(68,292)
Net Book Value as at June 30, 2012	15,507	1,198	1,136	15,952	33,793
Net Book Value as at June 30, 2011	\$17,311	\$1,831	\$3,042	\$29,881	\$52,065

15. Related party and key management personnel disclosures

The ICO is a wholly owned entity of the government from which it derives all of its revenue. The entity and its key management personnel transact with other government entities on a regular basis. These transactions were provided free of cost during the financial year ended 30 June 2012 and were consistent with normal operating relationships between entities and were undertaken on terms and conditions that are normal for such transactions. For the year ended 30 June 2012, there were no other related party transactions noted.

Key management personnel

Key management personnel include the Information Commissioner, Deputy Commissioner and Office Manager. For the 2011/12 fiscal year, these individuals received the following considerations for their services:

Prior Year Actual	Description	Current Year Actual
244,891	Salaries & other short-term employee benefits	272,130
30,327	Pension benefits	31,192
13,316	Health care benefits	23,640
\$288,534	Total	\$316,922

**Information Commissioner's Office
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For the year ended 30 June 2012**

16. Financial instruments risks

At June 30, 2012, the ICO held CI\$132,827 in financial instruments represented by cash and cash equivalents at one financial institution in the Cayman Islands. As such, the ICO is exposed to credit related losses in the event of non-performance by the financial institution. However, given the high credit rating of this financial institution, the Information Commissioner does not anticipate any material losses as a result of this concentration.

Currency and interest risk

The ICO has no significant exposure to currency exchange loss risk and interest risk.

Liquidity risk

In meeting its liquidity requirements, the ICO closely monitors its forecast cash requirements with expected cash drawdowns from the Legislative Assembly. All financial liabilities (creditors and payables) are normally settled in less than six months from the date of the financial statements.

17. Leases

The ICO currently leases office space on the second floor of the Elizabethan Square building Block C. The current lease is for a 5 year period starting December 1, 2008 and expiring on November 30, 2013. Total space occupied is 1,636 square feet. Lease payments under the operating lease are charged to the income statement over the period of the lease. The future obligations of existing lease payments for the office lease are as follows:

	<u>July 2012 – November 2013</u>
Elizabethan Square Building Block C	\$69,530

18. Explanation of major variances against budget

Explanations for major variances for the Information Commissioner's Office performance against the original budget are as follows:

Statement of financial position

Cash and cash equivalents

The actual year-end cash balances were above budget due to a surplus from the prior year, however, it should also be noted that the final budget was understated.

Fixed assets

Fixed assets were higher than the original budget due to assumption of the final budget being overstated; there were no acquisitions or disposals during the financial period.

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18. Explanation of major variances against budget (continued)

Creditors and other payables

Creditors, accruals and other payables were higher than the original budget due to timing differences for receipt of output funding for operating activities.

Statement of financial performance

Personnel Costs

Personnel costs were above budget due to natural attrition and cost of recruiting and hiring staff in the financial year. In addition ICO staff received allowances as per the PSML Regulations entitlements.

Supplies and Consumables

The actual year-end balances were above budget due to increase in the following:

- Professional fees which covered a 3 month Secondment of an analyst from the Scottish ICO to assist us with an increase in workload due to the removal of senior analyst post;
- Official Travel - Information Commissioner and Deputy attended the International Conference for Information Commissioners which is the only such conference attended since the inception of the ICO and is important to the development of the office.

Litigation costs

During the 2011-2012 financial year, no legal services were utilized.

Surplus or (Deficit) for the period

ICO incurred a deficit for the financial year. See above for the breakdown of increase in expenses.

19. Subsequent Events

On September 1, 2012 employee salaries were reduced by 3.2% as part of a Government wide cost saving measure for the 2012/13 budget year.



2nd Floor, Elizabethan Square, Bldg. C, George Town
P.O. Box 1375, Grand Cayman KY1 1108
Phone: 345-747-5402
Email: info@infocomm.ky

Open to the public
Monday to Friday 9:30am to 4:00pm

Periodic visits are scheduled to the Sister Islands

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