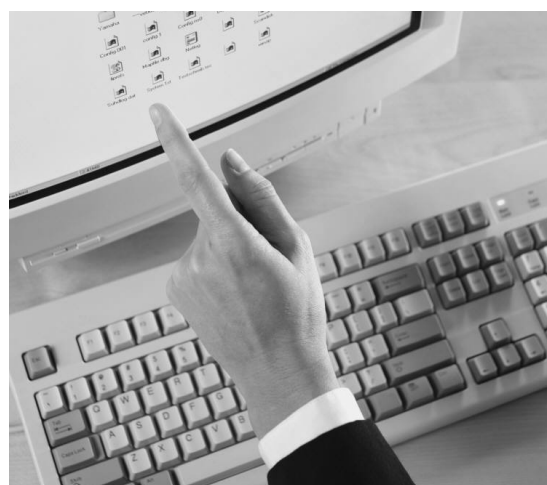
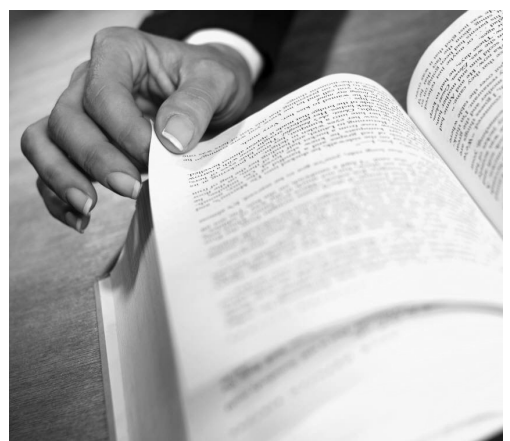


Information Commissioner's
Half Year Report
January - June 2010

Opening Doors to Information

Cayman
Islands



ico
Information
Commissioner's
Office

An electronic version of this report is available
in our online document library at:

www.INFOCOMM.ky

This report has been produced in-house with design and layout by
Pasha Delahunty, Registrar of Hearings & Assistant to the Information Commissioner

AUGUST 2010

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Jan - Jun 2010 Half Year 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

Objects of the Law

The objects of the *Freedom of Information Law, 2007* are to reinforce and give further effect to certain fundamental principles underlying the system of constitutional democracy, namely —

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

by granting to the public a general right of access to records held by the public authorities, subject to exemptions which balance that right against the public interest in exempting from disclosure governmental, commercial or personal information.

Our Vision

'Glass Houses' are transparent. A transparent government is an accountable government.

The Information Commissioner's Office (ICO) promotes access rights to Government records and monitors the compliance of public authorities with the *Freedom of Information Law, 2007* (Law).

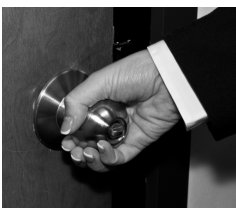
Successive Government's have demonstrated a commitment to Freedom of Information (FOI) by passing appropriate legislation and FOI is also enshrined in the Cayman Islands Constitution.

The ICO is working to ensure that information is available and the public understands how to access it.

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.



"Opening Doors to Information"

Information Commissioner's Foreword

Since the publication of our 2009 Annual Report in late April this year, several changes pertaining to my role as Information Commissioner have come into effect. The most important are amendments to the *Public Management and Finance Law* and the *Public Service Management Law* which now define my appointment as a Chief Officer and give my office more control and custody of our finances and budget. As it is a requirement of the *Freedom of Information Law* that my annual reports include audited financial accounts, and as this was not attainable for the 2009 report, I thought it prudent to revise our reporting year to bring it in line with our fiscal year which runs from July-June. Therefore this report is a transition report covering the first six months of 2010.

The past six months at the ICO has been busy and eventful with three formal Hearings completed during the reporting period. Decisions in these appeals were varied and judicial review of one Hearing has been sought. We welcome the opportunity to clarify the Law and participate in the process.

While the Parliamentary Committee to whom I report and which will oversee the required review of the FOI Law has yet to meet, the ICO has have actively commenced our review of the Law as per section 58 and readily await the law revision process to commence.

Another recent development is the appointment of the new Deputy Information Commissioner Jan Liebaers. Jan comes to the ICO with extensive knowledge and experience with information & privacy rights and records & data management.

Despite some obvious financial constraints, the ICO has already set out in planning some new, exciting and very cost effective promotional events and activities for the new financial year. Notwithstanding the recent budget cuts, we hope to be able to continue to promote access rights to the public. We also plan to continue to meet with the Information Managers in smaller informal groups so compliance issues can be identified and general feedback addressed on a more personal level.

In only a short time, we have started to see the term "FOI" being used by the public in relation to issues where access to information about the decision making processes of Government is sought. This is the first step to enshrining FOI in our lives.

We continue to seek the cooperation of both the public authorities and the public in ensuring that the fundamental human right of freedom of information is made a part of the culture of the Cayman Islands.

Jennifer P. Dilbert
Information Commissioner



Jennifer Dilbert MBE, JP
Information
Commissioner

Appointed 5 January 2009

Jennifer Dilbert is the Cayman Islands' first Information Commissioner. Prior to her appointment in January 2009, she served as the Government Representative in the United Kingdom for over 8 years.

Following an lengthy career in the Civil Service in which she spent several years in supervision of the financial services industry, Mrs. Dilbert joined the private sector as Executive Director of Deutsche Bank (Cayman) Ltd. from 1996 to 1999.

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.

Six-months at a Glance

Jan	The Publication Schemes for almost all public authorities were printed in the Cayman Islands Gazette on 5 January 2010 as required by Law The ICO relaunches it's website with changes aimed at making the site easier to navigate The new Governor, Mr. Duncan Taylor visited the ICO on 20 January 2010 The second ICO own-initiative investigation into the records management practices of public authorities is launched.
Feb	On 12 February 2010, the Information Commissioner upholds the decision of the RCIPS in ICO 2-01109 and finds that records relating to Operation Tempura are exempt from disclosure under the FOI Law Deputy Information Commissioner, Gary Cordes resigns his post with the ICO The ICO hosted an open house in Cayman Brac as part of our continuing efforts to promote access rights in the Sister Islands
Mar	The 3rd Edition of the ICON is published and distributed The Information Commissioner travels to Jersey and Scotland to research Data Protection Laws, attend a seminar with the Scottish ICO and visit their offices from 19-29 March 2010
Apr	The Information Commissioner's Annual Report 2009 is completed and distributed to the Legislative Assembly and Governor. The report must now be tabled prior to publication. On 20 April 2010, the Information Commissioner rendered a Decision on ICO 3-02209 in which she concluded that the responsive record pertaining to the guidelines on importing and housing dolphins in the Cayman Islands was not exempt under the FOI Law and ordered a copy of it be released to the applicant The 1st Quarter Report and Operational Plan for 2010 was finalized and distributed
May	A Decision in ICO 4-02109 was made on 20 May 2010. The Information Commissioner ordered the release of the transcripts from the Constitutional negotiation talks. The Cabinet Office in compliance with Decision 4-02109 released the Constitutional transcripts and in the spirit of FOI proactively published the record on their website
Jun	Jan Liebaers took up his post as Deputy Information Commissioner on 1 June 2010 The Department of Agriculture applied to the Grand Court for judicial review of the Information Commissioner's Decision in 3-02209 The 4th Edition of the ICON is published and distributed The ICO set up a display table at the Cayman Islands Society of Human Resources Professionals conference at the Marriott on 10 June 2010 The ICO held its first IM Network Seminar with the Information Managers from the Ministries and Portfolios. The ICO's budget for the 2010-2011 financial year was approved on 22 June 2010 by the Finance Committee of the Legislative Assembly On 30 June 2010, the Information Commissioner's Annual Report for 2009 was tabled in the Legislative Assembly. A motion was also passed to establish committees of the whole House to which the Commissioner reports and which will oversee the Law review

Freedom of Information Outcomes Jan - Jun 2010

Statistics

Request Statistics

The *Freedom of Information Law, 2007* was brought into effect on 5 January 2009. Between 1 January 2010 and the 30 June 2010, a total of **264** access to information requests were made¹.

Appeal Statistics

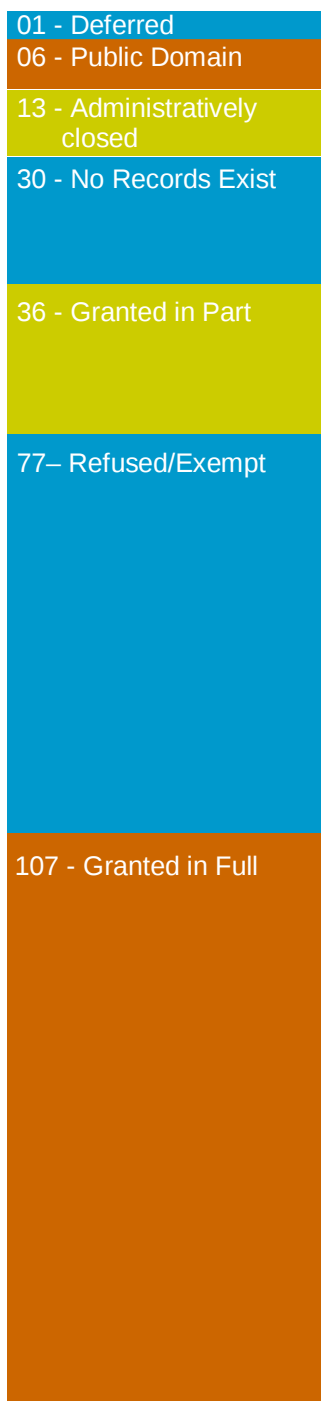
Between 1 January and 30 June 2010, 8 appeal files were opened. Three formal Hearings before the Information Commissioner were decided within the first 6 months of 2010.

ICO APPEALS- 2010

Files opened	8
Files closed (Being opened this period)	7
Files closed (Being opened in previous period)	5
Files successfully mediated	4
Files referred back to Public Authority/ No Further Action	5
Files sent to hearing before the Commissioner	3
Decisions made by Commissioner	3
Files active (At the end of the period)	1

REASONS FOR APPEALS THIS PERIOD

- 49%** Withheld – Full (public authority fully withheld records from disclosure)
- 25%** Refusal (Refused on several grounds to respond to a request)
- 13%** Time Limit (public authority failed to respond to applicant within set timeframe)
- 13%** Deferred Disclosure (deferred disclosure to a later date)



270

¹ Information Commissioner's Office does not have direct access to statistics produced by the JADE tracking system which is used by all Government authorities. These request statistics were therefore confirmed by the Freedom of Information Unit



Sonji Myles

Intake Analyst

Employed 18 July 2009

Sonji brings with him a wealth of varied professional experience. Having worked as the Assistant Manager of Cayman Islands Emergency Communication Centre (911) he is well versed with public administration, emergency management and communications. Previous to that Sonji served as a member of the Royal Cayman Islands Police Service, most recently as a Detective Sergeant in the Criminal Investigations Department. Sonji also holds a Bachelors of Law from the University of Liverpool. His investigative skills, experience and keen interest in public administration, along with ongoing legal education has provided him with the tools necessary to uphold the ICO's aims and obligations under the FOI Law.

Policy Development

Appeals Intake

The ICO's Intake role is critical to the function of the Office. The responsibilities of the role include upholding the dignity, integrity and neutrality of the Office by treating all callers and persons requesting an appeal with respect and professionalism.

As the front line of the ICO, Intake handles:

- receiving all operational related correspondence;
- determining jurisdiction of the Office over a particular matter;
- classifying and opening appeal files; and
- issuing correspondence to parties.

For this purpose, it was necessary to establish Intake Policies and Procedures to make the process of handling requests for information, and for accepting appeals easy, efficient, and consistent.

From the inception of the FOI Law in January 2009, the current Intake Policy and Procedures have gone through several changes such as creating a checklist for determining the ICO's jurisdiction; defining case types; creating and recording case files; creating form letters for speedy response to persons, and creating a post to specifically handle Intake matters. The Intake Policy and Procedures were complete in August 2009.

As applications for appeals and general correspondence were received, we identified key areas of the Intake role that needed further development.

Mediation Process

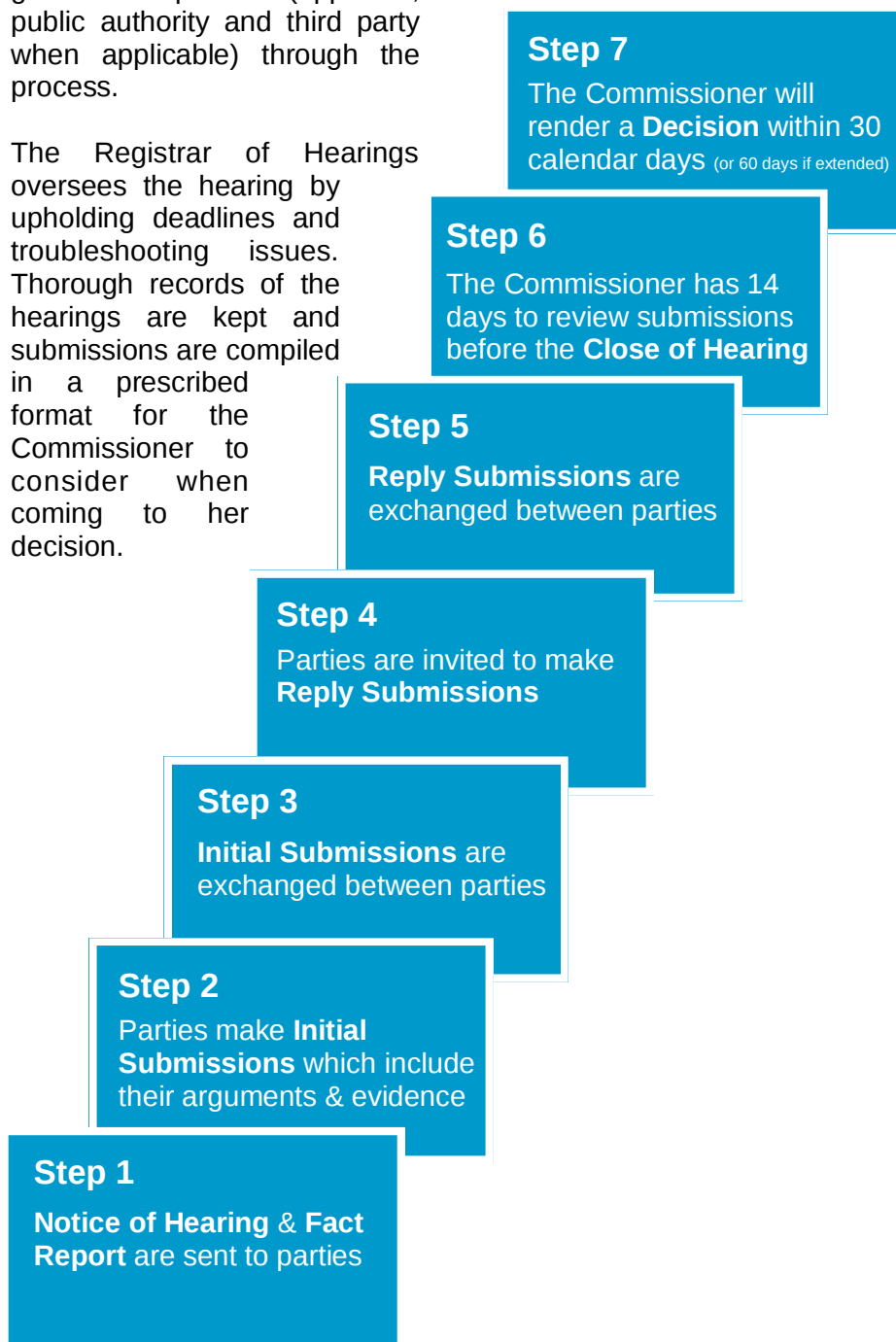
After consulting with Freedom of Information practitioners in other jurisdictions, the ICO has adopted an informal mediation process that is used as a first step in all appeals made to the Office. Information Commissioners worldwide have indicated that mediation is an effective and efficient step in the appeals process for all parties concerned and it was with this in mind that the ICO adopted the process. Mediation has been widely accepted and is proving its value having allowed many appeals to be satisfactorily resolved in a much shorter time and with less cost and resources than a formal hearing may incur.

The mediation process is conducted on a voluntary basis, and seeks to resolve differences between parties by providing clarity on the issues at hand, and proposing alternative resolutions to the parties when appropriate. Any party may opt to discontinue mediation at any time and the matter can proceed directly to a formal hearing; however, the mediation process has many advantages over the hearing process.

Hearing Process

The ICO has designed a comprehensive set of policies and procedures relating to the hearing process. Formal Hearings before the Information Commissioner to date have been written Hearings, and as such require that specific steps be taken at defined times to ensure that administrative and procedural fairness are maintained. The policies and procedures for written hearings guide the parties (applicant, public authority and third party when applicable) through the process.

The Registrar of Hearings oversees the hearing by upholding deadlines and troubleshooting issues. Thorough records of the hearings are kept and submissions are compiled in a prescribed format for the Commissioner to consider when coming to her decision.



Jan Liebaers, MA, CA, LL.M

Deputy Information Commissioner

Employed 1 June 2010

Jan previously worked with the Cayman Islands National Archive for more than 10 years until 2007, where he headed the Archive and Records Management sections. In 2006-07 he was a member of the FOI Steering and Implementation Committees which formulated the *Freedom of Information Law* in the Cayman Islands.

Along with his substantial experience in records management and FOI, Jan recently completed (with distinction) an LL.M in Information Rights and Practice at Northumbria University (in conjunction with the Ministry of Justice in the UK), which focused on Freedom of Information and Data Protection.

Appeals to the ICO



Cory Martinson
Appeals & Policy
Analyst

Employed 1 September 2009

Cory relocated to the Cayman Islands in September 2009 to take up the post of Appeals and Policy Analyst. Prior to that, Cory worked for the Office of the Information and Privacy Commissioner for British Columbia, Canada for three and a half years. There his primary responsibilities included conducting mediations and investigations involving the provincial government as well as private businesses. He has a diploma in Resource Management Officer Technology and Bachelor's degree in history. He is also a commissioned officer with the Canadian Armed Forces Reserve.

Case Studies

CAYMAN AIRWAYS - An applicant made a FOI request to Cayman Airways (CAL) for copies of their Board of Directors Meeting minutes. CAL withheld the records claiming that they contained commercial information and that disclosure could destroy or diminish the value of that information. The Information Commissioners Office reviewed this matter which subsequently led to CAL agreeing to disclose a redacted version on the requested records. The applicant accepted the records as released and withdrew the appeal.

PORT AUTHORITY - An applicant submitted a request to the Port Authority for details of the Port Director's terms of employment. Specifically, the applicant requested the date of the contract, the exact salary, salary scale and benefits; and the name of the person who signed the contract on behalf of the Employer. The Authority released the salary range but, refused to disclose the other requested information on the grounds that it is personal information and that disclosure would likely endanger the Director's safety. The Information Commissioner's Office reviewed the facts of this matter in light of the Commissioner's recent decision regarding disclosure Senior Public Official's salaries. During the review the Authority agreed to fully disclose all of the requested information.

Investigation

In January 2010 the ICO launched an investigation to determine if public authorities were maintaining their records as prescribed under section 52 of the FOI Law and the Chief Secretary's Code of Practice on Records Management. The Code of Practice provides the policy framework for public service records management and provides detailed advice on how to meet the expected standards.

The goal of the investigation was to garner a general understanding of each public authority's file management systems, physically view the files and discuss how each of them have met the requirements as described above. The public authorities that were subject to this investigation were the Immigration Department, Royal Cayman Islands Police Service, Planning Department, Health Services Authority, Monetary Authority and the Legal Department.

While the overall conclusion is that the public authorities assessed have done a reasonable job meeting the standards, there is potential for meaningful improvement. Most of the public authorities should look at creating a records management position within their agency. Another common concern is that most public authorities do not have procedures in place that specifically guide their employees on how to label, reference, and classify operational records, or policies that relate to the security and access of such files.

Hearings

ICO Hearing 2-01109—Decision issued 12 February 2010

SUMMARY: A media Applicant was refused access to a report filed with former Police Commissioner James Smith by Martin Bridger relating to Mr. Justice Alexander Henderson.

The Information Commissioner upheld the Public Authority's decision to refuse access to the responsive record and found that the record requested by the Applicant is exempt from disclosure under the Freedom of Information Law, 2007 ("FOI Law") as it would be privileged from production in legal proceedings on the ground of legal professional privilege.

ICO Hearing 3-02209—Decision issued 20 April 2010

SUMMARY: An Applicant was refused access by the Department of Agriculture to a copy of the 'Alliance of Marine Mammal Parks and Aquarium Standards and Guidelines'. These guidelines were referenced in the Department of Agriculture's policy papers which set out the conditions and application process to import a marine mammal to the Cayman Islands.

The Information Commissioner found that the requested record was not exempt from disclosure under the *Freedom of Information Law, 2007* and ordered the Department of Agriculture to release a copy of the record to the Applicant.

The Public Authority in this matter has applied to the Grand Court for leave to seek judicial review of this Decision.

ICO Hearing 4-02109—Decision issued 20 May 2010

SUMMARY: An Applicant was refused access by the Cabinet Office to a copy of the transcripts of the three rounds of constitutional negotiation talks between representatives of the Cayman Islands and the United Kingdom Foreign and Commonwealth Office.

The Information Commissioner found that the requested record was not exempt from disclosure under the *Freedom of Information Law, 2007* and ordered the Cabinet Office to release a copy of the requested record to the Applicant.

To access the entire ICO Investigation reports and Hearing Decisions, please visit the 'Appeals' section of our website at www.INFOCOMM.ky



Pasha Delahunty

Registrar of Hearings &
Assistant to the
Information
Commissioner

Employed 30 July 2009

Pasha joined the Information Commissioner's Office in July 2009 after having worked for several years with the Tourism Attraction Board where she most recently held the posts of Information Manager and PA to the CEO.

Originally from Canada, Pasha moved to Cayman in 1997. Her background in administration and marketing combined with legal studies focused on Alternative Dispute Resolution both locally and abroad give her a well rounded and holistic approach to what is needed to support the Information Commissioner and the ICO.

Freedom of Information in the Press

The local media and general public continue to exercise their right to Government records through FOI. During the reporting period, several media stories resulting from FOI requests have been published. Below is a sampling of some of the headlines.

Cayman Islands is more open

11 January 2010 • Caymanian Compass

More information is now available to the public about the operation and responsibilities of Cayman's 88 separate government agencies than has ever been in the past.

Op Tempura report withheld

23 February 2010 • Caymanian Compass

A report compiled by the former chief investigator of the ill-fated Operation Tempura corruption investigation has been withheld from public release under Cayman's Freedom of Information Law.

FOI commissioner orders dolphin standards released

23 April 2010 • Caymanian Compass

In the third decision made under the Freedom of Information Law (2007), Information Commissioner Jennifer Dilbert has ordered the release of information pertaining to guidelines for keeping dolphins in captivity.

Premier hits out at FOI, press

13 May 2010 • Caymanian Compass

Insisting that the Cayman Islands remain a democratic country with a free press, Premier McKeever Bush announced Thursday afternoon his intention to implement hefty new fees on various media publications.

ICO: Information flow is being stymied

14 May 2010 • Caymanian Compass

Information Commissioner Jennifer Dilbert said this week she's concerned people asking for government information are being thwarted.

Bushwacked!

17 May 2010 • Caymanian Compass

Premier McKeever Bush has lashed out against elements of the Cayman Islands media and the Freedom of Information Law, threatening to impose a six-figure licence fee on media outlets.

Premier's travel detailed

18 May 2010 • Caymanian Compass

Premier McKeever Bush, publicly responding to a Freedom of Information request, detailed his travels since taking office last year.

Constitution talks go public

3 June 2010 Cayman News Service

Following the ruling by the information commissioner the Cabinet Office has now finally agreed to release the transcripts from the three rounds of constitutional negotiations between the Cayman Islands and UK Governments.

Planning makes positive moves towards disclosure

10 June 2010 • Cayman News Service

The Cayman Islands Planning Department has taken a positive step and is now publishing the agendas and minutes of all the Central Planning Authority meetings on its website.

How to make an access request?

Applications for information do not need to be made on a particular form however they do need to be made in writing. In accordance with the *FOI Regulations*, an application shall include the following;

- (a) A name (It does not have to be a real name. A fake name or pseudonym can be used);
- (b) A postal address **OR** e-mail address (or both if you agree) to which notices and information can be sent (Authorities may need to clarify your request and need to be able to contact you. You can chose to provide phone details);
- (c) Details of the requested records, including (if known) the period and/or geographic area to which the information relates; dates relevant to the information needed; the name or other identifying characteristics of the document; and
- (d) The form of access preferred (e.g. electronic or photocopies).

2010 FOI Publication Scheme List

Every public authority has a legal duty to maintain a publication scheme under the Freedom of Information Law.

The purpose of a publication scheme is to make information readily available to the public without the need for specific written requests. Schemes are intended to encourage authorities to proactively publish information.

Publication Schemes lists information which is readily available to the public. The list is divided into seven (7) different categories, to help the public find the documents they seek.

1. About Us
2. Strategic Management
3. Finance & Administration
4. Policies & Procedures
5. Decision & Recommendations
6. Lists & Registers
7. Our Services

ICO Publication Scheme

The ICO Publication Scheme was published in the Cayman Islands Gazette on 4 January 2010 in accordance with the Law.

Along with basic information about the ICO including what we do and how we can be contacted, the documents lists different types of records the organization holds and are available either on our website or by request. Some of the types of information listed are:

- Organizational Plans
- Reports
- Financial Information
- Press Releases
- Salary Scale
- Newsletters
- Policy Documents
- Presentations
- Forms & Booklets
- Hearings & Investigations

The Publication Scheme also sets out the ICO's File Plan which is separated into Administrative and Operational Files. This information is intended to help the public identify and/or narrow down the types of records they may seek.

Administrative Files

Financial Management
Human Resources Management
Buildings, Equipment & Vehicles
Information & Technology Management
Communications
Strategic Management

Operational Files

Appeals Management
Compliance Management
Promotional Management
Secretariat Support

Disclosure Log

The disclosure log tracks and tallies all the FOI access requests that the ICO itself receives. For the reporting period, there was only one such request received by the ICO.

#	Request Number	Request Details	Outcome	Exemptions (Relevant section/ subsection)
9	32080	Records relating to Appeal File: 02209 & Department of Agriculture	Exempt	20(1)(d)

Promoting FOI



Christina Smith

**Office Manager /
Information Manager**

Employed 5 March 2009

Christina Smith was the first employee to join the Commissioner in the establishment of the Information Commissioner's Office. Her role includes providing administrative, secretarial and management support to the ICO. She handles personnel issues, budget related matters, and assists the public and responds to FOI requests made to the ICO.

Christina previously worked for Deloitte Financial Advisory Services, before joining Government where she worked with the Cabinet Office and FOI Unit.

She holds a Bachelor degree in Business Administration from the International College of the Cayman Islands.

Outreach Initiatives

Educating		
	Conference presentations	1
	Service Club presentations	1
	Information Manager's workshops	1
	Private sector presentations	4
	Presentations to Government	6
	Educational & fact finding visits abroad	1
	Information Commissioner's Office training sessions	2
	Access clinics (Grand Cayman & Cayman Brac)	1
Communicating		
	Press Releases	5
	Newspaper Advertisements	0
	Articles in the Media	21
	Radio Interviews conducted	4
	Television Appearances	1
	Printed Matter distribution outlets	7
Publishing		
	ICON newsletters published	2
	Flyers designed	3
	Reports published	3

Rack Card Distribution Centres

In early 2010, the ICO set out to broaden our promotional reach. Rack card distribution centres were set up at the post offices, grocery stores, health services waiting rooms and several other visible and high traffic locations islands wide.

The centres are stocked with copies of the ICO's FOI Request booklets, Appeal Forms, Public Authorities Listings and 'ICON' newsletters. They are replenished on a monthly basis and as all the materials are both designed and printed in-house there are minimal costs associated with this initiative.

Developing & Improving

Decision - Maker's Seminar

On 28 April and 5 May, Justice Henderson led the ICO and a group of decision makers through the intricacies of decision writing and the judicial review process.

The group was privileged to be able to draw on Judge Henderson's extensive judicial experience and legal expertise. The seminar focused on the broad and general approach to decision making and included discussions on administrative fairness, procedural matters, the judicial review process and how to lay out decisions with supporting reasoning. Helpful tips on decision writing methods and styles were also shared with participants.

Along with the ICO team, 9 other participants from various boards, committees and departments attended the seminar which was held in the Judge's Chambers. Representatives from the Liquor Licensing Board, the Commission Secretariat, the Parole Board, Department of Immigration, the Complaints Commission and the Public Transport Board were in attendance. All benefitted from the new found knowledge which will be of much use in their respective roles.

The idea for the seminar stemmed from a meeting between the Justice Henderson and Mrs. Dilbert where a need to better understand judicial review was identified. It was thought that a wider audience would benefit from the presentation, and other agencies who render decisions were therefore invited to attend.

ICO Seminar Series

On the 11 June 2010, the ICO held its first in a series of Information Manager's Seminar. The purpose of these meetings is to bring together small groups of Information Manager's to give them an overview of the role of the ICO as well as exchange ideas and share experiences they have come across during their tenure as Information Managers.

The Seminar focused on FOI processes within public authorities. The discussing touched on types of requests received, timelines & responses as well as statistics and reporting issues.

The next seminar, which will include IM's from some of the statutory authorities, is scheduled for the end of July 2010.



The ICO continues to promote access rights through special events and training sessions.

Financial Overview

The Public Management and Finance Law (PMFL) was amended on 28 April 2010. This change was needed to allow the ICO to independently govern its own budget and accounts.

For the reporting period of this report, the ICO budget remained part of the Cabinet Office, and as such it was not possible to obtain audited financial statements. The figures are below are therefore estimated and unaudited.

By producing a half year report, the ICO reporting schedule can now run concurrently with Government's financial year. From the 1 July 2010, the ICO will have direct control over it's budget thus enabling us to produce audited accounts for future reports.

The ICO's 2010-2011 budget was approved by the Finance Committee of the Legislative Assembly on the 22 June 2010. The amount indicated in the yellow column below represents an entire budget year. The figures that relate to this reporting period are based on 6 months.

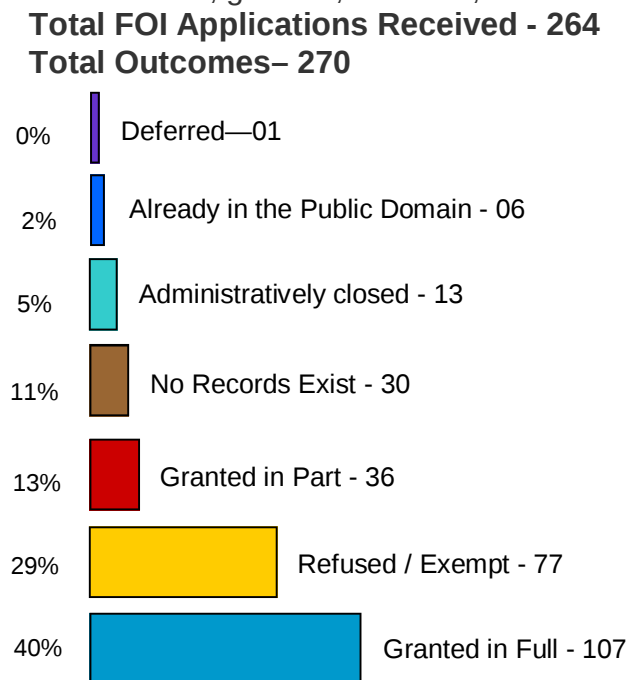
Description	Jan - Jun 2010 Budgeted (KYD \$)	Jan - Jun 2010 Actual (KYD \$)	Jul 2010 - Jun 2011 Approved Budget (KYD \$)
Staffing (includes: salary, healthcare and pension contributions and allowances)	228,654.00	227,283.60	482,835.00
Accommodation (includes: rent, rates and services)	26,940.00	26,600.00	68,980.00
Training, travel, subsistence and hospitality	5,001.00	4,604.00	16,500.00
Office supplies, printing and stationery	2,350.50	2,365.00	4,400.00
Information technology & telecommunications	18,297.00	16,913.00	15,400.00
Specialist assistance, legal fees & financial charges	47,500.50	6,037.59	43,703.00
Communications & Public Relations (includes: marketing, advertising and publishing)	5,175.00	1,054.27	11,500.00
Depreciation	2,869.50	5,736.00	9,750.00
TOTAL	318,847.50	290,593.46	653,068.00

Compliance Reporting

All public authorities are required to submit quarterly reports to the ICO which are generated by the JADE tracking system. These reports were compiled and analyzed by the ICO to enable an overview of the operation of the Law. The reports are also used as a tool for measuring the practices and efficiencies of public authorities' application of the Law.

Section 40 of the *Freedom of Information Law, 2007* requires that the Information Commissioner lay before the Legislative Assembly a comprehensive report. In addition to audited accounts, this report must contain, but is not limited to the following:

- (a) The number of applications received, granted, deferred, refused or granted subject to deletions:



- (b) Categories of exemptions claimed and the numbers of each category -
 (see page 15 “Categories of Exemptions Claimed” for a full breakdown and chart of these numbers)

- (c) Number of applications received for -

- (i) amendments of personal records - **0**
- (ii) annotation of personal records - **0**

- (d) Number of -

- (i) applications for Internal Review of relevant decisions - **7**
- (ii) appeals against relevant decisions - **8**;

and the rate of success¹ or failure thereof = 100.0%

2 Successfully mediated, **1** pending, **5** referred back to public authority

Additionally the success rate of **3** appeals carried over from the previous period was 66.66%.

¹Rate of success is based on the number of closed files where the applicant did not seek any further remedy

Categories Used to Withhold Release of Record

Sections	Descriptions	#
3(1)c	Records are outside the FOI Law as per section 50. of the Monetary Authority Law.	1
3(5)(b)	Records are outside the FOI Law as they relate to security or intelligence services, and their intelligence gathering activities	1
3(7)	Other law takes precedence	1
6(4)(a)	Record already open to public pursuant to another enactment as part of a public register or otherwise	3
9(a)	Request for record is deemed to be vexatious	41
9(b)	Public Authority has already complied with a substantially similar request from the same person	1
9(c)	Compliance with the request would unreasonably divert resources	4
9(d)	Information already in public domain	1
11(2)(c)	Access deferred until the cost incurred by the authority in granting access, has been paid by the applicant.	1
15 (a)	Record exempt as disclosure would prejudice the security, defence or international relations of the Islands.	1
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)	Records exempt as they relate to law enforcement and disclosure would or could reasonably endanger a persons life or safety	2
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.	1
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(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
17(a)	Record exempt as it would be privileged from production in legal proceedings on the ground of legal professional privilege	4
17(b)(i)	Record exempt as disclosure would constitute an actionable breach of confidence.	2
18(1)	Records including but not limited to duties, monetary policy or records not liable to disclosure under the Confidential Relationships (Preservation) Law (1995) are 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.	1
19(1)(a)	Record contains opinions, advice or recommendations prepared for proceedings of the Cabinet or of a committee therefore.	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.	2
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.	3
20(1)(c)	Record exempt as it is legal advice given by or on behalf of the Attorney-General	2
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.	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.	6
21(1)(b)	Record exempt as it contains information concerning the commercial interest of a person or organization, where disclosure would prejudice those interests.	7
23(1)	Record exempt as disclosure would involve the unreasonable disclosure of personal information, of any person, living or dead.	37
24(a)	Record exempt as disclosure would, or would be likely to endanger the physical or mental health of any individual.	1
24(b)	Record exempt as disclosure would, or would be likely to endanger the safety of any individual.	1

Analysis of 2010 FOI Requests

The Information Commissioner's Office is required to report on the operation of the Freedom of Information Law ("The Law"), including requests received by each authority and their respective responses. In order to make this possible the ICO requires the various public authorities to input their FOI related activity into the "JADE" tracking system, from which reports are created and provided to the ICO for analysis and reporting.

By analyzing these reports the ICO is able to determine how Government handles FOI requests in general, and identify any systemic issues or issues specific to a particular authority. While the ICO meticulously collates all relevant data, there are several factors which will result in a margin of error in the accuracy of statistical figures. Since the end of 2009, analysis has shown that the main cause for the inaccuracy in statistical reporting is data input errors by the public authorities. These errors can be mitigated by liaising with the FOI Unit who have full access to the JADE system, and can better flag and correct errors. Also, where public authorities fail to provide their reports to the ICO, the FOI Unit is called upon to produce them. This creates an unnecessary burden on both offices and has proven to be a less than efficient remedy. Therefore in order to make this process more effective and to assist the ICO meet its obligations under The Law, the ICO would need full read access to the JADE system, which has not been given to date.

From January 2009 to date, there have been a total of 1086 FOI requests submitted to various public authorities.

For this period (1st January and 30th June 2010), there were a total of 264 access requests made to 53 of the 88 current public authorities; the other 35 authorities reported that they received no access requests. Out of the 264 requests made, 202 were closed¹ leaving 62 requests unresolved at the end of June. In addition to the 202 requested opened and closed in this period, there were a total of 65 requests that were opened in the last reporting period which ended 31 December 2009 but which were not closed until this period, leaving a total of 267 files closed between 1st January and 30th June 2010.

As requests are closed, an "Outcome"² is applied to indicate how the matter was dealt with. As a part of its responsibilities the ICO reviews all cases where the outcome indicates that the applicant was not provided with a full requested record. This is not withstanding that there are often justifiable reasons for why a record could not be provided. i.e. where the information or record requested does not exist.

At the end of June 2010 there were a total of 270 outcomes applied to the 267 closed requests. Out of those, 144 were spread across the categories of- exemptions, deferrals, no records existing, and refusals; and 29 different sections of the Law were applied.³ The remaining 126 were spread across requests that were granted in full, already in the public domain or administratively closed. The most frequently applied exemption was section 9 (a)- *Request for record is deemed to be vexatious* totaling 41 uses equating to 30% of the total sections applied. 40 of these were by the same public authority. Due to the high usage of section 9(a) the ICO will conduct inquiries with the authority to determine the reasons behind such use. The second most used exemption was section 23(1)-*Unreasonable disclosure of personal information*, totaling 37 uses equating to 27% of the total sections applied. This usage is high for these first six months as compared to last year's figure of 47 over a twelve month period.

10 % (21) of FOI requests were closed as "no records found". It is important to note that a classification of "no records found" can imply that either the requested records do not exist, or that the requested records could not be located.

Analysis of the FOI law over last 18 months of operation through statistics and regular correspondence with public authorities has provided the ICO with a multitude of valuable data. While reports for this period compared to the same period last year have shown that authorities have become more familiar with The Law, the continuous thread that seems to run through the application of the law is the public authorities' tendency to view any potentially controversial information as secret or personal. Therefore the ICO remains focused on encouraging a cultural shift to reform that way of thinking to one which promotes transparency to the extent that the law allows. The ICO will conduct investigations based on any issues identified in its statistical analysis.

¹A "Closed" request is any request that has been completed where no further action is required or intended, and recorded as such in the JADE tracking system.

²Outcomes are close code classifications, indicating whether the requested record was disclosed fully or in part, deferred, refused due to superseding law or closed due to it already being made public by some other legal means, or closed administratively. In some instances more than one outcome is applied to a single request.

³See full break down chart on page 15



Information Commissioner's Office

2nd Floor, Elizabethan Square, Building C, George Town, Grand Cayman

P.O. Box 1375, Grand Cayman KY1-1108, CAYMAN ISLANDS

T: 345 747 5402

F: 345 949 2026

E: info@infocomm.ky

www.INFOCOMM.ky