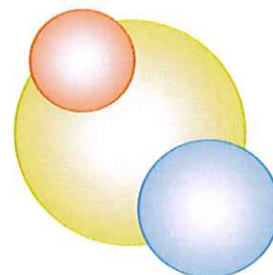


Information Commissioner's Office
Annual Report 2015-16

Jan Liebaers MA CA LLM
Acting Information Commissioner

31 October 2016





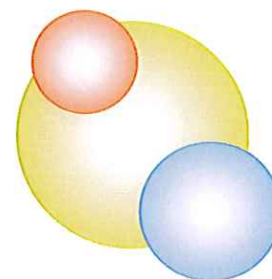
The Information Commissioner's Office (ICO) is an independent entity responsible for hearing, investigating and ruling on appeals under the *Cayman Islands' Freedom of Information Law (2015 Revision)*.

The ICO also monitors compliance of public authorities in upholding the FOI Law and promotes access rights to Government records.

ICO ANNUAL REPORT 2015-2016

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The Freedom of Information Law

Under the heading “Institutions Supporting Democracy”, Part VIII of The Cayman Islands Constitution Order 2009 provides for legislation that ensures a right to access government information:

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 *Freedom of Information Law (2015 Revision)* (FOI Law) grants the public a general right to access records held by public authorities, subject to a number of limited exemptions which balance that right against the legitimate need for government to withhold some information.

Section 4 of the FOI Law identifies the objects of the Law:

... 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 understand how government works, why certain decisions are made, and how public funds are spent. As such, it is an important building block of good governance in a free and open society.

Acting Information Commissioner's foreword

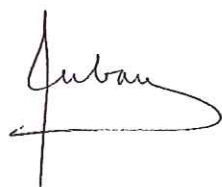
Welcome to the eighth Annual Report of the Information Commissioner's Office (ICO), which is intended to meet the reporting requirements of both the Freedom of Information Law, and the Public Management and Finance Law.

As the ICO entered its third year without an appointed Information Commissioner, there can be no doubt that the continued vacancy at the top of the office has presented significant challenges, reduced the efficacy of the ICO, and weakened the essential oversight function the office delivers to the government and the general public of the Cayman Islands.

Throughout the year the staff of the Information Commissioner's Office (ICO) and I have worked relentlessly to ensure continuity and stability in the important oversight and enforcement roles we fulfill in the Cayman Islands Government, as testified in the pages of this Annual Report. As always, particular care and effort have gone into working independently, impartially and fairly with all parties to resolve and decide the disputes that are raised with us.

The uncertainties regarding the future plans for the merger of the ICO, OCC and other oversight functions into a larger Ombudsman's Office, following a suggestion in the 2014 EY Report, came to an end in March when it was announced that the Cabinet had approved a path forward towards amalgamation. As a key stakeholder, the ICO is represented on the Deputy Governor's Project Team tasked with planning for the merger, and we have made significant contributions to help prepare for the best possible outcome of these plans.

As you will read in the ensuing pages, this year's government-wide FOI statistics show surprising changes from last year's results. There has been a significant drop in the overall number of requests dealt with under the FOI Law, and an equally surprising drop in median response times. While the latter is a positive development, the reasons for the former are unclear and will be further examined in the coming months.



Jan Liebaers

Acting Information Commissioner

30 September 2016

The Information Commissioner and the roles of the ICO

The Information Commissioner is appointed by the Governor after consultation with the Cabinet, in accordance with section 35 of the FOI Law and the *Freedom of Information (Information Commissioner) Regulations, 2008*.

The Information Commissioner is independent in the exercise of his powers and reports directly to the Legislative Assembly. The ICO independently investigates, resolves, hears and decides appeals made under the FOI Law, monitors compliance of public authorities with the FOI Law, and promotes the rights of the public to access information held by Government.

Section 39 of the FOI Law sets out the roles of the Information Commissioner:

In addition to the powers and responsibilities provided for elsewhere 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.*

The ICO Team

The ICO currently encompasses six positions of which one (the Information Commissioner position) has remained vacant since January 2014. ICO staff is comprised of three Caymanians, one Canadian and one Belgian national, as follows below.

The ICO's total personnel emoluments budget for 2015-16 amounted to \$549,709. A substantial proportion of this, \$128,706 remained unused due to the vacancy of the Information Commissioner position and was only partly offset by the increased costs of acting allowances.

Deputy Information Commissioner/Acting Information Commissioner – Mr. Jan Liebaers

The position of Information Commissioner has remained vacant since the retirement of the former Commissioner, Mrs. Jennifer Dilbert JP MBE, on 1 January 2014. Since then, HE the Governor has appointed the Deputy Information Commissioner, Mr. Jan Liebaers, to act as Information Commissioner.

From 1997 to 2007 Mr. Liebaers was Head of Archives and Records Management and Deputy Director of the Cayman Islands National Archive. In that role he played a key role in the drafting of, and planning for the implementation of the FOI Law. Mr. Liebaers joined the ICO as Deputy Information Commissioner in 2010 after obtaining an LLM in Information Rights.

In the past year Mr. Liebaers was to give the keynote address at the International Symposium on Freedom of Information and Data Protection in the Bahamas in October, which, however, was postponed due to Hurricane Joaquin. He also intended to attend the International Congress of the International Association of Privacy Professionals (IAPP) in December 2015. However that event, too, was cancelled, due to the heightened terrorism threat.

Senior Appeals & Policy Analyst /Acting Deputy Information Commissioner – Mr. Cory Martinson

The Senior Appeals & Policy Analyst, Mr. Cory Martinson, has an extensive educational background and experience in mediating and investigating FOI and privacy cases. He worked for seven years at the Office of the Information and Privacy Commissioner of British Columbia, and first joined the ICO in 2009-2010 when he assisted with the formation of the Office. He rejoined the ICO in 2013 in his current position.

Appeals & Compliance Analyst – Mrs. Charlene Roberts

Mrs. Roberts is a certified paralegal and holds a Bachelor's Degree in Management Studies. Since joining the ICO in April 2015 from the Ministry of Community Affairs, Youth & Sports Mrs. Roberts attended a week-long PDP course on FOI, Data Protection and Access to Environmental Information in November in London, and successfully passed the exam, obtaining a Practitioner's Certificate in FOI (PC.foi) from PDP in London. She also underwent training in Mediation from the Canadian International Institute of Applied Negotiation, organized by the ICO.

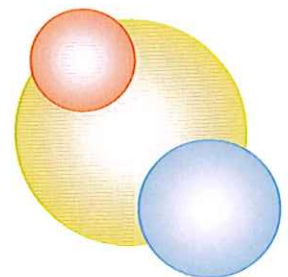
Registrar of Hearings – Mrs. Derrylee Martin-Rankin

Mrs. Martin-Rankin holds an MA in Leading Innovation and Change, and is pursuing a Law Degree in International Commercial Law. She joined the ICO in March 2016 with extensive Administrative experience in the public sector. Since then she underwent training in Mediation from the Canadian International Institute of Applied Negotiation organized by the ICO. Derrylee is also the ICO's Deputy Information Manager.

Office Manager – Ms. Shelly-Ann Davis

Ms. Davis joined the ICO in 2013 with extensive experience in Human Resources and Finance, in both public and private sectors. In this past year she attended the annual CISHRP Conference, took two outstanding modules of the CISHRP course in HR Management, attended training on Sexual Harassment Handling, Procurement, and Mediation, the latter from the Canadian International Institute of Applied Negotiation. Ms. Davis is also the ICO's Information Manager.

For further details, including the ICO's organizational chart, employee post, grade and salary information, job descriptions and register of interests, see: <http://www.infocomm.ky/about-us>



Financial Performance and Analysis

The ICO's annual budget for 2015-16 was \$796,983, which has remained unchanged from the previous year. This was comprised of \$540,079 of personnel emoluments and \$246,100 of supplies and consumables.

As in previous years, the ICO did not utilize a substantial part of its annual budget. Notably, the actual expenditure for personnel costs was \$128,706 lower than projected, and the actual expenditure for supplies and consumables remained \$111,582 lower than budgeted.

These positive variances are in large part due to:

- the vacancy in the Information Commissioner position, which has both direct (lower salary, pension, etc. costs) and indirect consequences (lower travel and subsistence costs);
- the fact that in 2015-16, unlike previous years, the budget for legal fees remained largely untapped, thanks to the fact that the decisions of the (Acting) Information Commissioner were not challenged in court by means of a judicial review (lower cost of legal fees);
- the ICO's move to a new office location (lower utility, rent and related costs); and
- prudent day-to-day expenditure controls.

The ICO's key performance measures are largely qualitative in nature, since the ICO investigates, resolves, hears and decides appeals within the legal confines of the FOI Law and its own internal policies and procedures. Appeals are brought by individuals against access decisions made by public authorities subject to the Law, and the ICO therefore responds, rather than initiates most of the activities it is engaged in. Quantitative figures do not necessarily reflect the complexity or resource-intensity of appeals. For further details, see the "Appeals" section of this Report below.

The ICO has ongoing interactions with public authorities and the FOI Unit of the Cabinet Office in order to ensure compliance with the FOI Law, usually but not always, in the course of appeals being investigated and resolved. In this context the ICO also initiates occasional own-initiative compliance investigations which examine relevant issues, of which two were commenced in 2015-16. For more details, see the "Compliance" section of this Report.

The promotion of public awareness of the FOI Law by the ICO centres on the annual celebration of Right to Know Week, an international event in which numerous countries around the world celebrate government openness and accountability. These and other promotional presentations and activities are further detailed in the "Promotion" section of this Report, below.

Scrutiny by Parliament and Public

Since its inception in 2009 the ICO has produced Annual Reports pursuant to section 40 of the FOI Law, which consist of an overview of the operations of the FOI Law in the Cayman Islands Public Sector, the operations of the ICO itself, and audited financial statements.

Since 2009 the ICO has also published separate Annual Statistical Reports, which provide additional data on the operations of the FOI Law in the Public Sector.

All these reports can be found on the ICO's website: <http://www.infocomm.ky/document-library>.

Parliamentary Scrutiny

The Oversight Committee for the Information Commissioner was not re-established following the 2013 elections.

To the best of our knowledge, the ICO has not been the subject of parliamentary questions, and no questions were asked in regard to the budget or finances of the ICO in the Public Accounts Committee.

FOI scrutiny

In financial year 2015-16 the ICO itself received only two FOI requests, both of which were acknowledged and responded to within the statutory timelines of respectively ten and thirty calendar days.

Complaints

The ICO did not receive any complaints in financial year 2015-16.

Internal and External audits

The ICO has not been subject to internal or HR audits in 2015-16. However, In the course of the financial year, the ICO again assured the Portfolio of the Civil Service that it was fully in compliance in regard to a recommendation made in a 2014 HR Audit in regard to the timely submission of travel expenses. At that time the ICO had been found lacking in two instances, when expenses were submitted late, due to reasons explained to the auditors.

The ICO received an unqualified audit from the Auditor General in relation to the 2014-15 financials.

Cross Government Commitments

Data Protection

The Acting Information Commissioner continued to assist the Hon. Attorney General with the preparation of a draft Data Protection Bill. In February 2016 the Bill was again presented to the Caucus, and the Working Group also considered further comments received from the C.I. Monetary Authority and the Human Rights Commission. The Hon. Premier has announced that the Bill will be tabled in the Legislative Assembly in the fall of 2016.

Ombudsman's Office

In the second half of the financial year the Cabinet approved the further planning stage of the merger of the ICO with a number of other oversight bodies in an amalgamated Ombudsman's Office.

In order to work towards obtaining the best possible outcome for the planned office, and as one of the key stakeholders in the planned merger, the ICO insisted on being represented on the Project Team tasked with planning the new office. The Acting Deputy Information Commissioner is now acting as liaison between the ICO and the Project Team, and the ICO has made valuable contributions in the planning of this Project to date, including the drafting of a new Ombudsman Bill.

Forward looking

The draft Data Protection Bill assigns significant powers and duties to the Information Commissioner, which will be transferred to the Ombudsman in the anticipated amalgamated office. It is not yet clear whether and/or to what degree the current ICO staff will be involved in the implementation and administration of the Data Protection Law in the planned amalgamated office, or what funds will be allocated for that purpose. Certainly, any overlaps and similarities between approaches in the two Information Rights Laws (Data Protection and FOI) should be exploited to ensure optimal efficiency, without weakening current practice.

The plans for the amalgamated Ombudsman's Office focus on the governance structure of the new office, rather than on the mechanisms of the FOI process itself. Little or no change is expected in the application of the principles of government openness, transparency and accountability as currently embodied in the processes under the FOI Law. Therefore, the respective roles, rights and duties of applicants, public authorities and ICO staff are expected to remain largely the same, as always depending on the availability of adequate resources.

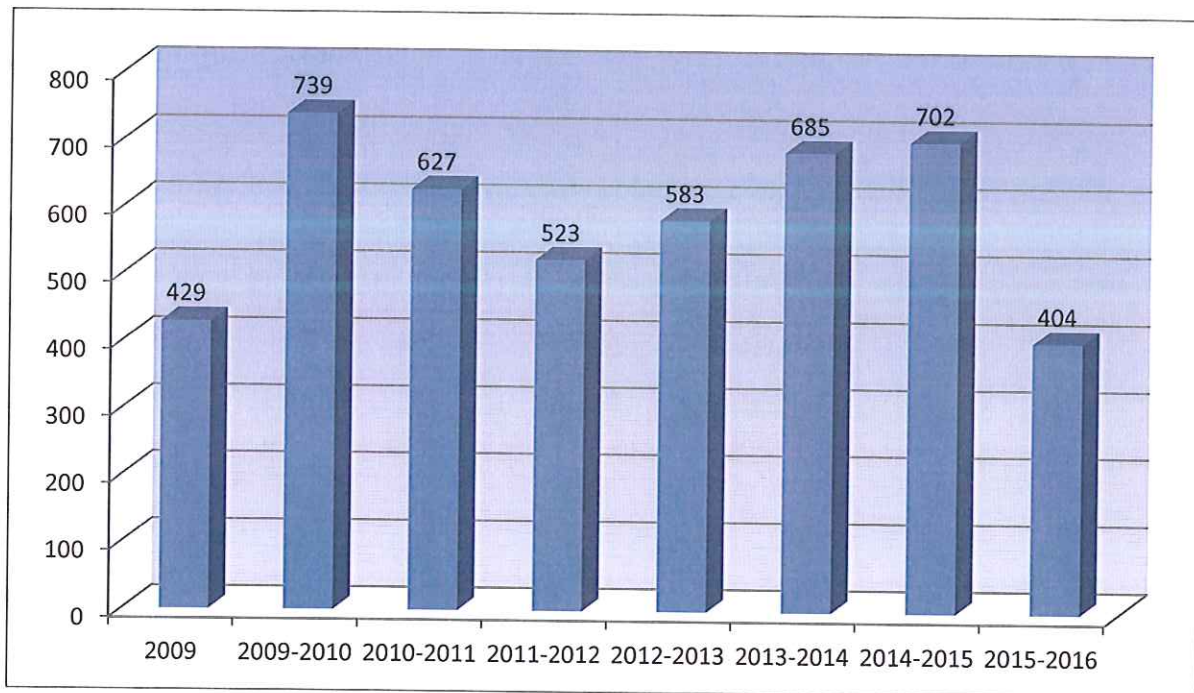
Freedom of Information Requests

Number of FOI requests (2009-2016)

Following an initial spike shortly after the FOI Law came into effect in 2009, the number of requests received by Government has varied from approximately 500 to 700. The overall trend was showing a steady rise of the use of FOI by applicants. However, this past year saw a 42% drop in the number of requests being made. This is a 37% drop from the average over the previous years and is obviously significant.

The ICO is not able to explain this drop, which could have both positive and negative reasons and connotations. Potentially, relevant factors may include a greater emphasis on answering requests outside the FOI Law by IMs, increased proactive publication of information on government websites, a stricter use of the central tracking system, and the uncertainties surrounding the creation of the Ombudsman's Office. However, it is not clear what the impact, if any, of these and other factors on the overall number of requests may have been in the past year.

Since the FOI Law came into effect in 2009 until 30 June 2016 a total of 4,692 requests have been registered in the government's central tracking system.



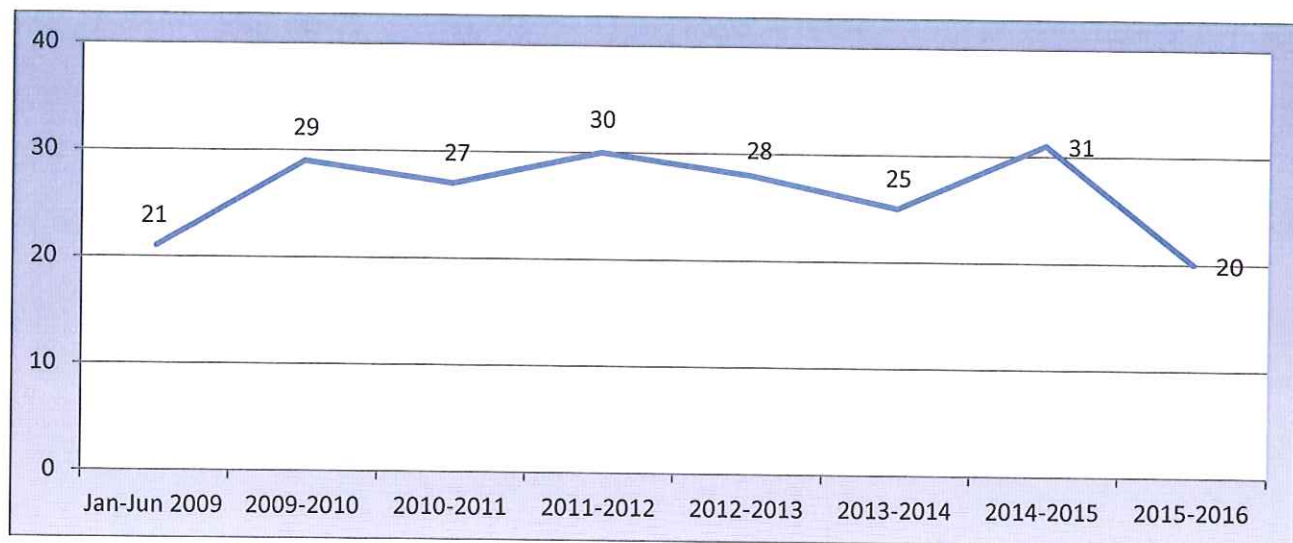
Response Times for FOI requests (2009-2016)

The FOI Law requires that public authorities give their initial response “as soon as practicable” but not later than 30 calendar days after receiving a request. Surprisingly, in the past year response times went from the worst median time to date (31 days, during 2014-15), to the best, 20 days. Also favourable is that only 34% of requests were responded to outside the initial 30-day time limit compared to 51% in 2014-2015.

One possible reason for these improvements could be the dramatic drop in FOI requests (see above). This decrease will have meant less FOI-related work for Information Managers thus allowing responses to be given faster. Another reason could be a positive response by civil servants to the Deputy Governor’s Administrative Circular 5 of 2015, in which Mr. Manderson expressed his expectation that requests for assistance from IMs be treated as urgent by other civil servants. The DG also emphasized that reducing response times (after last year’s poor results) was a priority for him.

In perspective, in 2013-14 public authorities received 281 more requests than this last year, and they still managed to limit the percentage of requests responded to outside of 30 days to 34%, which is the exact same percentage as this past financial year. Also, during the first 6 months of the FOI Law being in effect public authorities received 429 requests and yet they managed a median processing time of 21 days, compared to 20 days in the current report, which relates to 404 requests over a 12-month period.

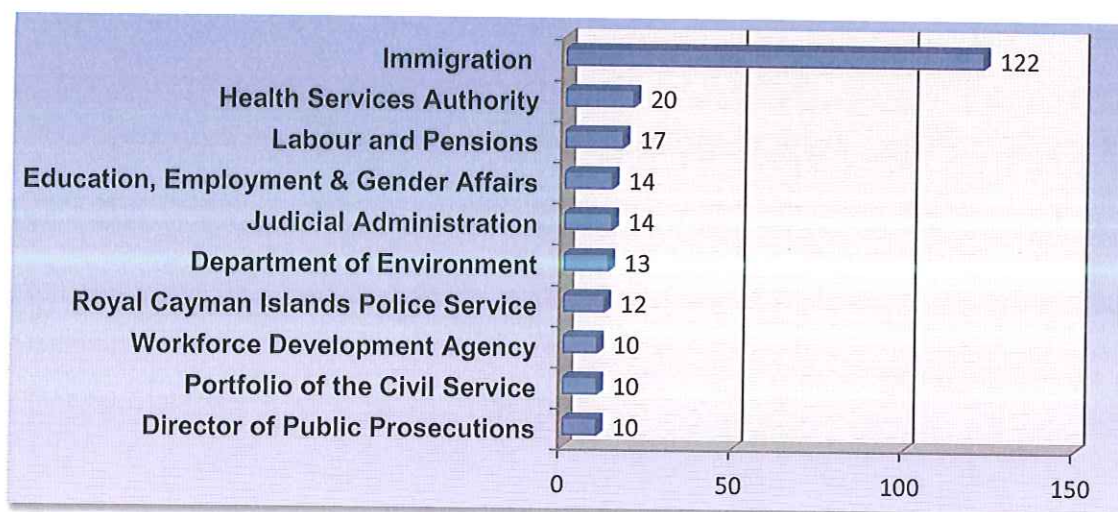
Nonetheless, the ICO commends the government, and in particular IMs, for the improvements in this area over the last year, and thanks the DG for his positive engagement. We hope to see a continued trend of shorter response times because, as is quoted in many FOI jurisdictions worldwide, “access delayed is access denied”.



Spread of FOI request across the Public Sector (2015-2016)

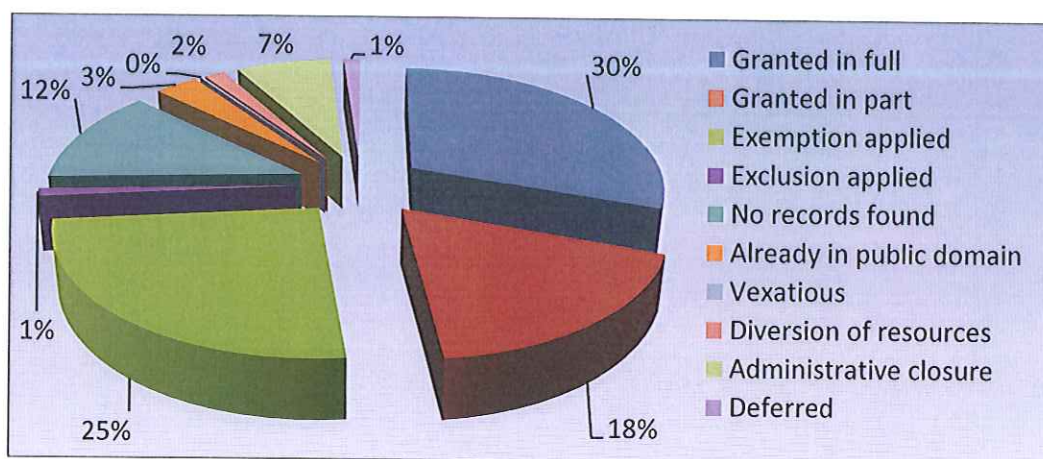
As in previous years, most FOI requests were directed towards those public authorities which hold information that interests applicants most, and whose decisions impact individuals the greatest.

The ten public authorities receiving most FOI requests accounted for a little over half of all requests in 2015-16. This proportion has been consistent since 2009.



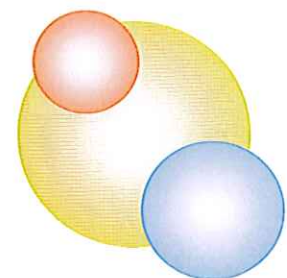
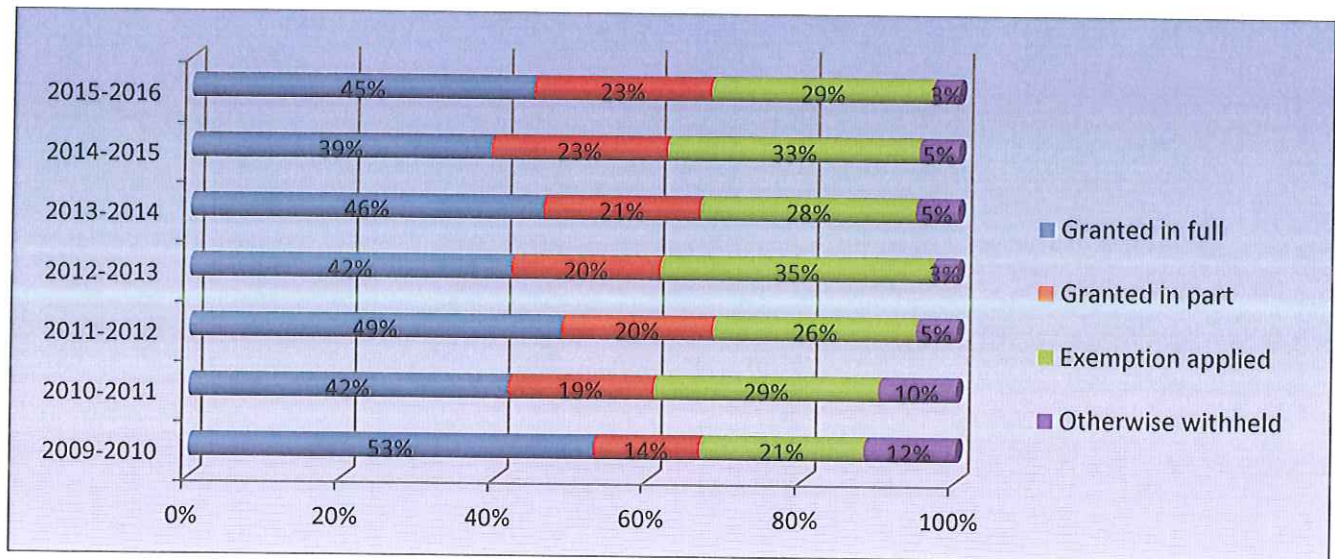
Resolution of FOI Requests (2009-2016)

In responding to an FOI request, public authorities can grant access to the requested records in full or in part. Alternatively, they can apply a number of exemptions or other reasons for withholding the records.



Over the years, the proportion of requests granted in full or in part varied between a low of 44% in the first half of 2009, and a high of 55% in 2011-12. As the table above shows, since 2009 about half of requests were either granted in full or in part.

The actual proportion of requests granted in full or in part is larger when only cases with actual responsive records in play are taken into consideration, as shown in the graph below. It is positive to note that the number of requests granted in full in 2015-16 was 6% higher than the all-time low of 39% in the 2014-15 year, and is more in line with the average since 2009.



Exemptions applied to FOI requests July 2015—June 2016

Section	Description	# of times applied
3(1)(c)	Records are outside the FOI Law as per section 50 of the Monetary Authority Law	1
3(5)(a)(i)	Judicial functions of a court	1
3(5)(d)	Records that belong to the Government of the United Kingdom of Great Britain and Northern Ireland whether they are created or held in the Cayman Islands or elsewhere	1
6(4)(a)	Record already open to public pursuant to another enactment as part of a public register or otherwise	1
6(4)(b)	Available for purchase by the public in accordance with administrative procedures established for that purpose	2
9(c)	Compliance with the request would unreasonably divert the Public Authority's resources	4
9(d)	Information requested is already in the public domain	9
11(2)(a)	Publication of the record within a particular period is required under the provisions of any enactment, until the expiration of that period	1
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	2
11(2)(c)	Access deferred until the cost incurred by the authority in granting access, has been paid by the applicant	2
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	1
16(a)	Law enforcement - endanger any person's life or safety	1
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	3
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	6
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

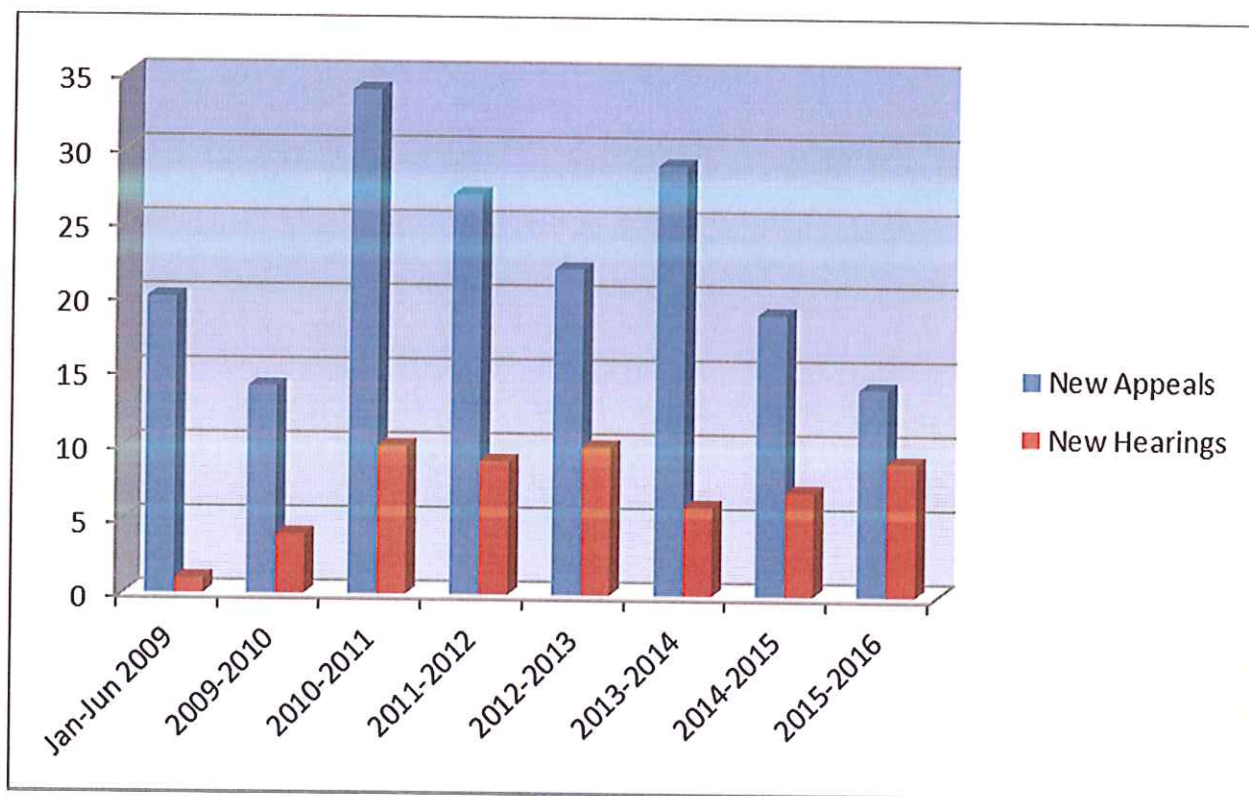
16(d)	Records exempt as they relate to law enforcement and disclosure would or could reasonably be expected to reveal lawful methods or procedures for preventing, detecting investigating or dealing with matters arising out of breaches or evasions of the law, where such revelation would, or could be reasonably likely to, prejudice the effectiveness of those methods or procedures	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	6
17(b)(i)	Record exempt as disclosure would constitute an actionable breach of confidence	7
18(1)	Substantial adverse effect on the Caymanian economy	1
19(1)(a)	Record exempt as it contains opinions, advice or recommendations prepared for proceedings of the Cabinet or of a committee thereof	2
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	1
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	2
20(1)(c)	Record exempt as it is legal advice given by or on behalf of the Attorney-General	4
20(1)(d)	Record exempt as its disclosure would otherwise prejudice, or would be likely to prejudice, the effective conduct of public affairs	3
21(1)(a)(i)	Record exempt as its disclosure would reveal trade secrets	1
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	7
21(1)(b)	Record exempt as it contains information concerning the commercial interest of a person or organization, where disclosure would prejudice those interests	4
23(1)	Record exempt as disclosure would involve the unreasonable disclosure of personal information, of any person, living or dead	44
24(b)	Record exempt as disclosure would, or would be likely to endanger the safety of any individual	2
	TOTAL	146

Internal Reviews

The ICO has not been able to obtain accurate reporting statistics relating to the number of requests that progressed to the internal review stage. This is largely due to the incompleteness of data entered into the central tracking system by Information Managers.

Appeals to the Information Commissioner

An applicant may appeal any perceived infringement of the FOI Law by a public authority to the Information Commissioner, as long as the other means of redress have been exhausted. The most common reason for appealing is the denial of a request for access by government, but appeals are also raised for timeline violations or other procedural infringements. In the 2015-16 year, the ICO introduced new procedures for expedited hearings, designed to deal efficiently with procedural issues.¹



From 2009 to the end of June 2016 the ICO received some 185 appeals, of which 53 progressed to a formal hearing before the Commissioner. Of these, respectively 14 and 9 were initiated in the last financial year. Therefore, while the number of appeals in the last year was below average, the number of hearings was higher than average. In this regard, it is worth noting that appeals may

¹ See: <http://www.infocomm.ky/images/ICO%20Appeals%20Policy%20and%20Procedures%202016-02-22.pdf>

vary significantly in complexity and resource-intensity.

Informal Resolution of Appeals

When an appeal is made, the ICO routinely seeks to resolve the dispute between an applicant and a public authority amicably, by means of an informal resolution process.

The following is a sample of appeals that were resolved without the need for a formal hearing before the Information Commissioner.

Appeal 012/15 – Ministry of Education, Employment & Gender Affairs

An applicant requested information on Caymanian athletes receiving scholarships or government funding tied to sports-related activities to attend schools and training venues abroad. The applicant wanted to see a full list of the names of the athletes whether high school student-athletes, collegiate student-athletes or those not enrolled at a high school or university, including the amount they receive.

The Ministry released some of the records but withheld some information stating it would be an unreasonable disclosure of personal information. The applicant requested an internal review and the initial decision to withhold some information was partially upheld. The Ministry released the number of recipients receiving sports related scholarships, the names of two recipients along with their schools and areas of study (because their information was already in the public domain), a list of schools being attended by the other recipients, the list of programs being studied and the minimum to maximum range of payments from the Cayman Islands Government. The applicant was not satisfied and appealed to the ICO.

During the appeal process, the Ministry added that the records were also being withheld on the grounds that its release would endanger the physical and mental health of any individual; or endanger the safety of an individual. As a result of a review of the records by the ICO, the Ministry agreed to release the *amounts being received by each scholarship recipient except for two recipients whose names were previously released*. The applicant was still not satisfied and the matter progressed to a Hearing before the Acting Information Commissioner.

While the Hearing process was underway the Ministry's legal counsel informed the ICO that the Ministry had changed its position and the records in dispute were released in full to the applicant.

Appeal 018/15 – Ministry of Community Affairs, Youth and Sports

An applicant requested annual audit reports related to the Cayman Islands Football Association (CIFA). The Ministry responded stating it did not hold the records and believed that no other public authority held the records either. The applicant wrote back asking for a second opinion on the

matter and the Chief Officer responded stating that it actually did hold some of the records, but they were exempted under the FOI Law because their release could affect a law enforcement investigation.

The ICO reviewed the responsive records along with reasoning from the Ministry as to why the release of the records might affect a law enforcement investigation. The Ministry could only speculate that, because of recent stories in the media regarding CIFA, the records could possibly be involved in a possible future investigation. No arguments were put forward as to how the release of the records would actually affect such an investigation, if it even were to take place. Consequently, the Ministry changed its decision and released the records to the applicant.

Appeal 001/16 – Department of Immigration

An applicant requested confirmation of existing work permits for named LIME employees as well as minutes, file notes and all other relevant correspondence between LIME and the Immigration Department related to those employees.

The Immigration Department released some records but withheld others because they claimed releasing them would have been an unreasonable disclosure of third party personal information. The applicant was not satisfied with the response received and appealed to the ICO.

In an attempt to informally resolve the appeal the applicant was informed that the ICO considered that the public authority had appropriately withheld some of the requested records and that, in any event, if a public authority intends to release third party personal information it is required under the FOI Regulations to send written notice to the third parties whose personal information is involved and allow them to appeal to the ICO if they wish. In this case Immigration could only let the applicant know the total number of work permits held by LIME, not details of the individuals who held those work permits. Upon being notified of this information the applicant did not pursue the matter further and the appeal was closed.

Appeal 004/16 – Health Regulatory Services

An applicant requested records related to the investigation of complaints made to the Medical and Dental Council in 2015, including records related to any corresponding decisions and/or sanctions that may have been imposed.

The HRS decided to release some of these records but in one case, where the records could not be anonymized, it was required to notify a third party and allow that person 30 days to appeal to the ICO before anything could be released. The third party did indeed want to appeal because they

believed that the information in the file was not accurate and would unfairly portray them in a negative light if released.

The ICO reviewed the records and claims made by the third party and spoke with the HRS regarding the accuracy of the personal information in the records it wanted to release. As a result, the HRS realized it had not fully investigated the complaint against the third party, had never provided that person with a chance to rebut the allegations against them and admitted that the information in the records, in its current state, was not accurate. The HRS agreed not to release the person's personal information.

The third party was satisfied with the response received from the HRS and the appeal file was closed without proceeding to a formal hearing.

Hearings Completed

As of 30 June 2016, the Information Commissioner had concluded fifty-three formal Hearing Decisions, some of which were decided in two parts. Previously the outcomes of these decisions have been evenly balanced between disclosure and non-disclosure, while about one in three decisions resulted in partial access being provided. This year those numbers have shifted slightly with more decisions resulting in partial access being ordered. There have also been more decisions that are unrelated to the release of records such as decisions regarding fees or whether an adequate search for records has been made by the public authority.

Hearings: Summary Table

Hearing	Decision Date	Public Authority	Record(s) under review	Section(s) of the FOI Law applied	Decision
44-01114 (discontinued by applicant)	n/a	Health Services Authority	Records relating to observer and shadowing opportunities at the George Town Hospital	9(a)	n/a
45-00000	15 February 2016	Governor's Office	Reconsidered Decision following Judicial Review of Decision 41-00000, regarding records relating to Operation Tempura	16(b) and 20(1)(d)	Partial disclosure
46-00914	22 April 2016	Ministry of Education, Employment and	Records related to the proposed revision of the National Pensions Law,	19(a)(1), 20(1)(b) and 20(1)(d)	Partial disclosure; inadequate

		Gender Affairs	Investment Regulations		search
47-00515	18 Sept 2015	Department of Health Regulatory Services	Records regarding complaints made against the Applicant as a medical practitioner, to the Department of Health Regulatory Services	23(1), 24(a) and (b)	Records disclosed to the Applicant only
48-01115	2 November 2015	HM Customs Department	Records of fuel cost invoices from 2014 to present	17(b)(i), 20(1)(d), 21(1)(a) and (b)	Records withheld
49-01215 (discontinued by applicant)	n/a	Ministry of Education, Employment and Gender Affairs	Records regarding sports scholarship recipients for the 2014-15 academic year	n/a	n/a
50-01315	22 February 2016	Cayman Islands Airport Authority	Records relating to an event dated 22 March 2015 involving two airplanes	21(1)(b)	Records ordered disclosed
51-01914	17 March 2016	Cayman Airways Ltd	Records relating to a person's employment with Cayman Airways	Reg 6(1)	Initial search inadequate; final search adequate
52-01515	18 April 2016	Department of Children and Family Services	Records relating to Applicant's case with DCFS	13 and 15(1)	Fee allowed, but must be recalculated; no waiver
53-01715	10 June 2016	Department of Health Regulatory Services	The qualifications (degrees and diplomas) of the medical staff of the Health City Cayman Islands hospital.	23(1)	Records withheld

Hearing 45-00000 - Governor's Office, 15 February 2016

The Governor's Office withheld certain documents relating to Operation Tempura, and an appeal was made to the ICO which resulted in an order by the former Information Commissioner to disclose the records (Hearing Decision 24-00613). That decision was challenged by the Governor in court. The judicial review under Acting Justice Alan Moses resulted in the matter being remitted back for reconsideration by the Acting Commissioner on the basis of the exemption relating to the effective conduct of public affairs (section 20(1)(d) of the FOI Law).

In July 2014 the Acting Commissioner issued a reconsidered decision (Hearing Decision 41-00000) in which he again ordered the disclosure of the two records, except for a short passage in the complaint. That decision was again challenged in court by the Governor, and the judicial review under Acting Justice Timothy Owen ordered the matter to be reconsidered again, on the basis of the exemption relating to law enforcement records (section 16(b) of the FOI Law).

In the present Hearing Decision 45-00000 the Acting Commissioner found that the exemption in section 16(b) applies to those parts of the two documents which represent the actions and conduct of Mr. Bridger, the Senior Investigator in Operation Tempura, to the extent that they are not innocuous or already in the public domain.

Mr. Liebaers ordered the remainder of the two documents disclosed, and expressed his intention to confirm the status of the ongoing police investigation and possible prosecution of Mr. Bridger in six months' time.

Hearing 46-00914 - Ministry of Education, Employment and Gender Affairs

An applicant made a request to the Ministry for records relating to the revision of the National Pension Law (Investment Regulations). The Ministry initially located only a single responsive record, but upon the urging of the applicant and the ICO several more were found. A number of records were released, but no agreement could be reached on various records including a consultant's report and diverse communications.

In this Hearing Decision, the Acting Commissioner found that the exemption in section 19(a)(1) does not apply to the responsive records as they were not prepared for proceedings of the Cabinet. However, section 20(1)(b) (free and frank exchange of views) applies to communications between the Ministry and consultants, as well as to feedback received from the National Pensions Board. In addition, section 20(1)(d) (effective conduct of public affairs) applies to other communications about the draft regulations. Both exemptions are subject to a public interest test, but it was found that the public interest did not require the disclosure of the exempted records. An additional responsive record, the consultant's report, was found not to be exempted and was ordered disclosed.

The Acting Commissioner found that the Ministry did not make reasonable efforts to locate responsive records, and required the Ministry to conduct a new search.

Hearing 47-00515 - Department of Health Regulatory Services

An applicant requested records relating to complaints made against him as a medical practitioner to the HRS. The HRS disclosed a number of related records, but withheld the actual complaints and related emails on the basis of the exemptions in section 23(1) (personal information) and 24(a) and (b) (health and safety) of the FOI Law. The matter was appealed to the ICO and the Acting Commissioner found that the records were not exempt under either of the exemptions that had been claimed, except for the contact information of the complainants, (i.e. their addresses, email addresses and phone numbers) and their dates of birth.

The Acting Information Commissioner ordered the HRS to disclose the records to the applicant only, with the contact information and dates of birth redacted.

Hearing 48-01115 - HM Customs Department

An applicant made a request to H.M. Customs for fuel cost invoices from fuel/gasoline importers, between 2011 and the present. Customs withheld access to the invoices under section 17(b)(i) which protects information where there is a legal right to confidentiality.

After considering submissions from the Applicant, Customs and the two third-party fuel importers, and conducting a public interest test the Acting Commissioner found that disclosure of the requested records would constitute an actionable breach of confidence. Therefore, the exemption in section 17(b)(i) applies to the requested records, and Customs is not required to disclose them.

Hearing 50-01315 - Cayman Islands Airport Authority

An applicant requested access to records relating to an event dated 22 March 2015 involving two airplanes, which the Airports Authority had investigated. The Airports Authority withheld certain information under section 21(1)(b) (information concerning the commercial interests of any person or organization) of the FOI Law.

In this Hearing Decision, the Acting Commissioner found that the exemption in section 21(1)(b) did not apply to the responsive records, because the disclosure of the information they contained would not prejudice the commercial interests of any person or organization, including the public authority. Consequently, the full disclosure of the two responsive records was ordered.

Hearing 51-01914 - Cayman Airways Ltd

An applicant made a request under the FOI Law for records relating to his employment with Cayman Airways. In the initial response from Cayman Airways several records were disclosed. However, the applicant was not satisfied and subsequently made an appeal to the ICO, claiming that Cayman Airways had not made reasonable efforts to locate the responsive records. Although a number of additional records were released during the appeal, the dispute could not be resolved amicably and the matter was decided in a formal hearing.

The Acting Information Commissioner found that Cayman Airways had not conducted an adequate initial analysis or search for responsive records in relation to the request. However, in view of the reasonable and constructive approach taken by Cayman Airways in the course of the appeal with the ICO, and their declared intention to continue providing additional records of a similar nature to the Applicant on condition that they are clearly identified, the Acting Commissioner found that Cayman Airways has now made "reasonable efforts to locate" the records responsive to the request, as required under regulation 6(1) of the FOI Regulations, and dismissed the appeal.

Hearing 52-01515 - Department of Children and Family Services

An applicant made a request for emails relating to his case with DCFS. DCFS did not hold the records, and called on the services of the Computer Services Department (CSD) to search for possible deleted emails. CSD charged a fee for this service (\$104/hr), which DCFS intended to pass on to the applicant. The issues in dispute were whether DCFS was allowed to charge a fee, and if so whether the proposed fee was reasonable, and whether it should be waived.

The Acting Commissioner confirmed that the FOI Law allows that a fee may be charged for conducting a search for records. However, the fee being charged by DCFS was not reasonable and it should be recalculated based on the actual hourly rate of the CSD staff member tasked with the search.

Mr. Liebaers also found that there was not any good reason to waive the fee for conducting the search for the requested records.

Hearing 53-01715 - Department of Health Regulatory Services

A request was made for copies of the qualifications (degrees and diplomas) of all the doctors at Health City Cayman. The records were held by HRS, but access was denied under section 23(1). HRS argued that the records constituted personal information which would not be reasonable to disclose.

The matter was appealed to the ICO and after an attempt was made to find an amicable resolution to the dispute, the matter was referred to the Acting Information Commissioner for a formal decision. The Acting Information Commissioner upheld the decision of HRS to exempt the records, finding that the exemption in section 23(1) was engaged, and that it would not otherwise be in the public interest to disclose them.

Judicial reviews

There were no challenges to decisions of the Acting Information Commissioner under section 47 of the Law, which allows an “appeal to the Grand Court by way of judicial review of a decision of the Commissioner”.

Compliance investigations

In its ongoing interactions with IMs and other staff in public authorities, and with the FOI Unit, the ICO routinely intervenes to ensure that the provisions of the FOI Law, as well as applicable policies and procedures are complied with.

In most cases, these compliance activities involve ongoing appeals in which the ICO is trying to achieve an amicable resolution between the parties. As well, the Acting Information Commissioner has addressed compliance issues in all the formal hearing decisions in the course of the past year as mentioned above.²

The ICO also originates own-initiative compliance investigations into relevant issues. It is worth noting that the ICO has found it difficult to conduct own-initiative investigations while the position of Information Commissioner remains vacant. This is not because the Commissioner personally conducts such investigations, but because the vacancy has left the operations of the ICO understaffed, and priority has had to be given to investigating, resolving, hearing and deciding appeals. Nonetheless, two own-initiative investigations were initiated in 2015-16, as follows:

The Government's central FOI tracking system, JADE

It has been noted in previous annual and statistical reports that the data in the government's tracking system – even though its use by IMs is mandated by law – are unreliable, which most likely has caused an underreporting of FOI requests handled by IMs. The ICO conducted an IM Survey in 2014 which confirmed that many IMs do not have access to the system, have not been trained in using the system, and do not use the system.³ This new study therefore looks further into availability, use and training relating to the tracking system. The Investigation Report is expected to be published during Right to Know Week at the end of September 2016.

Follow-up to the website investigation of 2011

In 2011 the ICO conducted Own-Initiative Investigation 4, Website Survey Investigation,⁴ which examined the web presence of all public authorities, in particular in order to determine if the internet was being used effectively to promote transparency and disseminate information to the public about the FOI Law. The new investigation will look into these same issues, using the 2011 study as a benchmark for comparison. The Investigation Report is expected to be published in the first half of the 2016-17 year.

² See: <http://www.infocomm.ky/appeals>

³ See: <http://www.infocomm.ky/document-library>

⁴ See: <http://www.infocomm.ky/images/Own-Initiative%20Investigation%20Report%20-%204%20Website%20Survey%20FINAL.pdf>

Outreach and promotion

The promotion of public awareness of the FOI Law is one of the mandates of the ICO. Since the FOI Unit of the Cabinet Office has once again been reactivated, the ICO has focused less on training and supporting IMs, which had become an increasingly urgent task in previous years. This opened up some resources for the task of investigating, resolving, hearing and deciding appeals under the FOI Law. During the year, the ICO organized one seminar for Information Managers, and did presentations about FOI to the Cayman Islands Airports Authority and H.M. Customs Department. Two new promotional videos were also developed, for use early in the new financial year.

Right to Know Week 2015

The theme for the sixth annual Right to Know Week campaign held in the Cayman Islands around the 28th of September 2015 was once again ***It's Yours...Just Ask***. The same theme as previous years was chosen to maintain brand identity, build on existing plans and save costs.

The purpose of the campaign was to continue to educate the public about their rights under the FOI Law, and the role of the ICO, in accordance with the Information Commissioner's mandate under section 39 of the FOI Law.

RTKW activities included meet and greet events with the public and civil servants at the Health Services Authority, The Market at the Grounds and GAB, an information seminar for IMs, appearances on Radio Cayman, an information session for Rotary Sunrise members, advertisements and articles in the press and daily IM tips. The Acting Deputy and Acting Information Commissioner also travelled to Cayman Brac to meet with the District Commissioner and Heads of Departments to discuss FOI matters there.



Meet & Greet at H.S.A. RTKW 2015



Information
Commissioner's
Office

2015-16 Annual Accounts

Fiscal Year Ended 30 June 2016

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Information Commissioner's Office
Statement of Responsibility for the Financial Statements
30 June 2016

These financial statements have been prepared by the Information Commissioner's Office in accordance with the provisions of the Public Management and Finance Law (2013 Revision). The financial statements comply, in all material respects, with generally accepted accounting practice as defined in International Public Sector Accounting Standards.

I 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 (2013 Revision).

As Acting Information Commissioner, I am 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.

As Acting Information Commissioner and Chief Financial Officer, we are 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 net assets/equity for the financial year ended 30 June 2016.

To the best of my knowledge I 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 2016;
- (b) Fairly reflect the financial position as at 30 June 2016 and financial performance for the year ended 30 June 2016; 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, which is carried out by its agent. The Office of the Auditor General and its agent has been provided access to all the information necessary to conduct an audit in accordance with International Standards of Auditing.



Acting Information Commissioner
31 October 2016



Chief Financial Officer
31 October 2016

AUDITOR GENERAL'S REPORT

To the Information Commissioner and the Members of the Legislative Assembly

I have audited the accompanying financial statements of Information Commissioner's Office, which comprise the statement of financial position as at 30 June 2016, and the statements of financial performance, changes in net assets/equity and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies in accordance with the Section 60(a)(i) of the *Public Management and Finance Law (2013 Revision)*.

Management's Responsibility for the Consolidated 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.

Auditors' 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 we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the consolidated 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 on 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 we have obtained is sufficient and appropriate to provide a basis for my audit opinion. In rendering my audit opinion on the financial statements of the Information Commissioner's Office, I have relied on the work carried out on my behalf by a public accounting firm that performed its work in accordance with International Standards on Auditing.

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Information Commissioner's Office as at 30 June 2016 and its financial performance and its cash flows for the year then ended in accordance with International Public Sector Accounting Standards.



Sue Winspear, CPFA
Auditor General

31 October 2016
Cayman Islands

INFORMATION COMMISSIONER'S OFFICE STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2016					
Prior Year Actual CIS		Note	Current Year Actual CIS	Approved Budget (Note 2(c)) CIS	Variance (Budget vs Actual) CIS
	Current Assets				
108,337	Cash and cash equivalents	3,17	15,023	58,448	43,425
125,574	Receivables from exchange transactions	4,18	69,270	66,415	(2,855)
20	Other receivables		64	-	(64)
3,592	Prepayments	5	1,534	5,283	3,749
237,523	Total Current Assets		85,891	130,146	44,255
	Non-Current Assets				
11,112	Property and equipment	6	12,104	8,286	(3,818)
11,112	Total Non-Current Assets		12,104	8,286	(3,818)
248,635	Total Assets		97,995	138,432	40,437
	Current Liabilities				
83,793	Payables under exchange transactions	7,17,18	-	49,386	49,386
18,750	Other payables and accruals	7	17,243	19,621	2,378
4,315	Employee entitlements	8	3,632	7,414	3,782
79,766	Surplus payable	9,17,18	15,109	-	(15,109)
186,624	Total Current Liabilities		35,984	76,421	40,437
186,624	Total Liabilities		35,984	76,421	40,437
62,011	Net Assets		62,011	62,011	-
	NET ASSETS/EQUITY				
122,838	Contributed capital		122,838	122,838	-
(60,827)	Accumulated deficit		(60,827)	(60,827)	-
62,011	Total Net Assets/Equity		62,011	62,011	-
The accounting policies and notes on pages 9-23 form an integral part of the financial statements.					

INFORMATION COMMISSIONER'S OFFICE STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2016					
Prior Year Actual CIS		Note	Current Year Actual CIS	Approved Budget (Note 2(c)) CIS	Variance (Budget vs Actual) CIS
	Revenue				
755,312	Sale of goods and services	11,17,18	571,940	796,983	225,043
755,312	Total Revenue		571,940	796,983	225,043
	Expenses				
420,197	Personnel costs	12,17,18	420,373	549,079	128,706
127,046	Supplies and consumables	13,17,18	123,913	171,100	47,187
2,108	Depreciation	6	2,061	1,804	(257)
124,816	Litigation costs	14	10,605	75,000	64,395
1,370	Loss on disposal of property and equipment		-	-	-
9	Losses on foreign exchange transactions		(121)	-	121
675,546	Total Expenses		556,831	796,983	240,152
79,766	Surplus for the year		15,109	-	(15,109)
The accounting policies and notes on pages 9-23 form an integral part of the financial statements					

INFORMATION COMMISSIONER'S OFFICE STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2016					
Prior Year Actual		Note	Current Year Actual	Approved Budget (Note 2(c))	Variance (Budget vs Actual)
CIS			CIS	CIS	CIS
	CASH FLOWS FROM OPERATING ACTIVITIES				
	<i>Receipts</i>				
667,742	Outputs to cabinet		628,244	775,568	147,324
125	Miscellaneous receipts		-	-	-
	<i>Payments</i>				
(421,296)	Personnel costs		(421,056)	(549,079)	(128,023)
(90,744)	Supplies and consumables		(217,683)	(246,100)	(28,417)
(124,780)	Other payments		-	-	-
31,047	Net cash flows from operating activities	15	(10,495)	(19,611)	(9,116)
	CASH FLOWS FROM INVESTING ACTIVITIES				
(3,348)	Purchase of property and equipment	6	(3,053)	-	3,053
(3,348)	Net cash flows from investing activities		(3,053)	-	3,053
	CASH FLOWS FROM FINANCING ACTIVITIES				
(19,904)	Repayment of surplus		(79,766)	-	79,766
(19,904)	Net cash flows from financing activities		(79,766)	-	79,766
7,795	Net increase/(decrease) in cash and cash equivalents		(93,314)	(19,611)	73,703
100,542	Cash and cash equivalents at beginning of year		108,337	78,059	(30,278)
108,337	Cash and cash equivalents at end of year		15,023	58,448	43,425
	The accounting policies and notes on pages 9-23 form an integral part of the financial statements.				

INFORMATION COMMISSIONER'S OFFICE
STATEMENT OF CHANGES IN NET ASSETS/EQUITY
FOR THE YEAR ENDED 30 JUNE 2016

Attributable to Government of the Cayman Islands					
	Contributed capital	Accumulated surplus/ (deficit)	Total Net Assets/Equity	Approved Budget (Note 2(c))	Variance (Budget vs Actual)
Balance at 30 June 2014	122,838	(60,827)	62,011	62,011	-
Surplus for the year 2014/15	-	79,766	79,766	-	(79,766)
Repayment of surplus to Cabinet	-	(79,766)	(79,766)	-	79,766
Balance at 30 June 2015 carried forward	CIS 122,838	(60,827)	62,011	62,011	-
Attributable to Government of the Cayman Islands					
	Contributed Capital	Accumulated Surplus	Total	Approved Budget (Note 2(c))	Variance (Budget vs Actual)
Balance at 30 June 2015 brought forward	CIS 122,838	(60,827)	62,011	62,011	-
Surplus for the year 2015/16	-	15,109	15,109	-	(15,109)
Repayment of surplus	-	(15,109)	(15,109)	-	15,109
Balance at 30 June 2016	CIS 122,838	(60,827)	62,011	62,011	-
The accounting policies and note on pages 9-23 form an integral part of the financial statements.					

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 ("FOI") 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 the Government of the Cayman Islands (the "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's budget and the financial operations. A committee of the whole house was formed on 30 June, 2010, to provide administrative oversight to the ICO. However, this committee has not yet been reconstituted after the 2013 elections.

As at 30 June, 2016, the ICO had 5 (2015: 5) employees. The previous Commissioner retired on 1 July, 2014, after a six-month pre-retirement leave, resulting in an Acting Commissioner being appointed and remaining in the position at 30 June, 2016. The ICO is located on the 3rd Floor of the Anderson Square Building, 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 Federation and its International Public Sector Accounting Standards Board (IASB). The accounting policies set out below have been applied consistently to all periods presented in these financial statements.

(a) Basis of preparation

The Financial Statements of the ICO are presented in Cayman Islands Dollars and comply with International Public Sector Accounting Standards for the accrual basis of accounting. Where additional guidance is required, International Financial Reporting Standards ("IFRS") issued by the International Accounting Standards Board are used. 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.

2. Significant accounting policies (continued)

(b) Reporting period

The reporting period is the year ended 30 June, 2016.

(c) Budget amounts

The 2015/16 final/original budget amounts were prepared using the accrual basis of accounting and the accounting policies have been consistently applied with the actual financial statement presentation. The 2015/16 original budget was presented in the 2015/2016 Annual Budget Statement of the Government and approved by the Legislative Assembly on 19 June, 2015. There have been no subsequent adjustments to the approved budget and therefore this represents the final budgeted amounts.

(d) 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. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. The account balances that require judgments are receivables from exchange transactions property and equipment and payables under exchange transactions. Actual results may 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. As at 30 June, 2016, no reliable fair value estimate of contributed goods and services provided to the ICO by Government entities could be made and therefore no estimate of amounts are recorded in these financial statements (2015: \$0).

(e) Foreign currency

Foreign currency transactions are recorded in Cayman Islands dollars using the exchange rate in effect at the date of the transaction. Foreign currency gains or losses resulting from settlement of such transactions are recognized in the statement of financial performance.

2. Significant accounting policies (continued)

(f) Foreign currency (continued)

At the end of the reporting period the following exchange rates are to be used to translate foreign currency balances:-

- Foreign currency monetary items are to be reported in Cayman Islands dollars using the closing rate at year-end date;
- Non-monetary items which are carried in terms of historical cost denominated in a foreign currency are reported in Cayman Islands dollars using the exchange rate at the date of the transaction; and
- Non-monetary items that are carried at fair value denominated in a foreign currency are reported in Cayman Islands dollars using the exchange rates that existed when the fair values were determined.

(g) 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.

(h) Receivables from exchange transactions

Receivables from exchange transactions 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.

(i) Property and equipment

Property and equipment, is stated at historical cost less accumulated depreciation. Items of property 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 basis at rates calculated to allocate the cost or valuation of an item of property and equipment; 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.

2. Significant accounting policies (continued)

(i) Property 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

Disposals

Gains and losses on disposals of property and equipment are determined by comparing the sale proceeds with the carrying amount of the asset. Gains and losses on disposals during the year are included in the statement of financial performance.

(j) 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.

(k) Operating lease

Leases, where a significant portion of the risks and rewards of ownership are retained by the lessor are classified as operating leases. Payments made under operating leases are recognised as expenses on a straight-line basis over the lease term.

(l) Financial instruments

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, receivables from exchange transactions and other receivables.

A financial liability is any liability that is a contractual obligation to deliver cash or another financial asset or to exchange financial instruments with another enterprise under conditions that are potentially unfavorable. Financial liabilities are comprised of payables under exchange transactions, other payables and accruals, employee entitlements and surplus payable.

2. Significant accounting policies (continued)

Financial instruments (continued)

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.

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 measured at amortized cost, which is considered to approximate fair value due to the short-term or immediate nature of these instruments.

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.

(m) 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.

(n) Revenue from non-exchange transactions

The ICO receives various services from other government entities for which payment is made by the 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.

2. Significant accounting policies (continued)

(n) Revenue from non-exchange transactions (continued)

When the service in-kind offered are directly related to construction or acquisition of property and equipment, such service in-kind is recognized in the cost of property and equipment.

(o) Impairment

An asset is impaired when its carrying amount exceeds its recoverable amount. If there is any indication of impairment present, the ICO is required to make a formal estimate of recoverable amount.

(p) Comparative figures

Comparative figures are reclassified to ensure consistency with the current period unless it is impracticable to do so.

3. Cash and cash equivalents

Cash and cash equivalents include cash on hand and bank accounts in the name of the ICO. As at 30 June, 2016, the ICO held no restricted cash balances (30 June, 2015: \$0). No interest was earned during the year on the amounts held in these bank accounts (30 June, 2015: \$0).

Prior Year Actual	Description	Amount in Actual Currency	Exchange Rate	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
101,248	CIS Operational current account	7,884	1.00	7,884	52,185	44,301
6,589	CIS Payroll current account	6,639	1.00	6,639	5,763	(876)
500	Cash on hand	500	1.00	500	500	-
108,337	Total cash and cash equivalents			15,023	58,448	43,425

Information Commissioner's Office
Notes to the Financial Statements (continued)
For the year ended 30 June 2016

4. Receivables from exchange transactions

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
125,574	Sale of outputs to Cabinet	69,270	66,415	(2,855)
125,574	Total receivables under exchange transactions	69,270	66,415	(2,855)

Prior Year Actual	Receivables from exchange transactions	Current Year Actual	Current Year Impairment	Net
125,574	Current	69,270	-	69,270
125,574	Total	69,270	-	69,270

As of 30 June, 2016, and 2015, receivables from exchange transactions are all due within one year.

5. Prepayments

The amount of CI\$1,534 (2015: CI\$3,592) represents paid in advance for goods and services not received in the financial year.

Information Commissioner's Office
Notes to the Financial Statements (continued)
For the year ended 30 June 2016

6. Property and equipment

Description	2015				Total
	Furniture	Office equipment	Computer equipment	Leasehold improvements	
Cost:					
Balance at the beginning of the year	21,648	4,492	6,300	69,644	102,084
Additions/transfers during the year	2,308	-	-	1,040	3,348
Disposal of fixed assets	(4,463)	(3,010)	(6,300)	(69,644)	(83,417)
Balance at the end of the year	19,493	1,482	-	1,040	22,015
Accumulated depreciation:					
Balance at the beginning of the year	10,406	4,492	6,300	69,644	90,842
Depreciation expense during the year	1,905	99	-	104	2,108
Disposal of fixed assets	(2,994)	(3,109)	(6,300)	(69,644)	(82,047)
Balance at the end of the year	9,317	1,482	-	104	10,903
Net book value at 30 June 2015	10,176	-	-	936	11,112
Net book value at 30 June 2014	11,242	-	-	-	11,242

Description	2016				Total
	Furniture	Office equipment	Computer equipment	Leasehold improvements	
Cost:					
Balance at the beginning of the year	19,493	1,482	-	1,040	22,015
Additions/transfers during the year	1,318	1,735	-	-	3,053
Disposal of fixed assets	-	-	-	-	-
Balance at the end of the year	20,811	3,217	-	1,040	25,068
Accumulated depreciation:					
Balance at the beginning of the year	9,317	1,482	-	104	10,903
Depreciation expense during the year	1,679	174	-	208	2,061
Disposal of fixed assets	-	-	-	-	-
Balance at the end of the year	10,996	1,656	-	312	12,964
Net book value at 30 June 2016	9,815	1,561	-	728	12,104
Net book value at 30 June 2015	10,176	-	-	936	11,112

Information Commissioner's Office
Notes to the Financial Statements (continued)
For the year ended 30 June 2016

7. Payables under exchange transactions, other payables and accruals

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Original vs. Actual)
83,793	Creditors other government agencies	-	49,386	49,386
15,000	Audit fees	16,200	16,200	-
3,750	Accrued expenses	1,043	3,421	2,378
	Total payables under exchange transactions, other payables and accruals	17,243	69,007	51,764
102,543				

Payables under exchange transactions and other payables are non-interest bearing and are normally settled on 30-day terms.

8. Employees entitlements

Employee entitlements represent the unpaid portion of accrued vacation as at the statement of financial position date. The value of this liability as at 30 June, 2016, is shown in the table below.

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Original vs. Actual)
	Current employee entitlements are represented by:			
4,315	Annual Leave	3,632	7,414	3,782
4,315	Total current portion	3,632	7,414	3,782
4,315	Total employee entitlements	3,632	7,414	3,782

The retirement and long-service leave entitlements are calculated based on current salary paid to those employees who are eligible for this benefit.

Note 9: Surplus payable

This represents the excess of outputs for the year ended 30 June, 2016. Under the *Public Management & Finance Law (2013 Revision)* section 39 (3) (f), the ICO may “retain such part of its net operating surplus as is determined by the Financial Secretary”. Therefore, ICO has booked a surplus payable to Government in the amount of CI\$15,109 as of 30 June, 2016 (2015: CI\$79,766). The Financial Secretary has not confirmed whether they can retain the surplus achieved during this year. During the year ended 30 June, 2016, the ICO paid to Cabinet surplus payable in the amount of CI\$79,766.

Information Commissioner's Office
Notes to the Financial Statements (continued)
For the year ended 30 June 2016

10. Revenue from Non-Exchange Transactions

During the year ended 30 June, 2016, ICO received services in-kind in the form of computer repairs and software maintenance by the Computer Services Department and human resources management by the Portfolio of the Civil Service. The fair value of these services cannot be determined and therefore were not recognised as revenues and expenses in these financial statements.

11. Revenue

Prior Year Actual	Revenue type	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
755,187	Outputs to Cabinet	571,815	796,983	225,168
125	Miscellaneous	125	-	(125)
755,312	Total sales of goods and services	571,940	796,983	225,043

12. Personnel costs

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
343,040	Salaries, wages and allowances	348,265	443,401	95,136
57,275	Health care	53,562	74,665	21,103
19,882	Pension	19,229	25,013	5,784
-	Leave	(683)	2,000	2,683
-	Other	-	4,000	4,000
420,197	Total Personnel Costs	420,373	549,079	128,706

Information Commissioner's Office
Notes to the Financial Statements (continued)
For the year ended 30 June 2016

13. Supplies and consumables

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
45,202	Lease of property, and equipment	39,772	46,000	6,228
22,962	Purchase of services	23,416	42,400	18,984
11,727	Recruitment and training	21,117	16,500	(4,617)
17,400	Audit fees	16,200	16,200	-
13,667	Utilities	9,635	23,200	13,565
5,210	Travel and subsistence	5,891	12,000	6,109
8,006	Supplies and materials	5,403	11,000	5,597
1,583	General insurance	1,333	1,800	467
1,289	Other	1,146	2,000	854
127,046	Total Supplies and consumables	123,913	171,100	47,187

14. Litigation cost

The Information Commissioner is a quasi-judicial office and an independent entity which processes, mediates, and hears appeals. For the purpose of judicial review, the Commissioner requires 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 the 2015-2016 legal services were requested to the value of CI\$10,605 (2015: CI\$124,816).

Information Commissioner's Office
Notes to the Financial Statements (continued)
For the year ended 30 June 2016

15. Reconciliation of net cash flows from operating activities to surplus

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
79,766	Surplus from ordinary activities	15,109	-	(15,109)
	Non-cash movements			
2,108	Depreciation expense	2,061	1,804	(257)
1,370	Loss on sale of fixed assets	-	-	-
	Changes in current assets and liabilities:			
(85,709)	(Increase)/decrease in current assets	58,318	(21,415)	(79,733)
34,611	Increase/(Decrease) in current liabilities	(85,300)	-	85,300
(1,099)	(Decrease)/increase in provisions relating to employee costs	(683)	-	683
<u>31,047</u>	Net cash flows from operating activities	<u>(10,495)</u>	<u>(19,611)</u>	<u>(9,116)</u>

16. Commitments

Prior Year Actual	Type	One year or less	One to five years	Total
	Operating commitments			
182,288	Non-cancellable accommodation leases	39,772	92,801	132,573
<u>182,288</u>	Total operating commitments	<u>39,772</u>	<u>92,801</u>	<u>132,573</u>

The ICO has medium to long-term accommodation leases for the premises it occupies in George Town. The lease is for 5 years and expires on the 30 October, 2019. The amounts disclosed above as future commitments are based on the current rental rates.

17. Explanation of major variances against budget

Explanations for major variances for ICO's performance against the budget are as follows:

Statement of Financial Position

Cash and cash equivalents

The decrease in actual cash and cash equivalents of \$43,425 compared to budget is primarily due to the \$79,766 repayment of surplus payable during the year which was not budgeted.

17. Explanation of major variances against budget (continued)

Statement of Financial Position (continued)

Payables under exchange transactions

The variance of CI\$49,386 in payables under exchange transactions when comparing actual to budget is primarily due to the repayment of the debt of \$48,643 owed to another Government Agency. This was not anticipated in the budget given the various attempt to discharge this debt previously.

Surplus Payable

The surplus payable of \$15,109 is the excess of output over expenses for the financial year. ICO's budget is usually prepared on a breakeven basis and no surplus was budgeted for. This minor surplus is therefore as a result of variances in amounts accrued versus actual.

Statement of financial performance

Sale of goods and services

The decrease in actuals of CI\$225,043 when compared to budget can be attributable to the fact that actual billings to cabinet were based on the amount spent and accruals in each month.

Personnel costs

The favorable variance of CI\$128,706 in personnel costs is mainly as a result of the ongoing vacancy in the Information Commissioner's position, which was budgeted to be filled during the period.

Supplies and consumables

The net decrease in actuals of CI\$47,187 when compared to the budgeted amount is primarily due to over budgeting in rent and utilities of CI\$19,793. In addition \$10,000 was budgeted as a contingency for Data Protection but to date the Data Protection Bill has not been implemented as relevant law has not been passed. In addition, decrease in official travel of CI\$6,109 is directly linked to the ongoing vacancy of the Commissioner's position. There were numerous other small decreases totaling CI\$15,902 in office supplies, janitorial services, security services, publicity expenses and other. These decreases were offset by increase in training of CI\$4,617, mainly as a result of training in dispute resolution.

Litigation costs

The decrease in litigation costs of \$64,395 when compared to the budgeted amount is due to over budgeted costs relating to the previous on-going judicial reviews which were completed in the current year requiring less spend on legal costs.

18. Related party and key management personnel disclosures

Related party disclosure

The ICO is a wholly-owned entity of the Government from which it derives a major source of its revenue. The ICO transact with other government entities on a regular basis. These transactions were provided free of cost during the financial year ended 30 June, 2016, and were consistent with normal operating relationships between entities and were undertaken on terms and conditions that are normal for such.

Prior Year Actual	Statement of financial position	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
125,574	Receivables from exchange transactions	69,270	66,415	(145)
83,793	Payables under exchange transactions	-	49,386	49,386
79,766	Surplus payable	15,109	-	(15,109)

Prior Year Actual	Statement of financial performance	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
755,312	Sale of goods and services	571,940	796,983	225,043
1,583	Insurance expense	1,333	1,800	467

Key management personnel

There are two full-time equivalent personnel considered as key management personnel. The total remuneration includes: regular salary, allowances, pension contributions and health insurance contributions. Total remuneration for the members of senior management for the year ended 30 June, 2016, was \$226,654 (2015: \$227,754). There were no loans made to key management personnel or their close family members in 2015-16 (2014-15: \$0).

19. Financial instruments risks

The ICO is exposed to a variety of financial risks including credit risk and liquidity risk. The risk management policies are designed to identify and manage these risks, to set appropriate risk limits and controls, and to monitor the risks and adhere to limits by means of up to date and reliable information systems. These risks are managed within the parameters established by the Financial Regulations (2013 Revision).

Credit risks

Credit risk refers to the risk that a counterparty will default on its contractual obligations resulting in financial loss to the ICO. Financial assets which potentially expose the ICO to credit risk comprise cash and cash equivalents and receivables from exchange transactions.

19. Financial instruments risks (continued)

Credit risks (continued)

The ICO is exposed to potential loss that would be incurred if the counterparty to the bank balances fails to discharge its obligation to repay. All bank balances are with one financial institution located in the Cayman Islands which management, considers to be financially secure and well managed.

Liquidity risk

Liquidity risk is the risk that the ICO is unable to meet its payment obligations associated with its financial liabilities when they are due.

The ability of the ICO to meet its debts and obligation is dependent upon its ability to collect the debts outstanding to the ICO in a timely basis. In the event of being unable to collect its outstanding debts, it is expected that the Government would temporarily fund any shortfalls the ICO would have with its own cash flows. As at 30 June, 2016, and 2015, all of the financial liabilities were due within three months of the year end dates.

20. Financial instruments – fair values

As at 30 June, 2016, and 2015, the carrying values of cash and cash equivalents, receivables from exchange transactions, payables under exchange transactions, other payables, employee entitlements and surplus payable approximate their fair values due to their relative short-term maturities.

Fair values are made at a specific point in time, based on market conditions and information about the financial instrument. These estimates are subjective in nature and involve uncertainties and matters of significant judgment and therefore cannot be determined with precision. Changes in assumptions, economic conditions and other factors could cause significant changes in fair value estimates.

21. Subsequent events

In preparing these financial statements management has evaluated and disclosed all material subsequent events up to 31 October, 2016, which is the date that the financial statements were available to be issued.