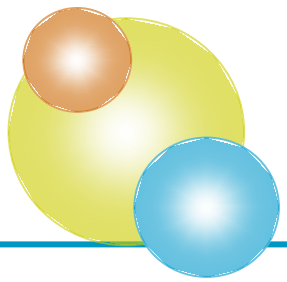
Information Commissioner's Office

Annual Report

1 July 2016 – 12 September 2017

Jan Liebaers MA CA LLM
Acting Information Commissioner



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.

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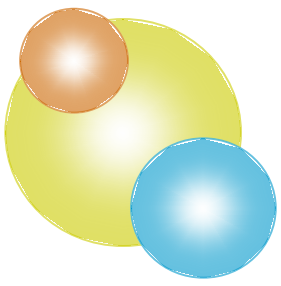
On 12 September 2017 the ICO merged with the Office of the Complaints Commissioner to form the new Office of the Ombudsman.

This Annual Report covers the period from 1 July 2016 to 12 September 2017, and is intended to meet the reporting requirements of both the Public Management and Finance Law and the FOI Law.

ICO Annual Report
1 July 2016 – 12 September 2017

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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.

In 2017 the FOI Law was amended to take into account the merger of the Information Commissioner's Office (ICO) with the Office of the Complaints Commissioner (OCC), the creation of the Office of the Ombudsman and the appointment of the Ombudsman.

Acting Information Commissioner's foreword

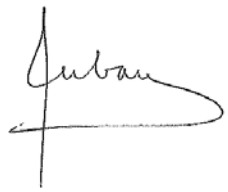
Welcome to the ninth and final Annual Report of the Information Commissioner's Office (ICO).

Since its inception in 2009 the ICO has embodied the best traditions of public service, independence, impartiality and fairness in decision making to the benefit of the people and the government of the Cayman Islands. It has been my pleasure to serve as Acting Information Commissioner for over three and a half years.

In March 2016 the Cabinet decided to merge the ICO with the Office of the Complaints Commissioner under a single Ombudsman who will, in the coming months, also be charged with overseeing complaints against the police, whistleblowing and enforcement of data protection legislation. The extended year from July 2016 to September 2017 was therefore marked by preparations for the creation of the Office of the Ombudsman, in which the ICO played an important role.

Throughout this period of change and intense uncertainty the staff of the ICO and I have worked relentlessly to ensure continuity and stability, safeguard the public's right to access government information and continue to hold public authorities accountable.

We look forward to helping to maintain and exceed those same high standards in the new Office of the Ombudsman.



Jan Liebaers
Acting Information Commissioner (1 January 2014 – 12 September 2017)
28 February 2018

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

During the period covered in this report the ICO had six positions, of which two were vacant on 12 September 2017. At the end of the reporting period the ICO staff consisted of two Caymanians, one Canadian and one Belgian national, as described below.

The ICO's budgeted personnel costs for the extended, 18-month 2016-2017 period amounted to $826,000. Of this amount, only $488,000 was spent in the reporting period (1 July 2016 – 12 September 2017), leaving a positive variance of $338,000 which was rolled into the budget available to the Office of the Ombudsman for the period from 13 September – 31 December 2017.

On a pro-rated basis, the ICO was budgeted to expend $665,389 in personnel costs by 12 September 2017.[1] However, only $488,000 was spent in the 14.5 month reporting period, leaving a positive variance of $177,389 at 12 September 2017.[2] This part of the larger variance discussed above can be explained by the vacancies in the office, notably the Information Commissioner (during the entire period) and the Office Manager positions (from January 2017). This is somewhat offset by the associated increased costs of acting allowances.

Information Commissioner - Vacant

The position of Information Commissioner remained vacant since the pre-retirement leave and retirement of the former Commissioner, Mrs. Jennifer Dilbert JP MBE, on 1 January 2014. Since then until 12 September 2017 HE the Governor appointed the Deputy Information Commissioner to act as Information Commissioner.

Deputy Information Commissioner – Mr. Jan Liebaers

Mr. Liebaers joined the ICO as Deputy Information Commissioner in 2010. From 1997 to 2007 he 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, planning and implementation of the National Archive and Public Records Law and the FOI Law. He was appointed Acting Commissioner in January 2014.

Mr. Liebaers was a member of the Data Protection Working Group from 2010 to 2017, which drafted the Data Protection Bill which was enacted in 2017. He was appointed Chair of the re-formed Working Group in July 2017 tasked with the development of Data Protection Regulations on behalf of the Hon. Attorney General.

In December 2016 Mr. Liebaers attended the Global Summit of the Open Government Partnership in Paris.

[1] $ 826,000 / 18 = $ 45,889 allocated personnel budget per month; $ 45,889 x 14.5 months = $ 665,389
[2] $665,389 (prorated personnel budget) – $488,000 (actual expenditure) = $ 177,389

Senior Appeals & Policy Analyst – Mr. Cory Martinson

The Senior Appeals & Policy Analyst Mr. Cory Martinson has 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.

In February 2017, Mr. Martinson attended the Canadian Privacy & Access Investigators Conference in Victoria, British Columbia.

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 course on FOI, Data Protection and Access to Environmental Information in London, and successfully passed the related 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.

In February 2017 Mrs. Roberts attended the Canadian Privacy & Access Investigators Conference in Victoria, British Columbia. In April 2017 she also undertook data protection training at the Global Summit of the International Association of Privacy Professionals (IAPP) in Washington, DC.

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.

Mrs. Martin-Rankin was the ICO's Deputy Information Manager (2016-January 2017) and Information Manager (from January 2017).

Office Manager – Ms. Shelly-Ann Davis/Vacant

Ms. Davis joined the ICO in 2013 with extensive experience in Human Resources and Finance, in both public and private sectors. While employed at the ICO she attended the annual CISHRP Conferences, took CISHRP courses in HR Management, and also attended training on Sexual Harassment Handling, Procurement, as well as Mediation from the Canadian International Institute of Applied Negotiation, organized by the ICO.

The Office Manager position became vacant in January 2017 when Ms. Davis resigned from her position, and remained vacant in anticipation of the creation of an enhanced post of Finance and Administration Manager in the Office of the Ombudsman.

Financial Performance and Analysis

The ICO's annual budget for the 18-month 2016-2017 period was $1,196,000, comprised of $826,000 for personnel costs, $194,000 for supplies and consumables, and $176,000 of other costs.

As in previous years, a substantial part of the overall budget remained underutilized, with total actual expenditure reaching only $647,000, leaving a substantial positive variance of $549,000.

In the first instance this large variance can be explained by the fact that the actual costs cover the shorter period of 1 July 2016 to 12 September 2017 (approx. 14.5 months), after which the ICO budget was rolled into the merged Office of the Ombudsman.

On a prorated basis, by 12 September 2017 the ICO would have been expected to spend approx. $963,000, rather than the actual expenditure of $647,000. From that perspective, the positive variance incurred during the 14.5 months of ICO operations up to 12 September 2017 amounts to just over $316,000.

This significant positive variance is due to:

- the enduring vacancy in the Information Commissioner position, which has both direct (salary, pension, healthcare, etc.) and indirect (travel, subsistence, etc.) implications;
- the vacancy from January 2017 in the Office Manager position, which was kept unfilled for an extended period of time to allow for the creation of a similar, but higher, post after the establishment of the Office of the Ombudsman;
- the ICO's move to cheaper accommodations with lower lease and related costs, and the delayed merger into the Office of the Ombudsman and commencement of the Data Protection Law; and,
- prudent management of expenses by the ICO, due to the imminent expectation that the Office of the Ombudsman was created, and that costs of setting up the new office would have to be met out of currently allocated budgets.

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 relative 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 in which we examine relevant issues. No such investigations were commenced in the reporting period, due to the amount of time and resources being spent on preparations for the merger and creation of the Office of the Ombudsman. For more details, see the "Compliance" and "Cross Government Commitments" 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 "Outreach and Promotion" section of this Report, below.

For further financial details, see the report attached at the end of this document.

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. (or on the website of the Office of the Ombudsman: http://www.ombudsman.ky).

Parliamentary Scrutiny

The Parliamentary Oversight Committee for the Information Commissioner was not re-established following the 2013 elections. After the 2017 elections a new Legislative Oversight Committee was appointed, but it was decided to await the appointment of the Ombudsman before meeting. Therefore, no meetings were held between the appointment of the Committee and the dissolution of the ICO on 13 September 2017.

During the reporting period, to the best of our knowledge, the ICO has not been the subject of any parliamentary questions, and no questions were asked in regard to the budget or finances of the ICO or the new Office of the Ombudsman (which was being prepared before the appointment of the Ombudsman) in the Public Accounts Committee.

FOI scrutiny

In the reporting period the ICO itself received two FOI requests, both of which were acknowledged and responded to well within the statutory timelines of respectively ten and thirty calendar days.

Complaints

The ICO did not receive any complaints in the 2016-17 reporting period.

Internal and External audits

The ICO was not subject to internal or HR audits in the 2016-17 reporting period.

The ICO received an unqualified audit from the Auditor General in relation to the 2015-16 financials, and was formally recognized for this accomplishment by the Public Accounts Committee at a special event in January 2018.

Cross-Government Commitments

Data Protection

The Data Protection Bill was passed by the Legislative Assembly in March 2017, and commencement of the Law has been set for January 2019.

In July 2017 the Cabinet appointed the Acting Information Commissioner as Chair of the reconstituted Data Protection Working Group tasked with the development of the Data Protection Regulations. The Working Group included members from the public and private sectors, and also benefitted from input from the Senior Policy & Appeals Analyst, Cory Martinson, and the Appeals & Compliance Analyst, Charlene Roberts.

The reconstituted Working Group met several times during the reporting period, and is preparing recommendations for the Hon. Attorney General by early December 2017.

Ombudsman's Office

As announced in the previous Annual Report in March 2016 the merger of the ICO with the Office of the Complaints Commissioner under a single Ombudsman is proceeding as planned. The combined office will, over time, also be charged with overseeing complaints against the police, whistleblowing and enforcement of data protection legislation.

During the 2016-17 reporting period, the ICO continued to sit on the Project Team headed by the Office of the Deputy Governor in preparation for the creation of the Office of the Ombudsman and the post of Ombudsman, together with a number of other stakeholders. The project was executed under the leadership of the Deputy Governor's Office. Throughout this period of intense change all ICO staff worked relentlessly to ensure continuity and stability in safeguarding the general public's right to access government information and hold public authorities accountable.

This Annual Report relates to the period from 1 July 2016 to 13 September 2017, when the new Ombudsman assumes her position and the ICO ceases to exist.

Forward looking

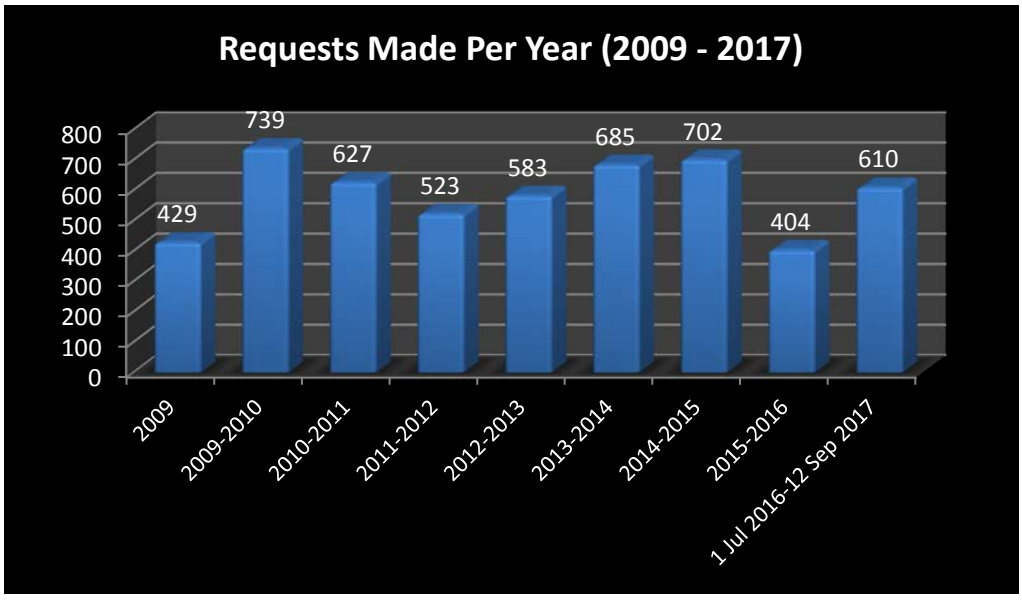
As pointed out previously, the amendments to the FOI Law resulting from the appointment of the Ombudsman and the creation of the Office of the Ombudsman focus on the governance structure of the new office, rather than on the mechanisms of the FOI process itself. Little or no change to the respective duties and roles of applicants, public authorities and ICO/OMB staff is expected in practice.

The Data Protection Law, 2017 grants significant decision-making powers and enforcement duties to the Information Commissioner/Ombudsman. A budget has been requested for the 2018 budget year to allow the preparations for these new roles to proceed, including the recruitment of dedicated staff.

Freedom of Information Requests (Government-wide)

Number of FOI requests (1 January 2009 – 12 September 2017)

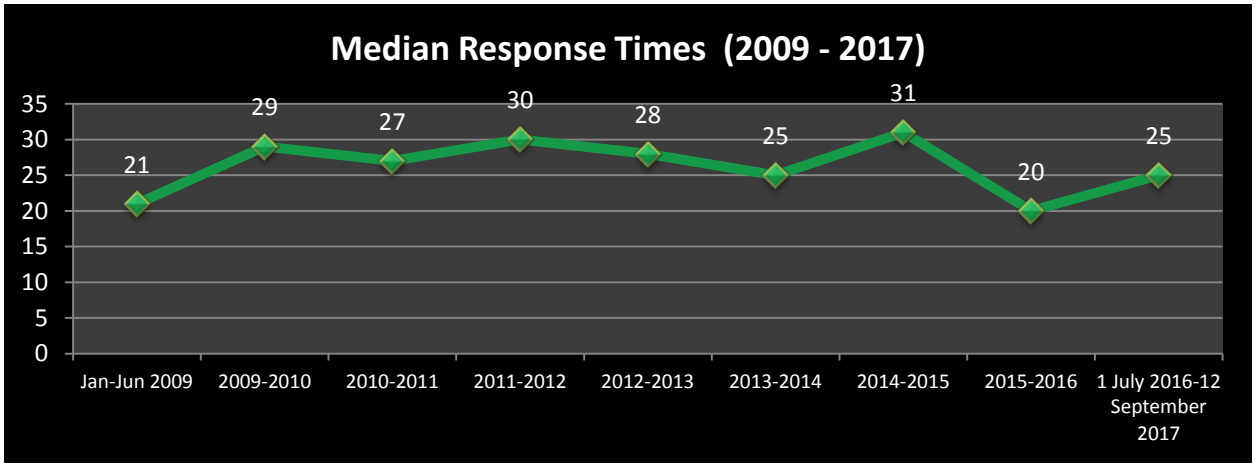
Following an initial spike shortly after the FOI Law came into effect in 2009, the number of requests received by Government has varied from approximately 500 to 700. The overall trend was showing a steady rise of the use of FOI by applicants until 2015-16 when a significant drop in the overall number of requests occurred. This past 14 ½ month reporting period there has been a marked increase in the requests made to government. Prorated on an annual basis, this represents an increase of 25% compared to the exceptionally slow year 2015-16.



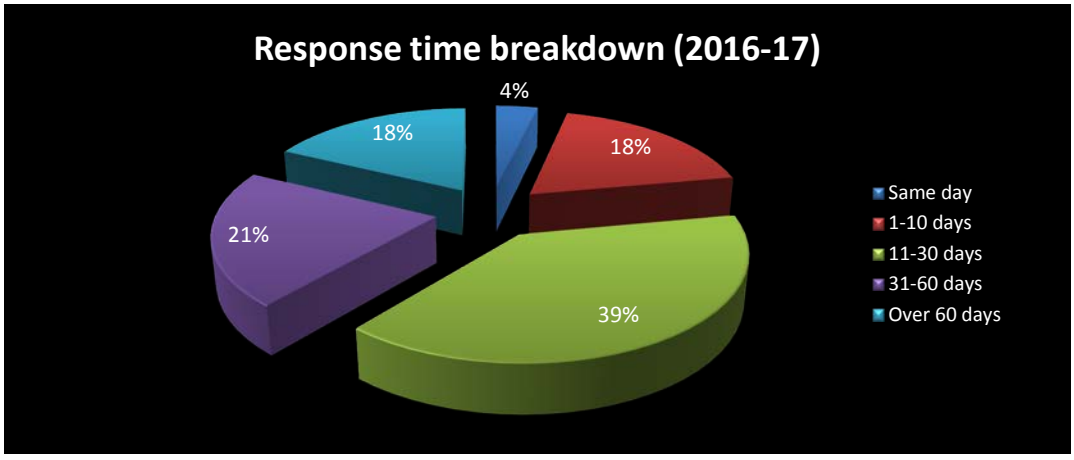
Since the FOI Law came into effect in 2009 until 12 September 2017 a total of 5,302 requests have been made.

Response Times for FOI requests (1 January 2009 – 12 September 2017)

After the significant drop reported in and 2015-16 annual statistics, the extended 2016-17 year saw a regrettable increase in median average response times from twenty to twenty five days. As the chart below shows, this is a performance that is about average. It is much better than the worst years, but not as good as the best.



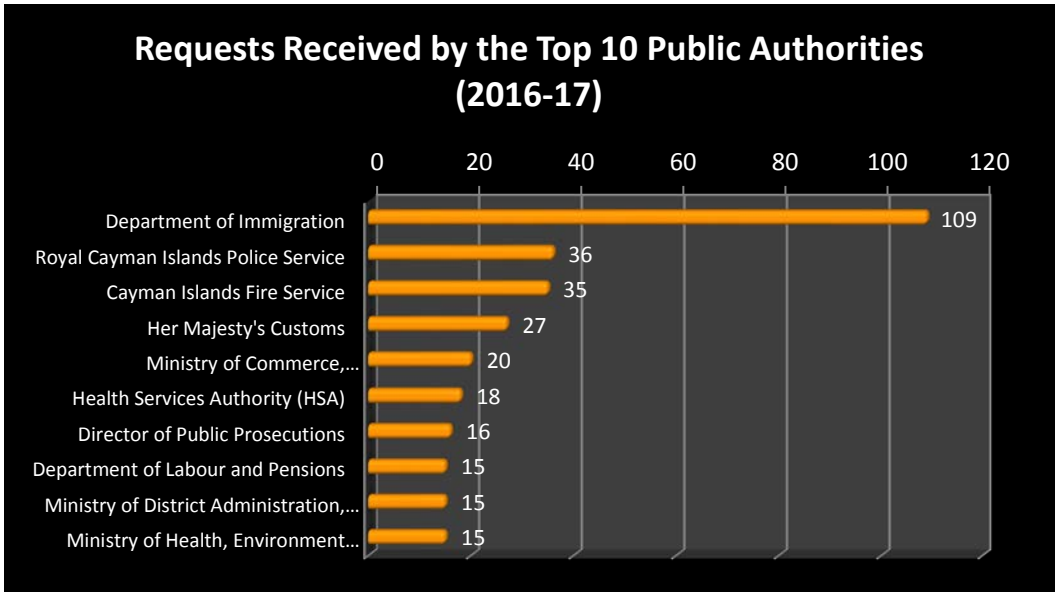
Compared to 51% in 2014-15, and 34% in 2015-16, about 36% of initial responses were given outside the statutory thirty-day time limit. On the basis of the available data, it is not possible to distinguish between legitimate reasons (e.g. time extended for good reason, internal review and/or appeal conducted) and illegitimate reasons for delayed initial responses.



The increased response times may be due to the higher number of requests that was processed, compared to last year. However, it seems fair to conclude that a continued trend towards lower response times, which was hoped for in the Annual Statistical Report for 2015-16, has not materialized.

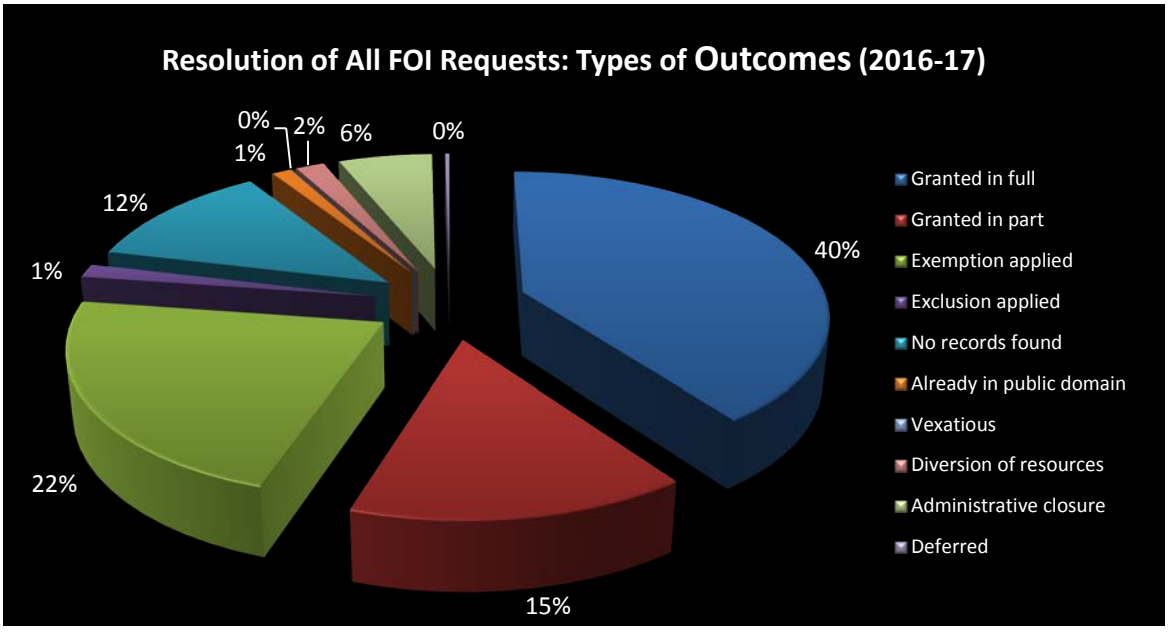
Spread of FOI request across the Public Sector (2016-2017)

As in previous years, most FOI requests were directed towards those public authorities which held information that interests applicants most, and whose decisions impact individuals the greatest. The ten public authorities receiving most FOI requests accounted for just over half of all requests from July 2016 to September 2017. This proportion has been consistent since 2009.



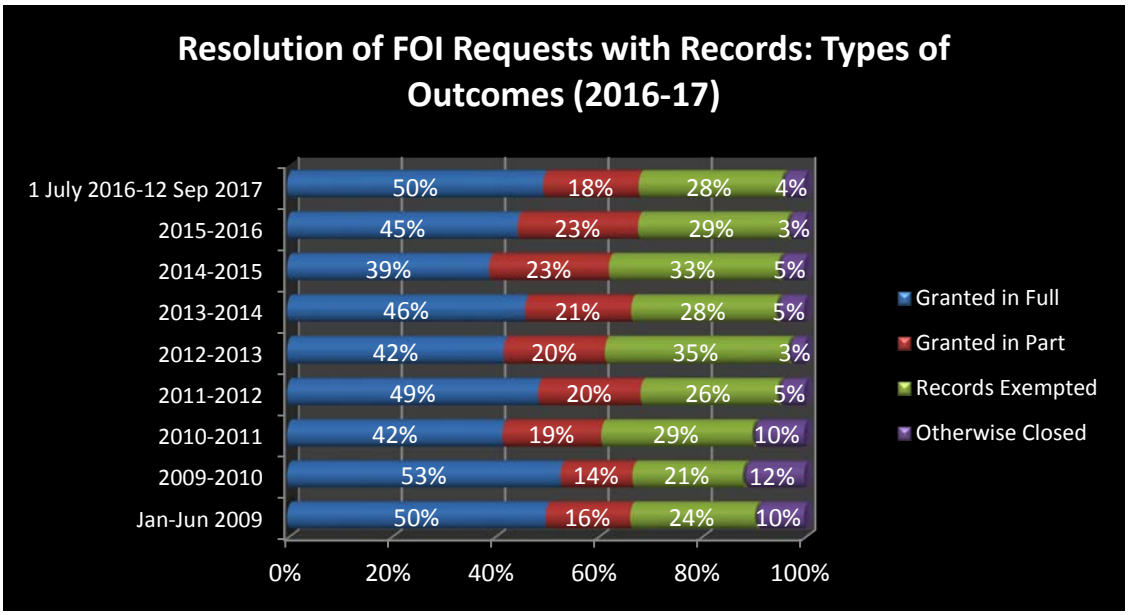
Resolution of FOI Requests (1 January 2009 – 12 September 2017)

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.



In previous years, the proportion of requests granted in full or in part varied between a low of 44% in 2009 to a high of 55% in 2011-12. On average, exemptions were applied in 25% of all requests. As the table above shows, in the reporting period government matched the best year's results with 55% of requests granted in full or in part. The proportion of requests in which an exemption was claimed, was lower than average, at 22%.

However, taking into consideration only those requests with actual responsive records in play, the 2016-17 reporting year exceeded the best results recorded so far (2011-12). More than two thirds or 68% of requests were granted in full or in part. This result is encouraging, since it indicates greater openness and transparency on the part of the government. Since these stats were kept, there have been several years with similar results, including some years when greater access was granted, as illustrated in the table below.



Section 40: exemptions applied to FOI requests 1 Jul 2016—12 Sep 2017

Section	Description	# of times applied
3(1)(c)	Records are outside the FOI Law as per section 50 of the Monetary Authority Law	3
3(1)(d)	Information relating to the directors, officers and shareholders of a company registered as an exempted company under Part VII or VIII of the Companies Law (2013 Revision)	1
3(5)(a)(i)	Record relating to judicial functions of a court	1
3(5)(a)(ii)	Records relating to judicial functions of the holder of a judicial office or other office connected with a court	1
3(7)	Nothing in this Law shall be read as abrogating the provisions of any other Law that restricts access to records	3
9(c)	Compliance with the request would unreasonably divert the public authority's resources	1
16(a)	Disclosure would, or could reasonably be expected to endanger any person's life or safety.	2
16(b)(i)	Law enforcement: disclosure would or could reasonably be expected to affect the conduct of an investigation or prosecution of a breach or possible breach of the law	8
16(b)(ii)	Law enforcement: records 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	8
16(c)	Law enforcement: 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)	Law enforcement: 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 would be privileged from production in legal proceedings on the ground of legal professional privilege	13
17(b)(i)	Record exempt as disclosure would constitute and actionable breach of confidence	8
17(b)(iii)	Disclosure would infringe the privileges of Parliament.	1
18(1)	Disclosure or, as the case may be, premature disclosure would, or could reasonably be expected to, have a substantial adverse effect on the Caymanian economy, or the Government's	1

	ability to manage the economy.	
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	4
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 or the Director of Public Prosecutions	13
20(1)(d)	Record exempt as its disclosure would otherwise prejudice, or would be likely to prejudice, the effective conduct of public affairs	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	4
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	64
24(a)	A record is exempt from disclosure if its disclosure would, or would be likely to endanger the physical or mental health of any individual.	1
28(1)	Application for amendment or annotation of personal information about the applicant	0
	TOTAL	**147**

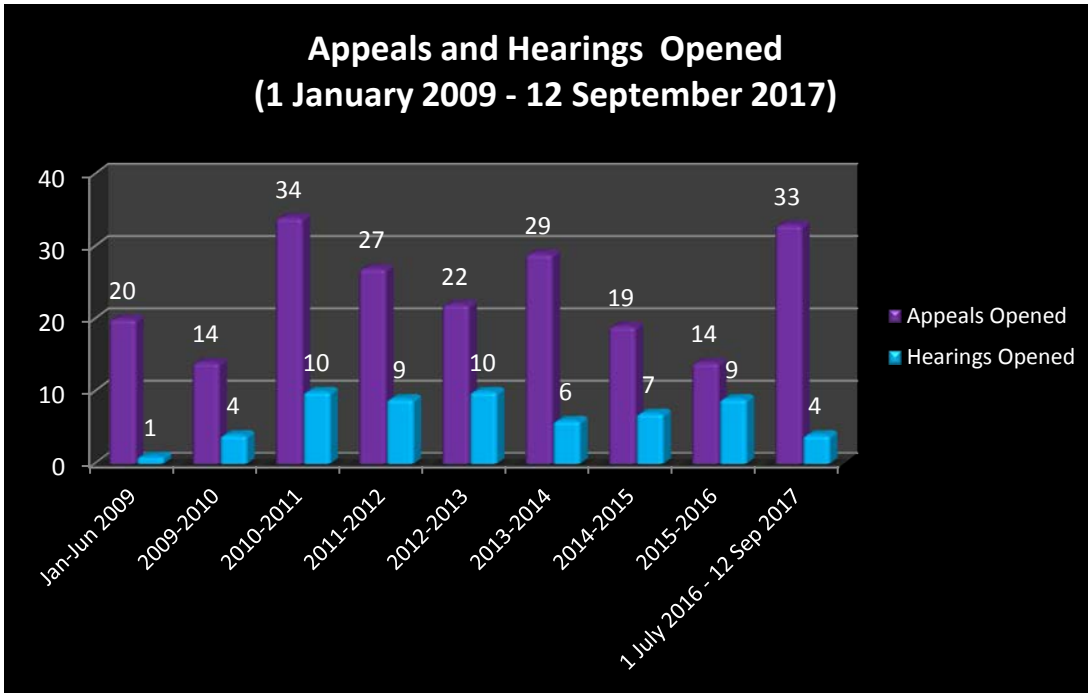
Internal Reviews

Data on the number of requests progressing to an internal review in the government's central tracking system are incomplete, and the number of internal reviews or their outcome is therefore unknown.

Appeals to the Information Commissioner

Applicants have the right to appeal any perceived infringement of the FOI Law to the Information Commissioner, as long as all other means of redress have been exhausted.

The most common reason for appealing is the denial of access by public authorities, but some appeals are also made to complain about timeline violations or other perceived procedural infringements. In the 2015-16 year, the ICO introduced new procedures for expedited hearings, specifically designed to deal efficiently and expediently with procedural issues.[3]



From 2009 to the 12 September 2017 the ICO received two hundred and twelve appeals, of which one hundred fifty three were resolved by adjudicative mediation, while fifty nine progressed to a formal hearing before the Commissioner. Of these, thirty three appeals and four hearings were initiated in the reporting period. Three of the hearing decisions remained outstanding at the end of the reporting period.

Even on a pro-rated basis, the number of appeals in the reporting period was higher than average, while the number of hearings was lower. In this regard, it is worth noting that appeals may vary significantly in

[3] See the website of the Office of the Ombudsman for the current policy: www.ombudsman.ky

complexity and resource-intensity, as do hearings.

Informal Resolution of Appeals

As a matter of routine, the ICO attempts to resolve any appeals that are received amicably, by means of an informal resolution process akin to adjudicative mediation called the pre-hearing investigation. On average, approximately three quarters of all appeals made to the ICO are resolved in this manner, with only about one in four requiring a formal decision by the Information Commissioner.

The informal resolution process has a number of potential outcomes, depending on the willingness of both parties to adjust their views and/or agree to a compromise. Potential outcomes include: the disclosure of more information, whether in whole or in part; the refinement, narrowing or other adjustment of the request; the abandonment of one or more exemptions or the claiming of one or more new exemptions by the public authority; and, the abandonment of the appeal in whole or in part by the applicant.

The following is a selection of appeals resolved in 2016-17 without the need for a formal hearing before the Commissioner.

Appeal 016/16 – Royal Cayman Islands Police Service (RCIPS)

An applicant requested records relating to witness statements, exhibits (including CCTV footage), an accident reconstruction report and any other documents and/or information held by the RCIPS in connection with concluded investigations or prosecutions relating to a named third party within the last five years. In addition, records were also requested concerning any charges against the third party for an offence that was alleged to have taken place on, or around, April 2016 in Cayman Brac.

The RCIPS withheld the records as they were considered to constitute personal information of a third party and unreasonable to disclose. An internal review was requested, but after receiving no response the applicant appealed directly to the ICO.

After reviewing the records and information provided by the RCIPS, the ICO informed the applicant of its non-binding opinion that the records appeared to have been withheld correctly. In any event, if the RCIPS intended to release any third party personal information, it would have to send written notice to the third parties involved in order to allow them to object and appeal to the ICO if they wished, as per the FOI (General) Regulations, 2008.

The ICO issued an opinion letter with a detailed analysis of the exemption applied, also including the engagement of section 3(5)(a)(i), involving judicial functions of a court, reiterating the existing procedures for obtaining criminal court files under section 193 of the Criminal Procedure Code to the applicant.

The applicant reconsidered other possible options for obtaining the records, and decided to abandon the appeal.

Appeal 021/16 – Department of Commerce and Investments (DCI)

An applicant requested all correspondence in the form of letters, memorandums, emails, etc. between the Post Master General (PMG) of the Cayman Islands Postal Services, and DCI or any of its employees, in regard to their business license or information about their companies. This included information provided by DCI to the PMG, and any other relevant materials.

DCI extended the period for its initial response, as it was awaiting a legal opinion from the Attorney General's Office. Since the opinion was not received by DCI before the expiration of the extended period allowed by law, the applicant requested an internal review. Upon review, the Chief Officer exempted the records on the grounds that disclosure would otherwise prejudice, or would be likely to prejudice, the effective conduct of public affairs. The applicant was not satisfied with this response and appealed to the ICO.

As a routine part of the investigatory process, the ICO requested the responsive records for review and met with the Chief Officer and the DCI Director to discuss the application of the exemption to the responsive records. DCI explained that the records related to a pending investigation by the PMG into the employee's involvement in the companies to which the FOI request related. ICO asked DCI to clarify their claim that the disclosure of the records to the applicant would affect the PMG's investigation.

As a result, DCI agreed to reconsider the exemption, and released the records in full along with confirmation that all the records held by DCI concerning the applicant were disclosed. The applicant was satisfied and the appeal was closed.

Appeal 022/16 – Governor's Office (GO)

An applicant requested all records relating to recent changes to the Cayman Islands Constitution Order 2009, including press releases from the GO, all correspondence between the GO and the Hon. Chief Justice, and between the GO and the Judicial and Legal Services Commission, from 1 December 2009 to 21 July 2016.

The GO extended the period for its initial response, and subsequently advised the applicant that, based on the breadth of the request, the request should be narrowed as complying with it would otherwise constitute an unreasonably diversion of its resources. The applicant narrowed the request. However, the GO stated that some parts continued to divert its resources. The ICO recommended a further narrowing by time, to which the applicant agreed, narrowing the request to all correspondence between the GO and the Hon. Chief Justice between 1 December 2009 and 31 December 2010. The records were released by the GO and the applicant was satisfied with the response received. The appeal file was closed.

Appeal 012/17 – Director of Public Prosecutions (DPP)

An applicant requested all correspondence between the Department of Public Prosecutions (DPP) and the Hon. Alden McLaughlin, Governor Duncan Taylor, Police Commissioner David Baines, Attorney General Samuel Bulgin, FCO Law Enforcement Advisor Larry Covington, and the UK Prime Minister's Office, from January 2011 to January 2013.

The DPP extended the period for its initial response, and requested that the applicant narrow the scope of the request to a particular subject matter or issue. The applicant complied and narrowed the request to any correspondence between the DPP and Governor Taylor, as well as between the DPP and Mr. Covington, from June 2011 to September 2011. The DPP provided the applicant with partial disclosure of the records but exempted some information, claiming that full disclosure would have been an unreasonable disclosure of third party personal information. The DPP also exempted another record, expressing the view that it pertained to law enforcement and was more closely related to the affairs of the Governor's Office (GO), therefore that portion of the request was transferred to the GO. The applicant was not satisfied with the response received and appealed to the ICO.

In an attempt to resolve the appeal informally, the ICO requested sight of the record in dispute and discussed the appeal with the parties involved. As a result, the GO released the record to the applicant, redacting some information related to law enforcement. The applicant was satisfied with the response and did not wish to pursue the matter further.

Appeal 013/17 – Ministry of Planning, Lands, Agriculture, Housing & Infrastructure (PLAHI)

An applicant requested various records relating to the proposed St. James Point Resort, including minutes of the Central Planning Authority, correspondence between PLAHI and those acting on behalf of the developer, any request and correspondence relating to the closure of a section of Beach Bay Road, and the diversion or closure of roads for the benefit of the proposed resort.

PLAHI exempted the records on the basis that they reveal Government's deliberative processes. The applicant requested an internal review, and the Chief Officer upheld the initial decision of the Information Manager (IM). The applicant therefore appealed to the ICO.

During the pre-hearing investigation process, the ICO met with the IM to review the records and discuss the exemption applied. As a result, the IM agreed to review the records once more and reconsider the exemption. This resulted in a full release of the records, and the closure of the appeal.

Appeal 014/17 – Cayman Islands Fire Services (CIFS)

An applicant requested copies of reports on an incident involving a specific CIFS' Officer at the Health Services Authority (HSA). The applicant later revised the request to include all reports relating to the

incident. The applicant was provided with a decision letter along with the responsive records, but insisted that more records existed and, after receiving no response to an internal review request, the applicant appealed to the ICO.

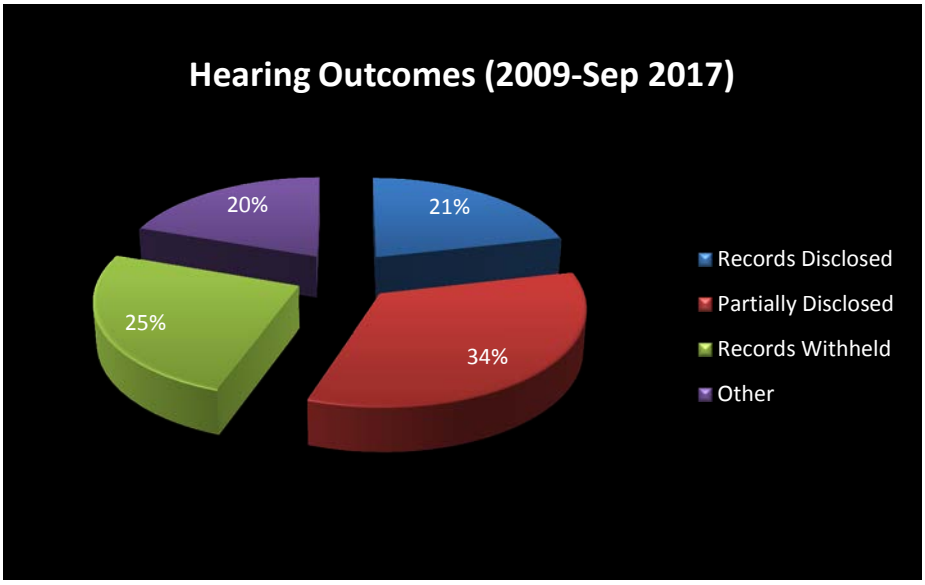
As part of the investigatory process, the ICO contacted the IM but was informed that the matter was before the Deputy Chief Officer (DCO) for review and decision. The ICO contacted the DCO and requested all the records responsive to the request including any related record that had been was withheld on the assumption that they were not responsive to the request.

The ICO reviewed the records and explained that all the records were responsive to the request due to the broad nature of the revised request, and as such they should be reviewed, and any applicable exemption applied before release. This resulted in the applicant being provided with partially redacted copies of the records, and the appeal was closed.

Formal Hearing Decisions

About 55% of hearing decisions to date resulted in a binding decision requiring the disclosure or partial disclosure of the requested records. In one in four hearings the requested records were withheld, while about one in five hearings resulted in a decision not connected with the disclosure or non-disclosure of records, e.g. where the dispute was about fees, adequate search or the annotation of a record.

As at 12 September 2017, the Information Commissioner had concluded fifty six formal Hearing Decisions, three of which were decided in two parts, and five abandoned after the start of the hearing process. Four hearings were opened between July 2016 and September 2017, two of which were decided and one discontinued.



Hearings - Summary Table

Hearing	Decision Date	Public Authority	Record(s) under review	Section(s) of the FOI Law applied	Decision
54-02516	11 May 2017	HMCIPS	Investigation report following a complaint by an inmate	16(a), (b)(i), (c), (f), 20(1)(d), 23(1) and 24(a), (b)	Partial disclosure
56-00217 - discontinued	n/a	Department of Immigration	n/a	n/a	n/a
57-02316	31 August 2017	Department of Immigration	Records relating to an administrative fine imposed on an employer	20(1)(c)	Withhold

The following is a summary of the formal hearing decisions issued by the Acting Information Commissioner in the reporting period.

Hearing 54-02516 – Her Majesty's Cayman Islands Prison Service (HMCIPS) 11 May 2017

An applicant who was a female prison guard requested access to an investigation report conducted by Her Majesty's Cayman Islands Prison Service (HMCIPS) following a complaint raised against her by a female inmate.

HMCIPS claimed that disclosure of the report would affect the conduct of a law enforcement investigation or prosecution under section 16(b)(i) of the Freedom of Information Law (2015 Revision). In the course of the hearing HMCIPS added additional exemptions, claiming that disclosure would: endanger a person's life or safety (s.16(a)); identify a confidential source of information (s.16(c)); jeopardize the security of a prison (s.16(f)); prejudice the effective conduct of public affairs (s.20(1)(d)); and, endanger the physical or mental health, or safety of an individual (ss.24(a) and (b)). The Acting Information Commissioner used his discretion to hear these late exemptions, and also added the exemption in section 23(1) which protects personal information from disclosure in certain circumstances.

In the Decision the Acting Information Commissioner found that none of the claimed exemptions applied to the entire document, but the names and personal identifiers of the witnesses, such as prisoner ID numbers, prisoner categories, initials and other specific information which could identify the individuals concerned, would be unreasonable to disclose under section 23(1), and it was not in the public interest to disclose that information.

Since the name of the complainant had previously been communicated to the Applicant, that information was not protected, nor were the names of HMCIPS staff and management which appear in the report.

Accordingly, the Acting Information Commissioner ordered the disclosure of the redacted investigation report to the Applicant only, and communicated the specific redactions which are required in a separate communication to HMCIPS.

Hearing 56-00217 – Department of Immigration

This hearing was abandoned after the hearing process had commenced.

Hearing 57-02316 - Department of Immigration

An Applicant requested access to records relating to a fine imposed on an employer by the Department of Immigration. Some records were disclosed, but a ruling/advice provided by the Director of Public Prosecutions (DPP) was withheld and remained in dispute.

Upon considering the matter, the Acting Information Commissioner found that the exemption in section 20(1)(c) of the Freedom of Information Law (2015 Revision) applied to the DPP ruling/advice, as it constituted "legal advice given by or on behalf of the Attorney General or the Director of Public Prosecutions" which is protected by that exemption. The public interest in disclosure did not outweigh the public interest in maintaining the exemption, and the record was therefore required to remain withheld.

The Acting Information Commissioner also pointed out a number of procedural shortcomings on the part of the Department of Immigration, including problems with how the exemption in section 20(1)(c) was claimed, the timing of the internal review, and the lack of any submission made to the ICO in the course of the hearing to provide reasons for withholding the responsive record.

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".

Other matters

Under section 45(1) of the FOI Law the Information Commissioner "shall have the power to conduct a full investigation, including by issuing orders requiring the production of evidence and compelling witnesses to testify; in the exercise of this power he may call for and inspect an exempt record". In the execution of its legal mandate to hear appeals, conduct an independent investigation, decide whether access should be

granted, and determine the balance of the public interest, the ICO routinely requests a copy of the responsive records.

In the course of an appeal relating to a report on immigration matters this principle was tested in respect of a responsive record known as the "Ritch & Conolly Report". After repeated requests for the record, the Office of the Premier refused to provide the ICO with a copy of the Report, instead providing documentation purporting to demonstrate that the record constitutes "legal advice given by or on behalf of the Attorney General" which is exempted under section 20(1)(c).

The Acting Information Commissioner issued a formal order requiring the Office of the Premier to produce the record in question, as provided for in section 45(1). Nonetheless, the Office of the Premier continued to refuse to provide the record to the ICO, and provided us instead with a ministerial certificate under section 25, signed by the Hon. Premier, which certified that the record in dispute is exempt under sections 20(1)(c) and 17(a) of the FOI law, and that it would not be in the public interest to disclose the record.

The Acting Information Commissioner subsequently wrote to the Hon. Chief Justice, notifying him of the failure of the Office of the Premier to comply with the Commissioner's order, as provided under section 48.

Before the matter was heard by the Chief Justice, HE the Governor issued a certificate under section 45(2) stating that the examination of the record by the Information Commissioner would not be in the public interest.

The Chief Justice's ruling of 26 January 2017 found against the Commissioner on a number of points.

The matter remains under consideration.

Compliance investigations

In the course of its ongoing interactions with applicants, IMs and other public authority staff the ICO routinely intervenes to ensure that the provisions of the FOI Law, as well as applicable policies and procedures are understood and complied with. In most cases, these communications take place in the context of active appeals in which the ICO is attempting to achieve an amicable resolution between parties. The Acting Information Commissioner also routinely addresses compliance issues in formal hearing decisions.

The ICO also originates own-initiative compliance investigations into relevant issues. However, as the larger Office of the Ombudsman was being prepared, and the ICO was left with a number of crucial vacancies which it was unable to fill, at a time when a higher than usual number of appeals was being received, priority was given to investigating, resolving, hearing and deciding appeals, rather than starting proactive investigations. Therefore, no own-initiative investigations were conducted in the reporting period.

Outreach and promotion

The promotion of public awareness of the FOI Law is one of the mandates of the ICO under the FOI Law. However, given the need for staff and time resources for the preparation of the Office of the Ombudsman, few initiatives were undertaken in this regard, apart from the provision of responses to inquiries from the public and public servants, and the annual focus on Right to Know Week activities.

Inquiries from the public

The ICO responded to fifty seven inquiries in the course of the reporting period. Eighteen of these were made by public officers, including IMs.

Right to Know Week 2016

The purpose of Right to Know Week is to raise awareness about people's right to access government information while promoting freedom of information (FOI) as essential to government accountability, transparency and democracy. There are currently around 100 countries across the world with access to information legislation. International Right to Know Day is celebrated globally on September 28th and continues to grow and expand each year.



Meet & Greet at HSA, RTKW 2016

The ICO celebrated Right to Know Week from September 26th to October 3rd 2016. Activities included FOI lunch-and-learns for the Civil Service and the local media. Public outreach events were held at the Government Administration Building, the George Town Hospital and the Craft Market at the Cricket Field. Acting Information Commissioner Jan Liebaers appeared on Cayman 27's Day Break show, Radio Cayman's Talk Today show and Rooster Radio Station's Cayman Cross Talk Show.

As usual, the ICO team also travelled to Cayman Brac for a lunch-and-learn at the conference room in the Brac Reef Hotel, attended by IMS and civil servants.



Information Commissioner's Office

2016-17 Annual Accounts

For the period ended 12 September 2017

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Information Commissioner's Office
Statement of Responsibility for the Financial Statements
12 September 2017

These financial statements have been prepared by the Information Commissioner's Office in accordance with the provisions of the Public Management and Finance Law *(2017 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 *(2017 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 period ended 12 September 2017.

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

(a) Completely and reliably reflect the financial transactions of the Information Commissioner's Office for the period ended 12 September 2017;
(b) Fairly reflect the financial position as at 12 September 2017 and financial performance for the period ended 12 September 2017; 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
30 April 2018

Chief Financial Officer
30 April 2018

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AUDITOR GENERAL'S REPORT

To the Information Commissioner and the Members of the Legislative Assembly

Opinion

I have audited the financial statements of Information Commissioner's Office ("ICO"), which comprise the statement of financial position as at 12 September 2017, the statements of financial performance, changes in net assets/equity and cash flows for the period from 1 July 2016 to 12 September 2017, and notes, comprising significant accounting policies and other explanatory information.

In my opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the ICO as at 12 September 2017, and its financial performance and its cash flows for the period from 1 July 2016 to 12 September 2017 in accordance with International Public Sector Accounting Standards.

Basis for Opinion

I have conducted my audit in accordance with International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the *Auditors' Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the ICO in accordance with International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants (IESBA Code) together with the ethical requirements that are relevant to my audit of the financial statements in the Cayman Islands and I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion. In rendering my audit opinion on the financial statements of the ICO, 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.

Emphasis of Matter

I draw attention to note 1 and note 2 to the financial statements, which describe that the going concern basis of preparing the financial statements has not been used due to the enactment of the Ombudsman Law, 2017, which resulted in the discontinuance of the ICO as a separate legal entity of the Cayman Islands Government. My opinion is not modified in respect of this matter.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

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

In preparing the financial statements, management is responsible for assessing the ICO's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the ICO or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the ICO's financial reporting process.

AUDITOR GENERAL'S REPORT (continued)

Auditors' Responsibilities for the Audit of the Financial Statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit 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 ICO's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the ICO's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in our auditors' report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of our auditors' report.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I have undertaken the audit in accordance with the provisions of section 60(1)(a)(ii) of the Public Management and Finance Law (2017 Revision). I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.



Sue Winspear, CPFA
Auditor General

30 April 2018
Cayman Islands

INFORMATION COMMISSIONER'S OFFICE
STATEMENT OF FINANCIAL POSITION
AS AT 12 SEPTEMBER 2017
(Expressed in Cayman Islands Dollars)

30 June 2016 Actual		Note	Current Period Actual	Approved Budget	Variance (Budget vs Actual)
CI$000			CI$000	CI$000	CI$000
	Current Assets				
15	Cash and cash equivalents	**3, 18**	29	17	(12)
69	Receivables from exchange transactions	**4,19**	68	67	(1)
2	Prepayments	**5**	5	6	1
-	Property and equipment	**6**	9	6	(3)
86	**Total Current Assets**		**111**	**96**	**(15)**
	Non-Current Assets				
12	Property and equipment		-	-	-
12	**Total Non-Current Assets**		-	-	-
98	**Total Assets**		**111**	**96**	**(15)**
	Current Liabilities				
17	Accruals and other liabilities	**7,18**	47	30	(17)
4	Employee entitlements	**8**	2	4	2
15	Surplus payable	**9, 19**	-	-	-
36	**Total Current Liabilities**		**49**	**34**	**(15)**
62	**Net Assets**		**62**	**62**	**-**
	Equity				
123	Contributed Capital		123	123	-
(61)	Accumulated surplus/(deficit)		(61)	(61)	-
62	**Total net assets/equity**		**62**	**62**	**-**

The accounting policies and notes on pages 10-22 form an integral part of the financial statements.

INFORMATION COMMISSIONER'S OFFICE
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE PERIOD ENDED 12 SEPTEMBER 2017
(Expressed in Cayman Islands Dollars)

30 June 2016 Actual CI$000		Note	Current Period Actual CI$000	Approved Budget CI$000	Variance (Budget vs Actual) CI$000
	Revenue				
572	Sales of goods & services	**11,18,19**	647	1,196	549
572	**Total Revenue**		**647**	**1,196**	**549**
	Expenses				
420	Personnel costs	**12,18,19**	488	826	338
84	Supplies and consumables	**13,18**	74	194	120
40	Leases	**14**	48	61	13
2	Depreciation	**6**	3	3	-
11	Litigation costs	**15,18**	34	112	78
557	**Total Expenses**		**647**	**1,196**	**549**
15	**Surplus or (Deficit) for the period/year**		**-**	**-**	**-**

The accounting policies and notes on pages 10-22 form an integral part of the financial statements.

INFORMATION COMMISSIONER'S OFFICE
STATEMENT OF CHANGES IN NET ASSETS/EQUITY
FOR THE PERIOD ENDED 12 SEPTEMBER 2017
(Expressed in Cayman Islands Dollars)

	Contributed Capital CI$000	Accumulated Surplus CI$000	Total Net Assets/Equity CI$000	Approved Budget CI$000	Variance (Budget vs. Actual) CI$000
Balance at 30 June 2015	**123**	**(61)**	**62**	**62**	**-**
Surplus for the year (2015/16)	**-**	15	15	-	(15)
Repayment of surplus to Cabinet	-	(15)	(15)	-	15
Balance at 30 June 2016	**123**	**(61)**	**62**	**62**	**-**
Balance at 30 June 2016	**123**	**(61)**	**62**	**62**	**-**
Surplus for the period (2016/17)	**-**	**-**	**-**	**-**	**-**
Repayment of surplus to Cabinet	-	-	-	-	-
Balance at 12 September 2017	**123**	**(61)**	**62**	**62**	**-**

The accounting policies and notes on pages 10-22 form an integral part of the financial statements.

INFORMATION COMMISSIONER'S OFFICE
STATEMENT OF CASH FLOWS
FOR THE PERIOD ENDED 12 SEPTEMBER 2017
(Expressed in Cayman Islands Dollars)

30 June 2016 Actual CI $'000		Note	Current Period Actual CI $'000	Approved Budget CI $'000	Variance (Budget vs. Actual) CI $'000
	Operating Activities				
	Cash received				
628	Sales to Cabinet		648	1,189	541
	Cash used				
(421)	Personnel costs		(490)	(826)	(336)
(217)	Supplies and consumables		(129)	(246)	(117)
	Other payments		-	(112)	(112)
(10)	**Net cash flows from (used by) operating activities**	**16**	29	5	(24)
	Investing activities				
	Cash received				
(3)	Proceeds from the sale of property, plant and equipment		-	-	-
(3)	Net cash flow used by investing activities		-	-	-
	Financing activities				
(80)	Repayment of surplus		(15)	-	15
(80)	**Net cash flows used by financing activities**		(15)	-	15
(93)	**Net increase/(decrease) in cash and cash equivalents held**		14	5	(9)
108	Cash and cash equivalents at beginning of period/year		15	12	(3)
15	**Cash and cash equivalents at the end of the period/year**		**29**	**17**	**(12)**

The accounting policies and notes on pages 10-22 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 believed their request was mishandled had a right to appeal the matter to the Information Commissioner, who had the authority to review the matter, make all findings of fact and law, and issue a binding decision. The Commissioner was 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 identified the Information Commissioner as a Chief Officer, rendering the Commissioner directly responsible for the ICO's budget and financial operations. A Committee of the Whole House was formed on 30 June 2010 to provide administrative oversight to the ICO. This committee was reconstituted after the 2017 elections.

As at 12 September 2017, the ICO had 4 (2016: 5) employees and two long-term vacancies. The Commissioner was appointed in 2009 and 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 12 September 2017.

Following the enactment of the Ombudsman Law 2017 and the Freedom of Information (Amendment) Law 2017, all responsibilities of the Information Commissioner passed to the Ombudsman on 13 September 2017. The Entity ceased to operate as a separate legal entity of the Government from this date and merged with the Office of the Complaints Commissioner ("OCC") to form the Office of the Ombudsman ("OMB"). Effective 13 September 2017 all assets, liabilities, and net assets/equity were transferred at the fair value from ICO and OCC into the Office of the Ombudsman.

OMB registered office is located on the 3rd Floor of the Anderson Square Building in central George Town. Correspondence may be sent to P.O. Box 2252, Grand Cayman KY1-1107, 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 and measurement

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. As discussed in note 1, as a result of the enactment of the Ombudsman Law 2017, effective 12 September 2017, the Entity ceased operations. Accordingly, these financial statements as at and for the period ended 12 September 2017 have been prepared on a basis other than going concern (the "accounting basis"). Under the accounting basis, the Entity measures its assets based on their net realizable value and its liabilities on expected settlement amounts. All assets and liabilities have been classified as current. As the Entity's assets and liabilities predominately comprise financial assets and liabilities carried at amortized cost, the change in basis of accounting did not result in different measurements for those under the going concern basis of accounting. The accounting policies have been applied consistently throughout the period.

2. Significant accounting policies (continued)

(b) Reporting period

The Public Management and Finance (Amendment) Law, 2015 section 2(c), was passed on 15 October 2015 to reflect a change in the annual reporting date from 30 June to 31 December. As disclosed in note 1 and note 2(a) these financial statements include 14.4 months for the period from 1 July 2016 to 12 September 2017.

The prior year amounts presented in the financial statements is for a 12 month period to 30 June 2016 and therefore are not entirely comparable to the current period actuals for the 14.4 month period. IPSAS 1 (66) allows for the financial statements to be presented for a period longer or shorter than one year when an entity's reporting date changes.

(c) Budget amounts

The 2016/17 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 2016/17 original budget was presented in the 2016/2017 Annual Budget Statement of the Government and approved by the Legislative Assembly on 24 June 2016. There have been no subsequent adjustments to the approved budget and therefore this represents the final budgeted amounts. The budget amounts included in these financial statements relate to the 18 month period from 1 July 2016 to 31 December 2017.

(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 period. 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.

In addition, due to the financial period ending on 12 September 2017, some reported amounts in the Statements of Financial Position and Financial Performance were determined based on the prorated amount of days within the month of September to approximate the amounts to be recorded by the Entity.

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.

2. Significant accounting policies (continued)

(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.

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.

(f) 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.

(g) 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.

(h) 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.

Asset type	Estimated useful life
Furniture	12 years
Office equipment	5 years
Computer equipment	3-4 years
Leasehold improvements	over remaining life of lease

2. Significant accounting policies (continued)

(i) Property and equipment (continued)

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.

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 instruments 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.

2. Significant accounting policies (continued)

(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 or 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. Refer to note 10 for further disclosures on non-exchange transactions. When the services 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. Property and equipment has been classified as current assets in the current period, due to the discontinuance of the Entity effective 12 September 2017.

3. Cash and cash equivalents

Cash and cash equivalents include cash on hand and bank accounts in the name of the ICO. As at 12 September 2017 the ICO held no restricted cash balances (30 June 2016: $0). No interest was earned during the year on the amounts held in these bank accounts (30 June 2016: $0).

30 June 2016 Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI$'000		CI$'000	CI$'000	CI$'000
1	Cash on hand /Petty Cash	1	1	-
8	Operational Current Account - KYD	23	6	(17)
6	Payroll Current Account - KYD	5	10	5
15	**Cash and cash equivalents**	**29**	**17**	**(12)**

4. Receivables from exchange transactions

30 June 2016 Actual	Trade Receivables	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI $'000		CI $'000	CI$'000	CI$'000
69	Outputs to Cabinet	62	67	5
-	Outputs to other government agencies	6	-	(6)
69	**Total/Net Trade receivables**	**68**	**67**	**(1)**

30 June 2016 Actual	Maturity Profile	Current Year (Gross)	Approved Budget	Variance (Budget vs. Actual)
CI $'000		CI $'000	CI$'000	CI$'000
-	Current	6	67	61
69	Past due 31-60 days	62	-	(62)
-	Past due 61-90 days	-	-	-
-	Past due 90 and above	-	-	-
69	**Total Trade Receivables**	**68**	**67**	**(1)**

5. Prepayments

30 June 2016 Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI$'000		CI$'000	CI$'000	CI$'000
2	Other Prepayments	5	6	1
2	**Total Prepayments**	**5**	**6**	**1**

6. Property and equipment

Cost of Property & equipment

	Furniture and Fittings CI$000	Office Equipment CI$000	Leasehold Improvements CI$000	Total Property Plant and Equipment CI$000
Balance as at 1 July 2015	20	1	1	22
Additions	1	2	-	3
Revaluations	-	-	-	-
Disposal/ Derecognition	-	-	-	-
Transfers	-	-	-	-
Balance as at 30 June 2016	21	3	1	25

	Furniture and Fittings CI$000	Office Equipment CI$000	Leasehold Improvements CI$000	Total Property Plant and Equipment CI$000
Balance as at 01 July 2016	21	3	1	25
Additions	-	-	-	-
Revaluations	-	-	-	-
Disposal/ Derecognition	-	-	-	-
Transfers	-	-	-	-
Balance as at 12 September 2017	21	3	1	25

Accumulated Depreciation and impairment losses

	Furniture and Fittings CI$000	Office Equipment CI$000	Leasehold Improvements CI$000	Total Property Plant and Equipment CI$000
Balance as at 1 July 2015	9	1	1	11
Eliminate on disposal/derecognition	-	-	-	-
Transfers	-	-	-	-
Depreciation Expense	2	-	-	2
Impairment	-	-	-	-
Balance as at 30 June 2016	11	1	1	13

6. Property and equipment (Continued)

	Furniture and Fittings CI$000	Office Equipment CI$000	Leasehold Improvements CI$000	Total Property Plant and Equipment CI$000
Balance as at 1 July 2016	11	1	1	13
Eliminate on Disposal/Derecognition	-	-	-	-
Transfers	-	-	-	-
Depreciation Expense	2	1	-	3
Impairment	-	-	-	-
Balance as at 12 September 2017	13	2	1	16
Net Book value 30 June 2016	10	2	-	12
Net Book value 12 September 2017	**8**	**1**	**-**	**9**

7. Accruals and other liabilities

Prior Year Actual	Description	Current Period Actual	Approved Budget	Variance (Budget vs. Actual)
CI$'000		CI$'000	CI$'000	CI$'000
1	Accruals	-	30	30
16	Audit fees	24	-	(24)
-	Core government trade with other public entities	23	-	(23)
17	**Total Accruals and other liabilities**	**47**	**30**	**(17)**

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 leave as at the statement of financial position date. The value of this liability as at 12 September 2017 is shown in the table below.

30 June 2016 Actual CI$'000	Details	Current Period Actual CI$'000	Approved Budget CI$'000	Variance (Budget vs. Actual) CI$'000
	Employee entitlements are represented by:			-
4	Annual leave	2	4	2
4	**Total employee entitlements**	**2**	**4**	**2**

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 period ended 12 September 2017. Under the *Public Management & Finance Law (2017 Revision)* section 39 (3) (f), the ICO may "retain such part of its net operating surplus as is determined by the Minister of Finance". ICO has booked no surplus payable to Government as of 12 September 2017, (2016: CI$15 thousand). During the period ended 12 September 2017 the ICO paid to Cabinet surplus payable in the amount of CI$15 thousand.

10. Revenue from Non-Exchange Transactions

During the period ended 12 September 2017, ICO received services in-kind as defined under IPSAS 23 Revenue from non-exchange transactions, 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

30 June 2016 Actual CI$'000	Description	Current Period Actual CI$'000	Approved Budget CI$'000	Variance (Budget vs. Actual) CI$'000
572	Outputs to Cabinet	647	1,196	549
572	**Total sale of goods & services**	**647**	**1,196**	**549**

12. Personnel costs

30 June 2016 Actual CI$'000	Description	Current Period Actual CI$'000	Approved Budget CI$'000	Variance (Budget vs. Actual) CI$'000
348	Salaries, wages and allowances	405	669	264
54	Health care	63	112	49
19	Pension	22	38	16
(1)	Leave	(2)	1	3
-	Other Personnel related costs	-	6	6
420	**Total personnel costs**	**488**	**826**	**338**

13. Supplies and consumables

30 June 2016 Actual CI$'000	Description	Current Period Actual CI$'000	Approved Budget CI$'000	Variance (Budget vs. Actual) CI$'000
5	Supplies and Materials	4	16	12
24	Purchase of services	18	75	57
16	Audit fees	24	25	1
10	Utilities	10	29	19
1	General Insurance	1	3	2
6	Travel and Subsistence	4	18	14
21	Recruitment & Training	12	25	13
1	Other	1	3	2
84	**Total supplies and consumables**	**74**	**194**	**120**

14. Leases

30 June 2016 Actual CI$'000	Type of Lease	Current Period Actual CI$'000	Approved Budget CI$'000	Variance (Budget vs. Actual) CI$'000
40	Lease and Rent of Property and Sites	48	61	13
40		**48**	**61**	**13**

15. Litigation costs

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 2016-2017 period legal services were requested to the value of CI$34 thousand (2016: CI$11 thousand).

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

30 June 2016 Actual CI $'000	Reconciliation of Surplus to Net Operating Cash	Current Period Actual CI $'000	Approved Budget CI $'000	Variance (Budget vs. Actual) CI $'000
15	**Surplus/(deficit) from ordinary activities**	-	-	-
	Non-cash movements			
2	Depreciation	3	3	-
	Changes in current assets and liabilities:			
58	(Increase)/decrease in current assets	(2)	(9)	(7)
(85)	Increase/(decrease) in current liabilities	28	11	(17)
(10)	**Net cash flows from operating activities**	29	5	(24)

17. Commitments

As disclosed in note 1 to the financial statements, the enactment of the Ombudsman Law, 2017, resulted in the discontinuance of ICO as a separate legal entity of the Cayman Islands Government effective 12 September 2017 and the entity merged with the Office of the Complaints Commissioner effective 13 September 2017 to form the Office of the Ombudsman. Therefore, the lease commitments under the existing 5 year lease expiring on the 30 October 2019, will now be a future lease commitment of the newly formed Office of the Ombudsman entity.

18. 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 and Accruals and other liabilities
The increase in cash and cash equivalents of $12 thousand compared to budget is primarily due to cabinet revenue collected for expenses incurred but not yet paid as at period end. This can be evidenced from the significant amount recorded in accruals and other liabilities in comparison to budget in the Statement of Financial Position.

18. Explanation of major variances against budget (continued)

Statement of Financial Performance

The significant variance between budget to actual for sales of goods & services is primarily as a result of the budget initially set and approved for an 18 month period which was more than the 14.4 month period actually reported for ICO. In addition, ICO also only bills the Government for amounts actually incurred, which can be less than the average monthly amount of the amounts approved by the Legislative Assembly for sales of goods & services.

Personnel costs and supplies and consumables variances are mainly due to the merger as disclosed in note 1 to the financial statements which resulted in vacant positions not filled and no efforts by the Entity to actively recruit for appropriate personnel. In addition, the shorter reporting period in comparison to the period budgeted would have contributed to these favorable variances. In respect of litigation costs, the budget was developed for an amount ($112 thousand) driven by the budgeted amount in the prior year ($75 thousand). Litigation costs can vary significantly from budget based on the type of cases to be handled and the amount of legal services actually incurred. The favourable variance is as a result of less outside legal costs being incurred in the current period as compared to the budget.

19. 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 resulting in the below balances as at 12 September 2017.

30 June 2016 Actual	Statement of financial position	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
69	Receivables from exchange transactions	68	67	(1)
15	Surplus payable	-	-	-

30 June 2016 Actual	Statement of financial performance	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
572	Sale of goods and services	647	1,196	549
1	Insurance expense	1	3	2

Key management personnel

Total remuneration includes: regular salary, pension contribution, health insurance contribution, allowances, bonus and termination benefits. Total remuneration paid to key management personnel were as follows:

30 June 2016 (Gross) CI$'000	Description	Current period (Gross) CI$'000
227	Salaries & other short term employee benefits	223
227	**Total remuneration**	**223**
2	**Number of Key Management Personnel**	**2**

19. Related party and key management personnel disclosures (Continued)

Key management personnel (Continued)

Loans to Key Management Personnel

30 June 2016 (Gross) CI$'000	Description	Current period (Gross) CI$'000
-	Loans to Key Management Personnel	-

20. 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 (2017 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.

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 12 September 2017 and 30 June 2016, all of the financial liabilities were due within three months of the period end dates.

21. Subsequent events

Effective 13 September 2017, the Entity merged with the Office of the Complaints Commissioner to form the new Office of the Ombudsman entity in accordance with the Ombudsman Law, 2017.

In preparing these financial statements management has evaluated and disclosed all material subsequent events up to 30 April 2018 which is the date that the financial statements were available to be issued.