

Annual Report 2008/09



Our vision

The ICO's vision is a society where information rights and responsibilities are respected by all.

Organisations inspire trust by collecting and using personal information responsibly, securely and fairly;

people understand how their personal information is used, are aware of their rights and are confident in using them;

public authorities are open and transparent, providing people with access to official information as a matter of course;

and

people are aware of their rights of access to official information and are confident in using them.





Information Commissioner's Office

Annual Report 2008/09

**Presented by the Information
Commissioner to Parliament
pursuant to section 52(1) of the
Data Protection Act (1998)
section 49(1) of the Freedom
of Information Act (2000) and
schedule 5 paragraph 10(2) of the
Data Protection Act (1998).**

Ordered by the House of Commons
to be printed 6 July 2009

HC619 London: The Stationery Office
Price: £19.15

Your information rights



The Freedom of Information Act (2000) gives people a general right of access to information held by most public authorities. Aimed at promoting a culture of openness and accountability across the public sector, it enables a better understanding of how public authorities carry out their duties, why they make the decisions they do and how they spend public money.



The Environmental Information Regulations (2004) provide an additional means of access for people who want environmental information. The regulations cover more organisations than the Freedom of Information Act, including some private sector bodies, and have fewer exceptions.



The Data Protection Act (1998) gives citizens important rights including the right to know what information is held about them and the right to correct information that is wrong. The Data Protection Act helps to protect the interests of individuals by obliging organisations to manage the personal information they hold in an appropriate way.



The Privacy and Electronic Communications Regulations (2003) support the Data Protection Act by regulating the use of electronic communications for the purpose of unsolicited marketing to individuals and organisations.

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1. Information

Commissioner's foreword



Are we making a difference? As I complete my second term of office, I want to highlight four key changes – cutting across freedom

of information and data protection – which have come about during my time as Commissioner:

- transparency is now seen as central to healthy democracy and citizen welfare;
- accountability has become a key driver of public policy;
- our work impacts directly on the relationship between state and citizen;

and

- access to official information and protecting personal information have moved centre stage.

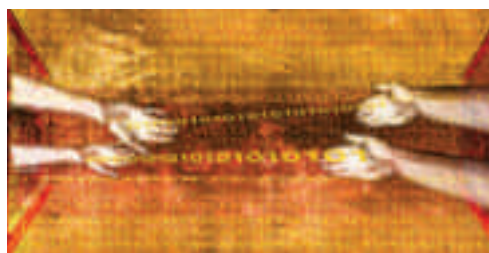
Transparency

Transparency and openness have become part of the standard political vocabulary. The public's right to know has become a success story. Wider debates are underway about democratic renewal, public engagement and constitutional reform. Freedom of information, a somewhat fragile flower for most of its lifetime with few vocal friends in Westminster and Whitehall, is now a permanent fixture and a core part of the fabric of public life. The talk now is of extending the legislation.

The recent uproar over MPs' expenses has of course brought much immediacy to these debates. The implications of that controversy continue to reverberate with unpredictable consequences. Our decision requiring disclosure – which was extended to greater detail by the tribunal following the appeal launched by the House of Commons – played its part, though newspaper revelations ignited the firestorm.



This is, however, part of a much wider agenda of social change. People are better-educated than ever and no longer expect to be kept in the dark. There is suspicion of secrecy and cover-up. Modern communications mean that the public expect instant access to what is going on. The Freedom of Information Act has created a legal presumption that information held by public bodies should be available as a right. There has been a strong appetite to use the law – with an estimated half a million requests since it went live in January 2005.



I believe, too, that the Information Commissioner's Office (ICO) has made a difference. We have handled more than 11,500 freedom of information complaints, and issued over 1,225 reasoned decision notices. Our approach as the independent adjudicator has been fair, robust and responsible – deciding each case in accordance with the law, regardless of whether that results in uncomfortable disclosure for a public body or frustration for the unsuccessful complainant. The sheer variety of subject matter has been challenging, with many controversial and complex cases requiring our caseworkers to have instant knowledge on unfamiliar topics. Large numbers of the cases we

rule on involve everyday issues that matter to people, such as planning applications, speed cameras and parking offences. Stepping back in time, we have dealt with the 1911 census, the sinking of the Belgrano in 1982 and the Budget of 1997. We have resolved international cases, such as those involving arms sales to the Middle East and the development of the Sakhalin gas field. Domestically, cases have covered animal experiments, MMR vaccine and abortion statistics. In the world of finance we have also considered hedge funds, airline contracts and government subsidies.

In all cases, transparency has driven the demand for information and provided the rationale where disclosure has been ordered. The same is true of the guidance that we provide to public bodies and the growing amount of enforcement work where systemic problems or unacceptable practices surface. The surprise is no longer the nature and extent of disclosure. What is astonishing is how much was previously treated as secret.

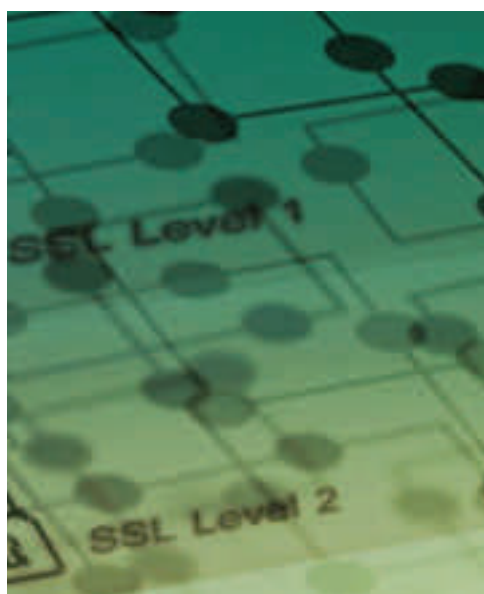
Less obviously – but equally important – transparency lies at the heart of good data protection practice. This is much more than the vital rights to access your own personal data and to ensure mistakes are corrected. Privacy has become a reputational issue for both commercial and public organisations – fuelled by the availability and integrity of information. Transparency lies at the heart of Privacy Impact Assessments –

an ICO initiative now mandatory for government schemes – which demonstrate how the risks of handling information can be identified, minimised and safeguarded. Privacy policies set out organisational approaches and Privacy Notices – where our new code calls for user-friendly clarity – explain to the public how their data will be used and the choices available to them. Greater understanding of how your personal details are being used and stored leads to greater trust in an organisation. Our Information Sharing Code will soon be transformed into a statutory code. The ICO's Personal Information Promise invites those leaders committed to proper information safeguards within their organisations to sign up and be counted.

Accountability

Inquiries and investigations into data breaches have demonstrated beyond doubt that accountability – spelt out through sound governance arrangements – is key to handling personal information well. If there is no clarity and certainty about who is responsible, things will go wrong. I welcome the new requirement for every government department to identify a Senior Information Risk Owner and similar initiatives in the devolved administrations. This reflects the belated recognition that reputation and regulation matter at Board or

Chief Executive level and that good information handling is now a governance issue cutting across traditional boundaries. Data protection has become too important to be sidelined to the experts or to a single team. Senior level accountability recognises that it is important (but not sufficient) to tackle the paperwork – the right policies, procedures, contracts and compliance programmes.



It is important (but not sufficient) to assure the technology – the right systems architecture, privacy by design and operational safeguards. It is important (but not sufficient) to address human weaknesses – with the right awareness and training programmes and the right management and supervision.





Accountability is needed for all aspects of data handling – not just ensuring appropriate security. There needs to be clear responsibility for data minimisation – not collecting any more personal information than is needed and keeping it no longer than necessary. Data quality and data cleansing are likely to assume ever greater importance – ensuring the right information relates to the right person, that it is accurate and that it is kept up to date. Many organisations describe information as a valuable asset, as indeed it can be, if it is managed well. We have tried to get them to recognise that this can also quickly turn into a major liability if the risks of poor data handling materialise. Real damage to people's careers, reputations, personal relationships, private lives and bank balances can follow if things go wrong. Real damage can also hit the reputation, the prosperity and the legitimacy of the organisations responsible. Data protection is often described as specialised risk assessment. As Sir Mark Walport and I made clear in the context of the Data Sharing Review, it needs to be taken seriously at the heart of an organisation's integrity.

From the other direction, the Freedom of Information Act is a stark reminder that a defining feature of modern democracy is that those elected to power and their officials are accountable to the people. The public has the right to know what is done in their name and with their money. Freedom of information brings greater public understanding and less scope for impropriety, for decisions or for

activities behind closed doors which jeopardise public confidence.

The first four years have involved massive learning for everyone. Many transitional problems have been caused as public bodies have resisted disclosure of material which had been written without an expectation that it could reach the public domain.



As we move into a more mature business-as-usual phase, public sector culture must continue to shift in favour of openness being the norm. There is no need to wait for requests. These can be sporadic, burdensome and disruptive. I have frequently advocated the 'crown jewels' approach – public bodies need to show they recognise the imperative of accountability (and make lives easier for themselves) by identifying what absolutely has to be kept secret and then proactively publishing other official information as a matter of routine.

The relationship between state and citizen

Technology has become more powerful, more universal, more portable, more global, cheaper – and now offers unlimited and unforgiving memory. Controversy greeted my fear that “We are sleep-walking into a surveillance society.” The report and international conference which elaborated these concerns in 2006 have led to much welcome debate and activity stretching well beyond the ICO. It must be without precedent for two heavyweight Parliamentary Committees – Commons and Lords – to review the same topic in such a close time span. I was pleased that both reports echoed our worries that too much information is collected on people without sufficient debate, restriction or safeguard. The House of Lords Constitution Committee concluded that “The expansion in the use of surveillance represents one of the most significant changes in the life of the nation since the Second World War... and continues to exert a powerful influence over the relationship between individuals and the state.”

Modern technology brings many benefits in terms of law enforcement, public protection, delivery of public service and research. But I welcome the increased awareness of the dangers that excessive, unrestrained

or unscrutinised collection and use of personal information can bring to the right to privacy and other freedoms. Benign motives do not eliminate the risks. The need for vigilance continues to influence debates over identity cards, databases of children and those in contact with them, electronic health records, criminal records, police intelligence and so on. It is especially significant that the then Home Secretary has ruled out the idea of a single government-run database of communications traffic data. The tensions between security and liberty are undoubtedly delicate, but they are healthy and it is essential to secure a balance, with clear boundary lines, informed by full debate.

There is no irony in the dual need to limit the state’s knowledge about the private lives of citizens and to increase the citizen’s knowledge about the activities of the state. The principles to be adopted, and the application of those principles to each case will always be contestable, but there can be no doubt now that both are central to the state/citizen relationship. To get the balance right, I am convinced that it is right to charge a single Commissioner with data protection and freedom of information responsibilities. This goes well beyond the inevitable need to reconcile the privacy and disclosure considerations in a significant proportion of cases.





Centre stage

The ICO has taken a strategic approach to our multiple roles as influencer, ombudsman and policeman. We have clear priorities and a targeted approach. Data protection has previously been marginalised and not taken seriously. Freedom of information has still not reached adolescence. Both subjects now find themselves influencing (and sometimes setting) news and political agendas on a daily basis. Both have moved centre stage.



In the past, data protection has suffered a poor reputation. Although much was being done to tick the boxes to ensure technical compliance, the topic was generally given low priority. Worse, there was considerable media scepticism or even hostility as well as public ignorance, indifference or irritation. Data protection was widely seen as remote, unnecessarily complicated and uncertain. The law, the more detailed rules and the available guidance were seen as overly legalistic – almost theological. Worse still, data protection was often used as a duck-out wrongly blamed for stopping people doing things and used to justify mistakes or unacceptable activities.

In 2009 the situation is very different. From left, right and centre there is support for our work. The exposure

and closure of the secret construction industry database was universally praised. The illegal trade in personal data appears to have diminished. We have worked hard to get data protection taken more seriously. Our Data Protection Strategy makes clear that we place most attention on situations where there is a real likelihood of serious harm and where our intervention is most likely to make a difference. The strategy repeats that our key priority has been:

“Strengthening public confidence in data protection by taking a practical, down to earth approach – simplifying and making it easier for the majority of organisations who seek to handle personal information well, and tougher for the minority who do not.”

It is not easy (and anyway too soon) to measure freedom of information achievements by reference to rationales of trust, confidence, accountability, improved decision-making or reduced impropriety. But it can be said that the impact on the general public appears to have been substantial. Our annual survey shows marked increases in public attitudes towards the benefits of access to information held by public authorities. Those agreeing that freedom of information “increases knowledge of what public authorities do” rose from 54% in 2004 to 84% in 2008. Those agreeing that it “increases confidence in public authorities” went up from 51% to 75%.

Despite the centrality of all our work, however, more is needed to ensure its benefits are understood and that

it is taken even more seriously. A step change is now needed. I have argued consistently that it is wholly unacceptable that the ICO should need the consent of a data controller to inspect its activities. I welcome legislation currently before Parliament to create the power to inspect public bodies. But this remains seriously deficient without a sanction for those who ignore the so-called requirements and without extending our powers so we can also inspect the private sector. The proposed tiered notification fees should increase our annual data protection budget to some £16 million, but this will remain tiny compared to other regulatory bodies.

Our resources for freedom of information are considerably less. The total annual cost of freedom of information, across the whole of the public sector, was estimated at just some £35 million in 2006/07. Of the total, we currently receive £5.5 million, and we have had no increase at all for the current year despite a 15% increase in cases in the last year. Public finances are very tight, but – especially if the legislation is to be extended – ICO needs adequate and longer-term funding to enable us to fulfil properly all our complaint, guidance and enforcement responsibilities. Delays have been the most serious problem with freedom of information – within public authorities, within the ICO and at the tribunal stage. We have improved our performance substantially and are meeting our targets, but the delays for most cases which require full investigation remain frustrating and disappointing. A recent article argued that the ICO is the only

public sector organisation that needs and deserves more money.

Open government and the right to know have been established. It is increasingly being recognised that open government is good government. But open government has to be properly paid for.

Endnote

The ICO has come a long way. We can claim good progress with our aim to be recognised as a world leader for both freedom of information and data protection. Christopher Graham, the new Commissioner, will inherit a lively, committed and hard-working ICO which is proud to be making a difference. I have been privileged to serve as Commissioner for almost seven years and I am immensely grateful to all staff and Non-Executive board members. The ICO cannot and will not stand still. I am confident that the office is well-placed to rise to the challenges it will continue to face.

Richard Thomas
Information Commissioner
June 2009





2. Year at a glance

This report looks back over the progress made against the aims set out at the beginning of the year in the ICO's three-year Corporate Plan for 2008 to 2011.

Educating and influencing

Aim one: To promote freedom of information and open government, to bring about a culture where public bodies make as much official and environmental information available as possible, proactively and progressively, with individuals widely aware of their right to know.

Aim two: To promote good data protection practice by organisations when handling personal information, with individuals and organisations widely aware of their rights and obligations.

Aim three: To service the differing needs of communities.

Resolving problems

Aim one: To provide an efficient and valued customer service that deals with all information rights, complaints and enquiries.

Aim two: To provide an efficient and valued freedom of information service making decisions in disputes about access to information held by a public body in a robust, responsible and efficient way.

Aim three: To provide an efficient and valued data protection casework service.

Aim four: To run an efficient and helpful notification service.

Aim five: To increase customer satisfaction.

Enforcing

Aim one: Take purposeful risk-based enforcement action where obligations are ignored, where codes or guidance are not followed and where examples need to be set or issues clarified.

Aim two: Ensure organisations which handle personal information comply with their obligation to notify with us.

Developing and improving

Aim one: To achieve a clear, articulated and lived culture with a recognisable ICO feel that is positive, forward looking, energetic, practical, responsible and influential.

Aim two: To achieve recognisable world-class performance through motivated staff who are committed to the ICO's goals and success.

Aim three: To protect and promote the good corporate reputation of the ICO.

Aim four: To work as effectively and efficiently as possible, making best use of our resources and gaining value for money.

Aim five: To improve our use of information technology to encourage efficiency, to keep pace with developments in society and to meet customer expectations.



Our highlights of 2008/09

Apr 08

Richard Thomas chairs the 'Who got caught out last year, and why?' seminar at Infosecurity Europe event, Olympia London.

We issue new guidance on data security breach management.

May 08

We welcome the House of Commons' decision to publish details of MPs' spending under the Freedom of Information Act in line with our decision notice.

We publish 'Hints for Practitioners handling FOI and EIR requests', in collaboration with the Ministry of Justice, the Department for Environment, Food and Rural Affairs, and the Ministry of Defence.

Jun 08

At FOI Live 2008 Richard Thomas calls time on unnecessary secrecy, calling on public authorities to disclose more information proactively.

We successfully prosecute two private investigators for obtaining and selling personal information after they illegally 'blagged' the personal details of a BT customer.

We take formal enforcement action against HM Revenue and Customs and the Ministry of Defence following serious data breaches.

Jul 08

We launch our Annual Report.

The Data Sharing Review by Richard Thomas and Mark Walport is published.

We announce that RAND Europe has been commissioned to carry out a comprehensive assessment of the strengths and weaknesses of European data protection law.

We order the BBC to disclose annual staff costs for Eastenders.

Aug 08

We rule the Nuclear Decommissioning Authority was right to withhold a draft paper on radioactive waste storage methods.

We order the Health and Safety Executive to disclose the names of individuals who have died in work-related incidents.

Sep 08

At the launch of stop stupidity week, we urge organisations not to use data protection as a duck-out.

We find Virgin Media Limited in breach of the Data Protection Act following the loss of an unencrypted CD containing the personal details of over 3,000 customers.

We run an internal 'Green Week' initiative.

We launch our Northern Ireland Regional Office Annual Report.

We launch our Student Brand Ambassador programme.

Oct 08

We exhibit at the three day Chartered Institute of Personnel and Development conference in Harrogate.

We launch the 'Personal Information Healthcheck' to mark National Identity Fraud Prevention week.

We attend the International Data Protection Commissioners' conference, in France and Germany.

We publish our leaflet on new model publication schemes for town and community councils.

We call for a public debate on government proposals for the state to retain citizens' internet and phone records.

Nov 08

Our Communications and External Relations Department wins the Chartered Institute of Public Relations PRide award for Outstanding in-house public relations team, North West region.

We carry out an internal bullying, harassment and discrimination survey.

We host the Data Protection Officer conference in Dundee.

We host the Privacy by Design conference in Salford.

Dec 08

We issue guidance that says vexatious freedom of information requests can be blocked.

We successfully prosecute three London law firms for non-notification under the Data Protection Act.

We order Ofsted to release the names of 29,970 child care managers and their relevant place of employment in England, following a freedom of information request.

Jan 09

We mark European Data Protection day with the 'Personal Information Promise.'

The Information Commissioner Richard Thomas gives evidence to the Justice Select Committee on the ICO's work.

New figures show a significant increase in the number of data breaches reported to the ICO.

We launch 'Tick Tock' the freedom of information training DVD for public authorities.

The Information Tribunal upholds our decision on the release of cabinet minutes which discussed the 2003 invasion of Iraq.

We take enforcement action against the Home Office for a serious data breach.

Feb 09

We respond to the House of Lords Constitution Committee Surveillance Society report.

We sponsor an award at the Cheshire Positive Awards for Business.

We take part in the Hampton review inspection.

Mar 09

We host the Data Protection Officer conference in Manchester.

We successfully prosecute both a London and Middlesex law firm for offences under the Data Protection Act.

Vietnamese delegation visits our head office to discuss the importance of freedom of information, proactive disclosure and our experiences.

We issue a formal freedom of information practice recommendation to the Department of Health, regarding its record management.

We seize a covert database of construction industry workers from The Consulting Association and open a new telephone service for people to check whether information about them is held on it.

We take data protection enforcement action against Camden and Islington Primary Care Trust.

We prosecute an Hounslow law firm for offences under the Data Protection Act.

We issue a freedom of information practice recommendation to Greater Manchester Police regarding internal reviews.



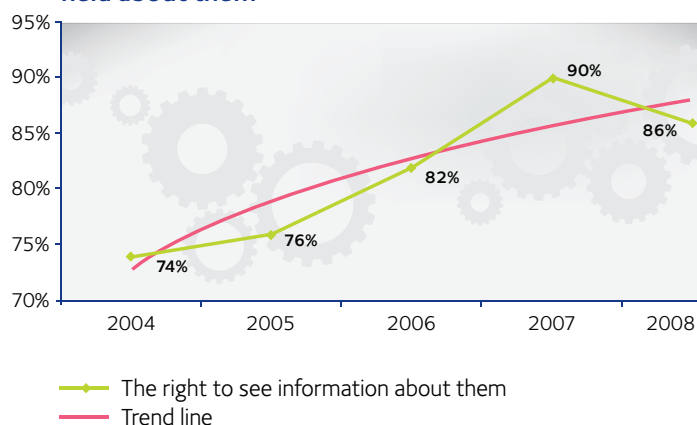
3. Educating and influencing

Information rights

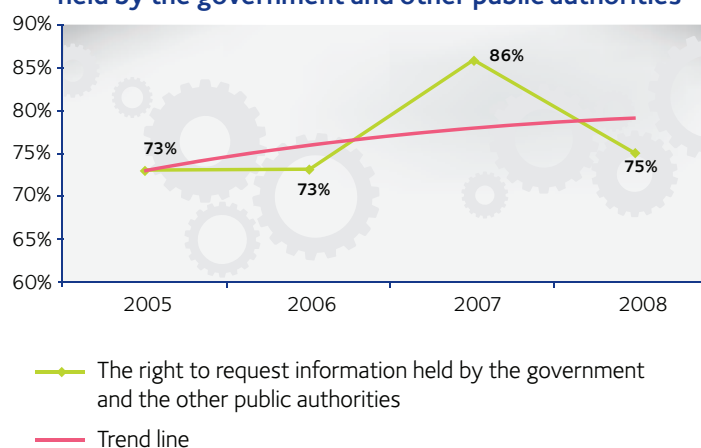
Information rights remained high on the political and social agenda this year. Research commissioned by the ICO continues to show very high levels of awareness.

Individuals' awareness of the data protection right to see information held about them was at 86%, and 75% were aware of the freedom of information right to request information held by public authorities.

Prompted awareness of the right to see information held about them



Prompted awareness of the right to request information held by the government and other public authorities



Case studies

ICO publication scheme



We sent information about the new publication scheme directly to all 730 community and town councils within Wales, explaining the changes and what they needed to do.

Training

We published a new training DVD, "Tick Tock", aimed at giving public authorities a good overview of their freedom of information obligations.

We distributed 45,000 copies with over 300 people signing up for an early order via our e-newsletter.



Helping to bring about a culture of openness

Following an extensive review of existing publication schemes we introduced a model publication scheme for all public authorities. Authorities had to adopt the scheme on 1 January 2009 working with all areas of the public sector.

"The Information Commissioner, Richard Thomas, has written to all chief executives of local authorities, NHS trusts, police agencies and thousands of other organisations, urging them to disclose a range of information "as a matter of routine."

Robert Verkaik,
The Independent, 13 June 2008

Publication schemes set out the types of information that public authorities make routinely available and how this can be accessed. The information should be easy to access and its routine publication must become business as usual.

We also required organisations to produce a guide to the information which they hold and we expect these to enable the information to be easily identified and accessed by the general public.

To help public authorities develop their guide to information, we produced a series of definition documents that set out the categories of information we expect to be included.

Monitoring

In March 2009 we published our freedom of information monitoring strategy. The strategy commits us to regularly review the model scheme and definition guidance and also sets out how we will monitor public authorities' adherence to adoption and operation of the scheme.

Building awareness of individual rights and organisations' obligations

New guidance

We published 29 new pieces of freedom of information guidance including advice on the use of pseudonyms, when salaries should be disclosed, interpreting a request for information and the internal review process.

Following decisions by the Information Tribunal and the courts we updated 16 pieces of our existing guidance, including those about vexatious or repeated requests, the exemption for personal information and what is environmental information.

"Freedom of Information complaints from "Mickey Mouse" or "Mrs Sue D Nym" will not be accepted by the Information Commissioners, new guidance says."

BBC Online, 13 January 2009

“New guidelines will mean that, under the Freedom of Information Act, bodies such as the Financial Services Authority will have to reveal the salaries or salary bands of all their senior staff – not just those of their boards, as at present.”

**Sue Cameron,
Financial Times,
18 February 2009**

Communicating through the media

The media continued to cover freedom of information stories, with topics including MPs' expenses, salary bands of public sector workers and anonymity of freedom of information requesters. Our “Find Out About It” regional campaign, aimed at helping people to understand their freedom of information rights, gave rise to coverage in local papers across the UK.

Our series of public information adverts totalled 68,965 transmissions over 65 stations.

“Virgin Media was today censured by the information watchdog for losing the personal details of thousands of customers. The Information Commissioner's Office found the firm in breach of the Data Protection Act after a disc went missing containing information relating to more than 3,000 potential account holders.”

**Richard Gray, Sunday
Telegraph,
17 August 2008**

Protecting personal information

The media continued to give prominence to data protection and privacy stories. Proposed new powers for the ICO, data losses, ICO enforcement action and crime mapping were all covered, and the debate over the surveillance society continued.

Consumer media coverage included a three-page spread in Woman's Weekly (April 2008) featuring the 'top tips' from our personal information toolkit.

“Britain's information watchdog, the Information Commissioner's Office, has called for tighter regulation of the amount of data held about citizens and urged the public to restrict the information they allow organisations to hold on them.”

**Richard Gray,
Sunday Telegraph,
17 August 2008**

We also coined the term “data protection duck-out” to give us an easy descriptor for lazy and incorrect blaming of data protection.



Case study

Partnership



Together with the Ministry of

Defence, DEFRA and the Ministry of Justice, we published a “Hints for Practitioners” booklet to help freedom of information officers to handle requests in the right way.

“The ICO, is launching an online guide to help people manage their information. Visitors who go to the organisation's website will be able to use the Personal Information Healthcheck to get advice on how to protect their details’.”

**BBC News Online,
23 September 2008**

“The ICO, which regulates the Data Protection Act, advises customers not to give out personal information to callers unless they're convinced the person is who they say they are.”

**Sue Hayward,
Consumer Expert
at Women's Weekly,
17 June 2008**



Our most popular publications

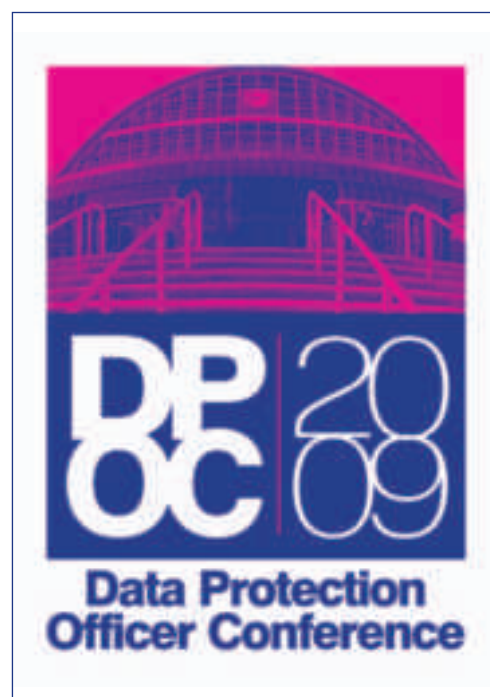
Rank	Publication	Total requests
1	Credit explained booklet	39,900
2	Freedom of information – your guide to openness	15,100
3	Personal information toolkit	15,100
4	About us leaflet	14,500
5	Hints for practitioners handling freedom of information and Environmental Information Regulation request	9,700
6	Data Protection Act (1998) – when and how to complain	9,400
7	The lights are on interactive data protection DVD	9,100
8	Freedom of Information Act (2000) and Environmental Information Regulations (2004) – when and how to complain	5,900
9	Brief guide to notification	5,000
10	CCTV code of practice	5,000

We produced a series of data protection principle posters, which double as a wall calendar, to remind data protection officers of the principles of the Act.

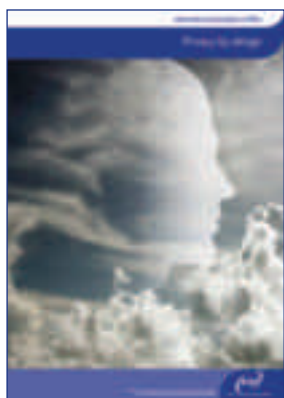
Promoting good data protection practice and raising awareness of obligations

Following the success of our first Data Protection Officer conference in March 2008, we repeated the event in March 2009. Demand for places was high, and we welcomed to Manchester about 300 data protection officers representing a wide spectrum of organisations. ICO staff led workshops throughout the day covering security, communications, privacy impact assessments, handling complaints and future data protection issues.

We have added to our range of guidance – including new guidance on the meaning of “data”, and on data security breach management.



Our surveillance society work has moved on from stimulating debate to addressing the practical consequences, as demonstrated by initiatives on Privacy by Design. This aims to build trust by urging organisations to design in privacy and data protection compliance rather than bolting it on as an afterthought.



Our Privacy by Design conference was held in November 2008. We launched our Privacy by Design report which explores how Privacy

by Design might be encouraged as a means of reducing the risks arising from processing personal information.

Identifying privacy concerns and risks in new projects is essential. We have promoted the use of Privacy impact assessments, which have now become mandatory for all government departments following the recommendations in the Cabinet Office Data Handling Review by Sir Gus O'Donnell in June 2008.



“The ICO says that any such prize draw should make clear what will happen to information when sending off details, and has launched a “small print, big print” campaign to encourage companies to make their privacy and marketing much clearer. Its consultation on a new code of practice for “privacy notices” will try to standardise this.”

**Sam Dunn,
The Observer,
1 March 2009**



Collecting information fairly

The Privacy notices code of practice consultation was launched in January 2009. The code will help organisations to draft clear privacy notices and make sure they collect information about people fairly and transparently. It contains good and bad practice which will help organisations when drawing up their own privacy notices.



Case study

The Personal Information Promise

The Personal Information Promise was launched to mark European Data Protection Day in January 2009. The Promise is a clear statement from the leaders of organisations saying that they value the personal information entrusted to them and will put the appropriate resources in place to look after it. By the end of March 2009 88 organisations had signed up including Royal Mail, Astra Zeneca and Belfast City Council.

“Experian, Equifax and BT have all signed a data protection pledge to the Information Commissioner’s Office to show they are committed to safeguarding personal data.”

**Precision Marketing,
30 January 2009**

Case study

Reaching young people

Young people are more aware than ever of their data protection rights, following ICO programmes targeted specifically at raising their awareness.

Our Student Brand Ambassador campaign covered 15 universities across the UK for one term.

Key messages were disseminated across campuses via student radio, university newspapers and posters, and a Facebook group “Keep your privates private” was set up. Over 50 campus partnerships were established during the campaign.

Influencing policy

In the last few years we have done much to foster debate about the possible emergence of a surveillance society. This contributed to the launching of two parliamentary inquiries to which we provided evidence. Both the House of Commons Home Affairs Committee and the House of Lords Constitution Committee published their reports which commended us for our work. We published our formal responses to each report welcoming the findings. The Home Affairs Committee asked us to do an annual report to Parliament on surveillance and the work on the first report will be started during the next year.

We also provided evidence to House of Lords European Union Committee inquiries into Europol and the European Union Passenger Name Record framework decision.

“The Information Commissioner’s Office has today published new guidance to help organisations comply with the Data Protection Act when providing information about their employees under The Transfer of Undertakings (Protection of Employment Regulations), the law that protects staff when a business is transferred.”

**Alexi Mostrous
and Richard Ford,
The Times,
27 February 2009**

“New good-practice guidance from the Information Commissioner discusses students’ rights to access their exam results. Entitled ‘Individuals’ rights of access to examination records’, the guidance explains that under the Data Protection Act students can request information about themselves, including examination marks, scripts, comments and minutes of examination appeals panels.”

**The Times Higher Education,
28 August 2008**



“Plans to create a database holding information about every phone call, email and internet visit made in the UK have provoked a huge public outcry. Richard Thomas, the Information Commissioner, described it as “a step too far.”

Robert Verkaik,
The Independent,
5 November 2008

We continue to influence government policy at a strategic level. The government’s e-borders programme has led to contact with UK Border Agency during the year on issues ranging from acquisition of advanced passenger information through to biometrics of visa applicants, automated clearance systems and identity cards for foreign nationals.

The opening of terminal five at London Heathrow

Airport in June 2008 with fingerprinting of passengers provoked complaints. We held urgent meetings with the parties and the arrangement was immediately suspended.



The phased roll out of the national identity scheme has started. We continue to influence developments to ensure these are secure and minimise privacy risk, and we have had regular contact with the Identity and Passport Service.

We have provided data and private protection advice on major public sector initiatives, including advising the Department for Children, Schools and Families on Contactpoint and

The Independent Safeguarding Authority on the application of their vetting and barring scheme. We were influential in the Home Office’s plans to publish crime maps across England, working closely with the Metropolitan Police as they developed their own privacy-friendly model. We cautioned against point data mapping and issued guidance to all police forces on how crime maps could be rolled out whilst minimising the risk of any unnecessary intrusion.

“The Council for Catholic Maintained Schools has finally agreed to release a financial report on controversial plans to merge three Co Antrim schools following intervention by the Information Commissioner’s Office.”

Katherine Torney, The Belfast Telegraph,
13 February 2009

International

We contributed to both the International and European Data Protection and Privacy conferences. We participate in the European Data Protection Commissioners Working Party on Police and Justice which provides a coordinated response to the increasing number of pan European cooperative arrangements. This includes the adoption of a European Council framework decision on the protection of personal data processed in the framework of police and judicial cooperation.

We took an active role in the work of the EU Article 29 Working Party and its sub groups. The working party is part of the data protection framework



Case study

Reviewing the European Directive

In June 2008 we commissioned RAND Europe to conduct a review of the European Data Protection Directive. The project assessed the strengths and weaknesses of European data protection arrangements, and by inference the UK's Data Protection Act.

The draft of the final report was presented to the conference of European Data Protection Commissioners hosted by the ICO in Edinburgh, in April 2009.

established in the EU Data Protection Directive. It has agreed opinions on the review of the e-Privacy Directive and search engines, working papers on children and privacy and pre-trial discovery, as well as clarifying the Binding Corporate Rules process.

We played a significant role discharging our other international responsibilities as part of the data protection supervisory arrangements for Europol, Customs Information System, Eurojust, Eurodac and the Schengen Information System. Our Deputy Commissioner, David Smith, was re-elected as Chair of the Europol Joint Supervisory Body for a second term of office.

The ICO has also hosted international delegations during the course of the year including Ethiopia, Vietnam and China.

International data transfers

We continue to believe in the benefits of organisations using Binding Corporate Rules. This is a means of ensuring that individuals' information is protected when being processed outside the European Economic Area by the members of multinational groups of companies. It consists of legally binding rules which all members of the group must follow, backed up by training and audit. The rules also create rights for individuals which can be enforced before the data protection authorities or the courts in Europe.

We have been working closely on the drafting of Binding Corporate Rules and helping organisations with their discussions with other data protection authorities in Europe. In September 2008 we signed up to a policy of mutual recognition and, with our colleagues at other data protection authorities, we have produced clear guidance on the necessary content. We expect that these developments will significantly reduce the time taken to get approval of Binding Corporate Rules.



Serving the differing needs of communities

We responded to concerns about how we engage with civil society organisations by setting up quarterly meetings. We also created a modest travel bursary to help ensure that a range of views are represented at events we organise.

Reaching regional audiences

Our regional staff promoted information rights, by hosting events, attending conferences and through speaking opportunities.

For example, in Northern Ireland we've met with the Chartered Institute of Public Finance and Accountants, the Judicial Appointments Commission, the Chief Executive's Forum, Queens University Belfast, the Records Management Society of Ireland, the Police Service of Northern Ireland, the Children's Law Centre, the Northern Ireland Local Government Association, the Northern Ireland Federation of Housing Associations, the Belfast Insurance Institute and the Northern Ireland Citizen's Advice Bureau.

Given the devolved nature of Freedom of Information in Scotland, we focus on data protection. This year we met

with a wide range of stakeholders including: the National Data Sharing Forum; Scottish Higher Education Practitioner's Group; NHS Information Governance Network; Scottish Insurance Forum and the Association of Chief Police Officers (Scotland). A notable involvement was the Assistant Commissioner's membership of the Scottish Government's Expert Group in IT Security, which was established after the raft of high profile public sector data losses.

“Ken Macdonald, Assistant Commissioner for Scotland at the Information Commissioner's Office (ICO), said he opposed any blanket rule for keeping DNA samples from children.”

**The Scotsman,
24 September 2008**

“The ICO has ordered the trust, which serves patients in Bridgend, Neath Port Talbot and Swansea, to sign an undertaking to process personal information in line with the Act.”

**The Western Mail,
24 January 2009**

Case study

Reaching regional stakeholders

Information sharing in the Welsh public sector was the main talking point of a conference organised by our Welsh office early in April 2008. Attracting 200 delegates from throughout Wales, speakers provided a practical focus on how to share information whilst staying data protection compliant.

“Speaking to the Belfast News Letter, The Assistant Commissioner for Northern Ireland said that it was not within the spirit of openness – which freedom of information was meant to encourage – for departments to release information to one person but not make it more widely available.”

**Belfast News
Letter,
25 September
2008**





4. Resolving problems

Meeting customer needs

Our website received 20% more visits than last year. We added a new search facility, made our homepage more topical, provided a newsfeed and a space to promote the latest news. In line with customer feedback, we started a programme of new user-journeys, focusing on specific sectors and life events, with journeys on education and crime added to the site. We also published new pages on customer service commitments, an online event registration form and a new online enquiry form. The ICO now runs tailor-made plain language training for its staff, in response to customer feedback.

The ICO helpline

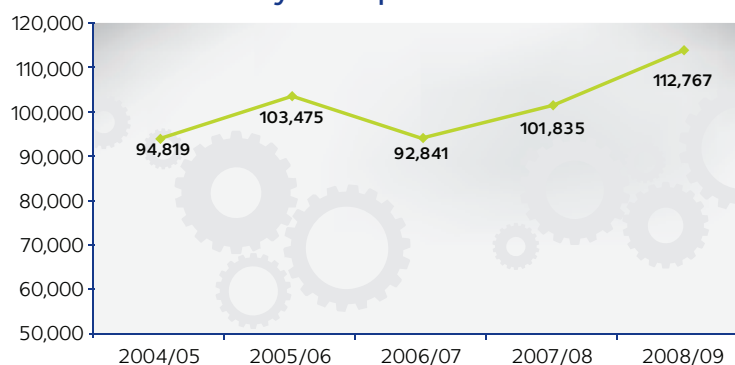
Our national helpline is there to provide advice to the public and organisations. Demand for this service has increased steadily in recent years. In 2008/09, the helpline received 112,767 calls. 92% of these calls were answered in under one minute with approximately 50% answered in under 30 seconds. We pride ourselves on the quality of advice we are able to offer through our helpline across such a wide range of subject matters.

Calls to this service range from individuals unfamiliar with the legislation, to organisations wishing to understand whether their latest business proposal is likely to be compliant with the legislation.

Notification helpline service

83,937 telephone calls were answered on the notification helpline with an average waiting time of 20 seconds. 20,673 written enquiries requesting notification guidance and information were responded to.

Calls received by our helpline



“Friday saw the Information Commissioner telling the NDA it was right to withhold from publication a 2004 draft of the report on geological research behind possible sites for a geological storage facility for Britain’s nuclear waste.”

New Energy Focus,
11 August 2008

“The Chief Constable of Hampshire Constabulary has been ordered by the ICO to reveal what type of cars the force has given its chief officers.”

Jane’s Police Review,
29 August 2008

Freedom of information complaints

We closed 3,019 cases, 13.5% more than in the previous year, and more than we had projected. (Our plan was to close 2,700 cases, and we exceeded this by 319). However, we received 3,100 new cases, 17% more than we had anticipated. The result was that the number of cases in progress at year end had risen by 6%.

At the end of the first quarter, we closed more cases than we received and were optimistic that we could do more. We used our increase in funding to recruit new, permanent, caseworkers early in the year, in Wilmslow, Belfast and Cardiff, and we prepared a comprehensive training package. The first new staff arrived in the second quarter, and we started to seek secondees from government departments, most of whom arrived in the third quarter.

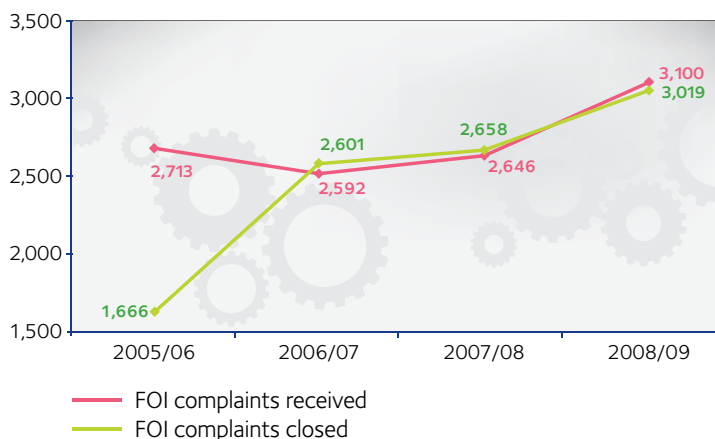
However, during the second quarter, the number of new cases we received began to increase: 764 – our highest ever. Nevertheless, our closures for the quarter were also record breaking: 769, significantly more than in any other previous quarter.

Our case reception processes helped improve efficiency. The unit receives the new freedom of information complaints and handles general freedom of information enquiries. Many complaints are resolved informally, by staff contacting the relevant public authority; some people simply require advice on the steps that need to be taken before we can handle their complaint.

We had been prepared for a dip in case closures during the third quarter, to take into account the impact of training and coaching new staff. We managed to close more cases than predicted – over 700 – ahead of our projected closure rate of 675. Unfortunately, we were beaten again by the number of new cases coming in – over 760.

The final quarter of the year saw even higher levels of new cases, bringing the total for the year to over 3,000. The final quarter also produced good closure figures, but we were again unable to keep pace with new incoming cases and ended the year with 77 more than we began.

Total freedom of information complaints received and closed since 2005



Predicting the number of new cases

Predicting the number of cases we are likely to receive is difficult. Forecasts were based on the number of new cases we had received previously, and on the best available data on the number of freedom of information requests to central government. Neither suggested anything other than a modest rise, but the reality was a significant increase in both freedom of information requests to departments and in complaints to us.

While we only have a limited amount of control over new referrals to us, we can control our case closures and that remains our focus for the coming year. Despite the increase in cases referred to us, we have not made any request for additional resources during 2009/10 and our funding remains the same as for 2008/09. Our aim is to improve efficiency. We have strengthened our approach to the triage of new cases. Most of our new staff are now fully trained. Our experience of dealing with cases – and subsequent appeals to the

Information Tribunal – has enabled us to further develop the policy lines we need to take. As a result we are able to apply a quicker and more consistent approach to the complaints that we handle.

These improvements should enable us to close over 3,000 cases again next year. Our twin aims will be to keep on top of new cases by effective triage and early resolution where appropriate, and to focus our remaining resources on targeting and closing our oldest cases. How this translates into reducing the current caseload will of course depend on how many new cases we receive.



“The ICO has ordered the authority to release a contract with a commercial partner, including the financial details, about repairs and maintenance at Mid Suffolk leisure centre in Stowmarket.”

**The Ipswich Evening Star,
3 July 2008**

“Rejecting a request by a member of the public under freedom of information laws for the correspondence to be made public, the ICO said it was of a “personal nature” and not related to government policy.”

**John Chapman,
Daily Express,
19 February 2009**

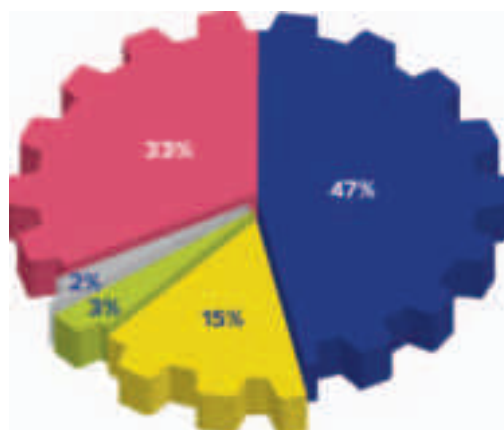
Freedom of information casework

(All days are calendar days)

Received in 2008/09	3,100
Closed in 2008/09	3,019
Work in progress	1,440

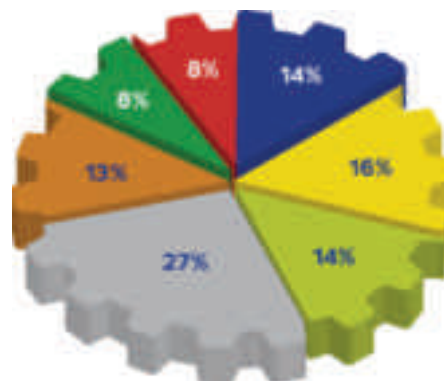
What happened to the 3,100 cases we received?

Closed in 30 days or less	47%
Closed in 90 days or less	62%
Closed in 180 days or less	65%
Closed in 365 days or less	67%
Open on 31 March 2009	33%



- 0 to 30 days
- 31 to 90 days
- 91 to 180 days
- 181 to 365 days
- Open

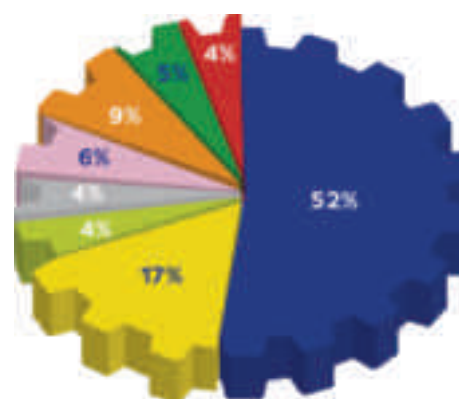
Age of work in progress on 31 March 2009



- 0 to 30 days
- 31 to 90 days
- 91 to 180 days
- 181 to 365 days
- One year to 18 months
- 18 months to two years
- More than two years

Age of closed cases during 2008/09

Age of cases at closure	Target	Actual
30 days or less	50%	52%
90 days or less	60%	69%
180 days or less	65%	73%
365 days or less	70%	82%



- 0 to 30 days
- 31 to 90 days
- 91 to 180 days
- 181 to 270 days
- 271 to 365 days
- One year to 18 months
- 18 months to two years
- More than two years

What were the outcomes of closed cases?

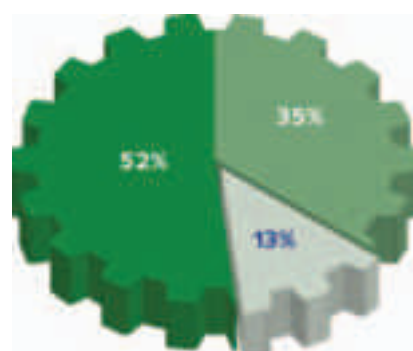


- Informally resolved
- Ineligible or not an application for a decision under section 50 (the right to complain to the ICO)
- Decision notice served
- No internal review carried out by public authority
- Other (re-opened)
- No action required by the ICO, or the complaint withdrawn by applicant

Sector of closed cases	%
Local government	39%
Central government	30%
Police and criminal justice	10%
Health	8%
Other	7%
Education	5%
Private companies	1%

Outcome of decision notices

Total decision notices served 2008/09	296
Complaint upheld	105
Complaint not upheld	38
Partially upheld*	153



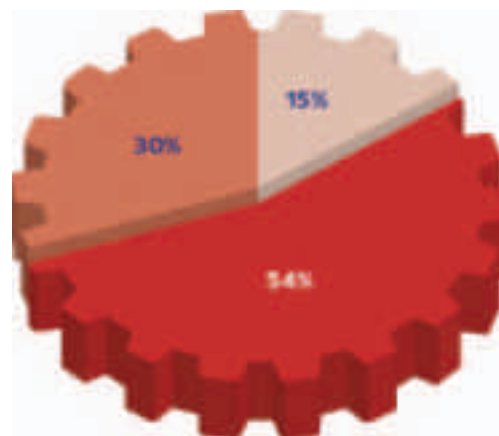
- Complaint upheld
- Complaint not upheld
- Partially upheld

*For example ICO ordered some disclosure but not all.

Appeals to the Information Tribunal

Total appeals since January 2005 **322**

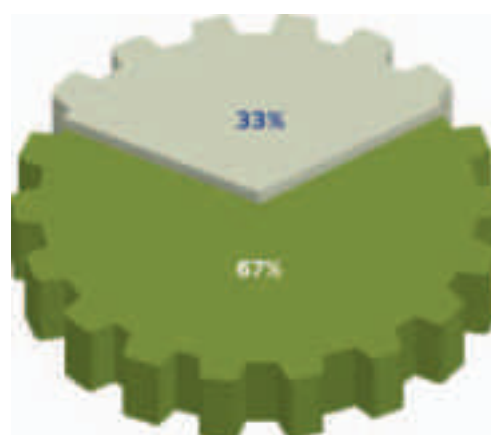
Outcome of appeals



- ICO decision upheld
- ICO decision overturned or varied
- Appeals withdrawn

Appeals in progress on 31 March 2009 **62**

Appealing parties



- Complainants
- Public authorities

We issued 296 decision notices under the Freedom of Information Act and the Environmental Information Regulations.

All are published on our website.

Public authority:
House of Commons

The ICO ordered the House of Commons to release the spending details of seven MPs in Wales. This follows a freedom of information request for the amounts spent by the seven MPs on circulars and reports to their constituents since May 2005.

Public authority:
Commission for Local Administration in England

The ICO ruled the Commission for Local Administration in England right to refuse a request for copies of legal guidance relating to its handling of requests under the Freedom of Information Act, the Environmental Information Regulations and the Data Protection Act, because any information it held was already publicly available.

Public authority:
BBC

The ICO ordered the BBC to disclose annual staff costs for Eastenders. The ICO's decision followed a request to the BBC for the total annual staff costs for the programme and the annual value of performers' contracts.

Public authorities:
Cardiff County Council, Caerphilly County Borough Council and Rhondda Cynon Taff County Borough Council

The ICO upheld decisions made by three local authorities across South Wales that details relating to the number of exclusions from named schools in the region should not be disclosed.

Public authority:
Mid Suffolk District council

The ICO ordered Mid Suffolk District council to release a contract with a commercial partner, including the financial details, concerning work to carry out repairs and maintenance at Mid Suffolk leisure centre. We didn't accept the view on this occasion that releasing the contract would be likely to prejudice the commercial interests of the council or the contractor.

Public authority:
Department for Transport

The ICO ruled under the Environmental Information Regulations that the Department for Transport must release information relating to the proposal for a second runway at Stansted Airport.

Public authority:**Nuclear Decommissioning Authority**

The ICO ruled under the Environmental Information Regulations, that the Nuclear Decommissioning Authority was right to refuse a request to see the draft report into potential areas of radioactive waste storage methods in the UK. The ICO agreed that the draft report represents a dated review and that the final report, already in the public domain, provides a more current guide to where the Nuclear Decommissioning Authority intends to focus its future activities.

Public authority:**Health and Safety Executive**

The ICO ordered the Health and Safety Executive to disclose the names of individuals who have died in work-related incidents – but only after the coroner's inquests had opened.

Public authority:**The Ministry of Justice**

The ICO ruled that the Ministry of Justice was right to withhold the minutes of the cross party group meetings on House of Lords reform. The information is exempt from disclosure under the act as it relates to the formulation and development of government policy.

Public authority:**Ofsted**

The ICO ordered Ofsted to release a redacted version of the handwritten evidence forms completed during an inspection of St Patrick's Primary School in Bristol.

Public authority:**Cheshire Constabulary**

The ICO upheld a decision by the Chief Constable of Cheshire Constabulary refusing to disclose information on the grounds that the request was vexatious. The ICO believes that complying with this particular request for information would impose a significant burden on Cheshire Constabulary and that the intention behind the request would have the effect of harassing the force.

Public authority:**Vehicle and Operator Services Agency**

The ICO ordered the Vehicle and Operator Services Agency to release the details of 22 non-safety recalls. These will not affect the commercial interests of manufacturers.

Public authority:**Ofsted**

The ICO ordered Ofsted to release the names of 29,970 child care managers and their relevant place of employment in England.

Public authority:**The Cabinet Office**

The ICO ruled that correspondence between Diana, Princess of Wales, and the government should not be released on the basis that the correspondence is of a personal nature and does not comment on government or public policy.



“TOP building firms face legal action over claims they bought data on workers — and blacklisted those with union links. Up to 40 companies subscribed to a database of 3,200 jobseekers, the ICO said yesterday.”

Steve Hawkes, The Sun, 7 March 2009

“More than 40 major British companies face legal action for allegedly buying secret personal data about thousands of workers they wanted to vet before employing them.

The Information Commissioner, Richard Thomas, will today publish a list of the companies he believes may have broken data protection laws, after an investigation by his office that was sparked by fears that many workers were being unfairly blacklisted.”

Rob Evans and Phil Chamberlain, The Guardian, 6 March 2009

Case study:

The ICO at work – uncovering the construction industry blacklist

There were suspicions that a covert blacklist was operating in the construction industry. The list apparently held details of people considered unsuitable to work in the industry, for reasons such as trade union activity. Phil Chamberlain, of the Guardian newspaper, wrote an article in the summer of 2008 called ‘The Enemy at the Gate’, and the Information Commissioner’s Office started to investigate.

Our investigation revealed that a large construction company appeared to be carrying out security checks on potential employees and subcontractors. The process seemed to be operating in breach of the data protection principles. It denied people basic rights, including the right to access their information and the right to challenge the accuracy of the information held about them.

The ICO applied for a search warrant to enter the head office of the construction company. This was the first time that the Information Commissioner’s Office had applied for a warrant to investigate a breach of the data protection principles rather than a criminal offence.

We found a link to an organisation called The Consulting Association – the custodian of a covert database containing information about people who had worked on construction sites. In February 2009, we searched their premises and found an intelligence system which included

over 3,000 names and a card index containing more detailed records on over 1,600 people who were working or had worked in the construction industry. Records were also recovered which identified 40 construction companies which appeared to have subscribed to The Consulting Association’s services.

The intelligence system contained comments which would have made it difficult for people to get work in the industry.



We knew that people would want to know what information was kept about them and what action they could take. It would usually fall to the company concerned to respond to these subject access requests. However, we had serious doubts whether The Consulting Association would do so. We first served them with a special enforcement notice requiring them to refrain immediately from obtaining, using or disclosing any of the personal information contained in the intelligence system and also to refrain from altering, erasing or destroying the information. They were also told that we would prosecute them for not having an entry on the data protection register.

“People's rights were gravely abused by Kerr and the construction industry: the Information Commissioner should be praised for exposing the blacklist.”

**Henry Porter, The Guardian,
7 March 2009**

When the Consulting Association said they intended to stop trading immediately, we took the unprecedented step of setting up a system so people could contact us to get access to the information The Consulting Association had held about them. Within seven days, we had set up a new construction industry helpline service.

On the day the Consulting Association story broke, we had a record number of visits to our website. The story generated over 200 media items, including the front page of the Guardian, and ICO staff did around 15 TV and radio interviews.

For many of those who rang our helpline, we were able to give immediate reassurance that their details did not appear on the database. Others were provided with a copy of all the information held about them, along with information about the options available to them if they wanted to take further action.

The service will remain in operation for around six months after which the ICO's copy of the database will be destroyed. At the same time the ICO is making further enquiries of the 40 construction companies to determine the extent of their involvement in the activities of The Consulting Association.

Data protection and Privacy and Electronic Communications Regulations (PECR) casework

As general public awareness of both the legislation and the role of the ICO continues to rise, so too does the number of complaints and enquiries referred to our office. In order to respond to the rise in demand for our services, we began the year with a substantial restructure of our casework departments. We re-deployed resources to provide additional expertise on the front line, allowing for the early resolution of more cases. This enabled our remaining casework staff to focus on cases which require more time-consuming investigation.

The number of cases received increased by 3% to 25,509. We closed 23,406 cases during the year, a reduction of 8.5%. Productivity increased during the year as we trained 25 new staff (57% of our total data protection case officer workforce). During the first half of the year we closed 10,195 cases, and during the second half of the year this increased by 29% to 13,211.

The proportion of casework we are now able to resolve at first contact increased significantly from approximately 30% – 40% in 2007/08 to 70% – 80% in 2008/09. The structural changes increased our overall casework capacity by the end of the year without any additional financial investment.

Overall we ended the year with 2,103 more cases in progress than we had at the start. We have made improvements to our ability to capture management information. We can now report 'work in progress' from the moment it arrives at the ICO. The effect is to show a more accurate figure which we were unable to do in the past.

If you compare our work in progress figure with last year's, you will see a rise of 5,205. 2,103 of these are true additions to our caseload – the remainder are the result of our improved management information.

In the first quarter we received just over 1,000 fewer cases than our forecast of 6,250, and we closed 4,791 cases. Excellent progress had been made with our restructure, and additional casework responsibilities had already been transferred to our front line teams.

In quarter two we received 5,924 cases, again below our 6,250 quarterly forecast, but significantly higher than in quarter one. Case closures increased this quarter to 5,404 as our structural changes began to take effect. Recruitment initiatives took place and we prepared to welcome the first new staff early in quarter three.

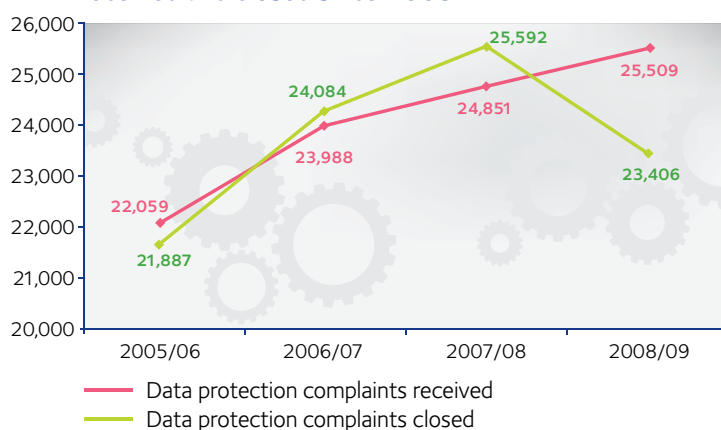
Quarter three was dominated by recruitment: we filled approximately one third of our 25 vacant posts during this quarter and the impact was immediate. We received 6,562 cases in quarter three – higher than the previous quarters and significantly above our forecast. The number of cases closed rose to 7,098, an increase of 31% on quarter two.

Quarter four was dominated by welcoming new staff. We closed 6,113 cases, just short of our target but a positive indication of what we could expect to achieve once our new staff were trained. The unpredictable intake of new cases continued with a record 7,812 coming in, way in excess of our experiences to date and significantly above our forecast.

If the trend we experienced in quarters three and four continues, we are likely to see a 15% rise in new cases during 2009/10. Analysis of the new cases received during 2008/09 shows there was no single issue which dominated, whereas in the past 10% – 20% of all the cases we receive have tended to relate to a single significant issue.

Our experience during 2008/09 points to a more sustained and long-term rise in demand for our services. We plan to continue to engage directly with our customers to further develop our understanding of what drives the demand for our services.

Data protection complaints and enquiries received and closed since 2005

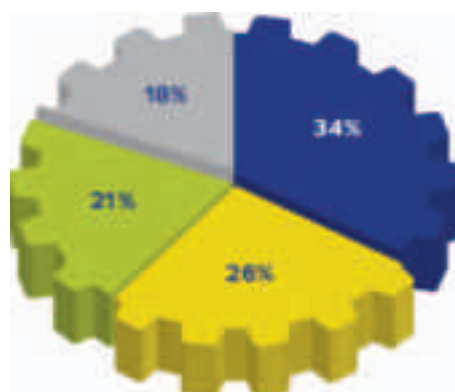


Data protection casework

(All days are calendar days)

Received in 2008/09	25,509
Closed in 2008/09	23,406
Work in progress	6,442

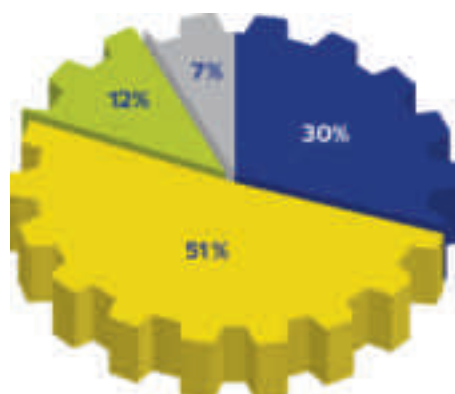
Age of work in progress on 31 March 2009



- 0 to 30 days
- 31 to 90 days
- 91 to 180 days
- over 181 days

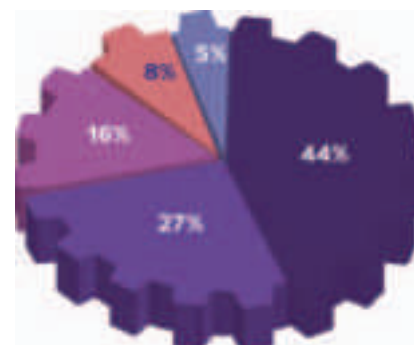
Age of closed cases during 2008/09

Age of cases at closure	Target	Actual
30 days or less	45%	30%
90 days or less	95%	81%
180 days or less	99%	93%



- 0 to 30 days
- 31 to 90 days
- 91 to 180 days
- over 181 days

Outcome of closed cases



- Advice and guidance provided
- Ineligible complaint
- Breach likely
- Breach unlikely
- Other

The top 10 business areas generating the most complaints where the sector is specified

Business	%
Lenders	16%
Direct marketing	14%
General business	8%
Telecoms	6%
Central government	5%
Health	5%
Policing and criminal records	5%
Local government	5%
Debt collectors	3%
Leisure	3%

The top 10 reasons for complaining where nature is specified

Reason	%
Subject access	25%
Inaccurate data	13%
Phone calls – automated	11%
Disclosure of data	10%
Phone calls – live	9%
Email	5%
Security	5%
SMS	2%
Right to prevent processing	2%
Fair processing info not provided	2%



5. Enforcing

Enforcing freedom of information

This year has seen the expansion of our freedom of information enforcement team, which has led to an increase in enforcement action. Practice recommendations were issued to the Department of Communities and Local Government and Greater Manchester Police.

In addition, and following a records management assessment carried out by The National Archives on behalf of the ICO, the Department of Health received a practice recommendation in relation to its records management practices. Previous practice recommendations have resulted

in some very positive working relationships between the ICO, public authorities and The National Archives. One good example of this is Nottingham City Council which has made significant improvement in its request handling processes. In contrast however, Liverpool City Council has made very limited and slow progress and continues to be a cause for concern; we will continue to monitor its performance closely.

We have developed a monitoring strategy to look at compliance with publication scheme requirements and conformity with the codes of practice. The strategy was published in March 2009 and monitoring will start from 1 April 2009. The strategy links to our enforcement strategy which sets out the use of structured and regulatory intervention. This will see us moving from a purely reactive enforcement stance to one that also includes proactive monitoring.

“The Department of Health has become the first government department to be issued with a formal practice recommendation by the Information Commissioner after breaching the Freedom of Information Act.”

Health Service Journal,
10 April 2008

“The Department of Health has been ordered to improve how it keeps official records, amid concerns over its handling of freedom of information requests.”

Kate Devlin,
The Daily
Telegraph online,
10 March 2009

“The official body in charge of enforcing the Freedom of Information Act will be meeting with officials from Northamptonshire County Council to ensure the authority complies with the law.”

Northamptonshire
Chronicle and Echo,
19 January 2009



“The Home Office breached data protection laws when one of its contractors lost a memory stick containing information on thousands of prisoners, the Information Commissioner's Office ruled yesterday.”

**Jimmy Burns,
Financial Times,
23 January 2009**

“The Information Commissioner's Office has found NHS Tayside and NHS Lanarkshire guilty of breaching the Data Protection Act. The ICO has demanded that both health boards sign an agreement to follow the Data Protection Act and stick to recommendations made recently by NHS Quality Improvement Scotland to make sure that it does not happen again.”

**The Herald,
27 November 2008**

Enforcing data protection



Enhanced powers and penalties

Following our ‘What Price Privacy’ report the Criminal Justice and Immigration Act (2008) introduced the possibility of custodial sentences for those convicted of the offences of unlawful obtaining, buying and selling of personal information. We welcomed this development and are continuing to monitor the incidence of these offences with a view to building a case for the custodial sentence provisions to be brought into effect.

We also welcomed the introduction, in the same Act, of a power for the Commissioner to impose monetary penalties on organisations for serious breaches of the data protection principles that occur as a result of conduct that is knowing or reckless. This is a major step forward and we are now working with the Ministry of Justice to develop statutory guidance and to set the maximum penalty so that the power can be brought into effect.

In the meantime we have continued to press our case for the power to inspect the processing of personal information by organisations without necessarily having their consent. We are pleased that the Coroners and Justice Bill, which is currently before Parliament includes provisions applicable to public sector organisations. But we continue to argue that the private sector should also be covered.

Security breaches reported to ICO

Following the loss by HM Revenue and Customs of two CDs containing 25 million records of child benefit recipients and their children in November 2007, we began to record all instances of data security breaches.

During 2008/09, 319 breaches were reported, making a total of around 400 since we started records in November 2007.

All of the reported breaches have been examined by ICO staff.

Regulatory action has been taken in 12 of the more serious cases. The regulatory action taken ranges from the obtaining of an agreed undertaking to the issue of an enforcement notice.

Enforcement notices for data protection breaches

Six enforcement notices were issued during the year. These were against:

- Camden Primary Care Trust
- Consulting Association
- Department for Communities and Local Government
- HM Revenue and Customs
- Leonard Cheshire Disability
- Ministry of Defence



Formal undertakings

14 formal undertakings not to breach the Data Protection Act were obtained during the year. They were from:

- 2gether NHS Foundation Trust.
- Abertawe Bro Morgannwg University NHS Trust.
- Brent Teaching Primary Care Trust.
- Hampshire Partnership NHS Trust
- Hastings and Rother Primary Care Trust.
- Home Office
- NHS Lanarkshire
- NHS Tayside
- Royal British Legion Club
- Southampton City PCT
- St Georges Healthcare NHS Trust.
- Stockport NHS Foundation Trust.
- Tees Esk and Wear Valleys NHS Foundation Trust.
- Virgin Media Limited

Audit

In November 2007, following the announcement of the loss of details of the recipients of child benefits, the Prime Minister gave the ICO the power to spot check government departments.



We completed two spot checks of government departments, the Department for Work and Pensions and the Driver and Vehicle Licensing Authority.

During the year we also conducted 12 compliance audits. The programme has included organisations in the telecommunications and postal sector, health trusts, tracing organisations and government departments. Of the auditees involved a number have been volunteers, whilst others have participated as part of an agreed resolution to identified issues. Positive feedback has indicated value in both the engagement and in the reports.

Additional staff have been recruited as the first step in the development of an audit capability focused on the challenges raised by organisational data losses and the potential new powers to spot check public authorities.

Enforcing Privacy and Electronic Communications Regulations

Three Privacy and Electronic Communication Regulations enforcement notices have been issued this year. These were against:

- The Debt Collectors Ltd
– for unsolicited marketing faxes
- The Liberal Democrats
– for automated marketing calls
- Weatherseal Holdings Ltd
– for live marketing calls

“Nick Clegg is facing embarrassment after the Information Commissioner expressed “concern” over plans to bombard 250,000 voters with automated phone calls featuring a recording of the Liberal Democrat leader.”

Daily Express,
17 September
2008



“Saleem failed to notify himself with the ICO as a data controller despite consistent reminders from the ICO. The Data Protection Act states that any organisation that deals with an individual's personal information may be required to notify the ICO and pay a charge of £35 annually.”

**Accountancy Age,
31 March 2008**

“Poole Council is to be probed by the Information Commissioner's Office after allegations that it has secretly collected personal information in breach of data protection laws.”

**The Municipal
Journal,
5 June 2008**

Ensuring organisations notify

The principal purpose of notification and the public register is openness and transparency. The public should know who is processing personal information and how this is being done.

Through 2008/09 the number of data controllers on the public register increased to 317,165: a rise of 4% over the last year.

Over 40,000 new notifications were received, of which 3,472 notifications were as a result of directly contacting accountants, solicitors, recruitment and employment agencies.

We plan to target other business sectors that are under-notified.

Some 282,000 notifications were renewed for a further year. We continue to issue automatic letters to businesses that fail to renew, and where necessary we will pursue those organisations that do not respond.

Over 79,000 businesses updated their register entry.

Changes to the notification fee structure

The government is keen to ensure that the ICO is adequately resourced for its data protection functions.

We worked closely with the Ministry of Justice to review the current fee structure, which has been in place since 2000. This included a consultation. As a result, it is anticipated the government will change the fee structure for notifying.

Prosecutions

– failing to notify

10 organisations were prosecuted for failing to notify – six solicitors and four accountants.

Publicising our enforcement action and prosecutions

We aim to seek media coverage for the enforcement action we take. The damage to an organisation's reputation can in itself be a deterrent.

We issued news releases on data protection enforcement activity, including prosecutions for non-notification of solicitors and accountants, the enforcement notice on the Liberal Democrat party for its cold-calling, enforcement action on Virgin Media and the Department for Communities and Local Government and the undertaking signed by the Home Office for the data loss containing information on prisoners.

There were also several feature programmes on the collection and retention of information, including



Prosecutions 1 April 2008 to 31 March 2009

Defendant	Offence	Court	Date of hearing	Plea	Result	Sentence	Costs
David Darko	S17	City of London Magistrates	22/04/08	Guilty	Convicted	£300 + £15 victim surcharge	£539.20
Samuel Koranteng	S17	City of London Magistrates	22/04/08	Guilty	Convicted	£150 + £15 victim surcharge	£539.20
Christopher Hackett	S55x2	Wimbledon Magistrates	20/06/08	Guilty	Convicted	Fined £200 per offence (£400)	£400.00
Darren Whalley	S55x2	Wimbledon Magistrates	20/06/08	Guilty	Convicted	Fined £250 per offence (£500)	£400.00
Aziz M Arian	S17	City of London Magistrates	29/07/08	Guilty	Convicted	£400 + £15 victim surcharge	£518.40
Satishkumar Lakhani	S17	Harrow Magistrates	20/08/08	Guilty	Convicted	£300 + £15 victim surcharge	£483.40
David J Wenham	S17	City of London Magistrates	17/09/08	Guilty	Convicted	£450 + £15 victim surcharge	£587.40
Haider Kennedy Legal Services Ltd	S17	City of London Magistrates	10/12/08	Guilty	Convicted	£350 + £15 victim surcharge	£525.48
John Harrison	S17	City of London Magistrates	10/12/08	Guilty	Convicted	£150 + £15 victim surcharge	£504.48
Kumar Bulathwela	S17	City of London Magistrates	10/12/08	Guilty	Convicted	£250 + £15 victim surcharge	£504.48
Philip Charles David York	S17	City of London Magistrates	29/01/09	Guilty	Convicted	£300 + £15 victim surcharge	£509.35
Michael Robinson	S17	City of London Magistrates	27/02/09	Guilty	Convicted	£250 + £15 victim surcharge	£250.00
Gumej Singh Virk	S17	City of London Magistrates	27/02/09	Guilty	Convicted	£250 + £15 victim surcharge	£250.00
Thusita Weerakoon	S17	City of London Magistrates	25/03/09	Not Guilty	Convicted	£100 + £15 victim surcharge	£717.05

5 cases were withdrawn

Number of premises search warrants applied for = 15

Number of cautions administered = 9

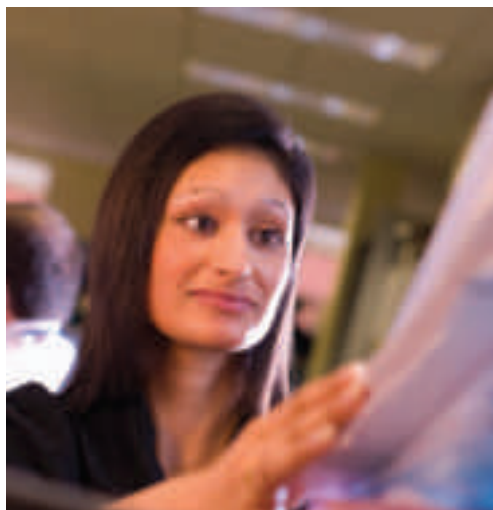


6. Developing and improving

Supporting our staff

We have continued to embed and develop our approach to Human Resources. The aim of the Human Resources Strategy is to ensure that our approach to recruitment, leadership and development is professional and emphasises our commitment to building, rewarding and retaining a diverse, talented and motivated workforce.

We have placed great emphasis on ensuring that our staff are equipped to do their job – the performance and development review process and learning and development strategy have been well received.



Staff have told us that they value the learning and development they receive at the ICO – our staff survey results exceed the public sector norm in this area. We have developed a significant induction programme to ensure that new staff are able to carry out their roles as quickly as possible from joining. We continue to provide training to staff on Plain English skills, HR policies, equality and diversity and the highly successful Information Systems Examination Board certificate in data protection training.

We have commissioned further work through a staff working group to explore staff perceptions of bullying, harassment, discrimination and unfair treatment at the ICO – we are committed to eliminating any form of unfair treatment.

Case studies

Staff survey

Results of our most recent staff survey in January 2009 have shown marked improvements in attitudes towards the organisation both as an employer and a service provider. 91% of staff understand our corporate aims and 88% are committed to helping the ICO achieve its corporate objectives.

Equality and diversity

Staff from across the organisation make up the Equality and Diversity Committee. Meeting regularly they have driven changes and ensured that we continue to implement the equality and diversity strategy.



Case study

Stakeholder research

In 2008/09, we ran the first stakeholder perception research to understand how our key customers see the ICO: 71% gave the ICO an overall satisfaction rating of excellent or very good.

Protecting and promoting the ICO's reputation

We reviewed our Communications and External Relations Strategy, to ensure it will help us meet the challenges of the next three years. The emphasis is on anticipating customers' information needs and making information rights issues relevant to everyday life. Our communications objectives are measurable by our market research programme, the results of which are published on our website.

With freedom of information and data protection stories such as MPs' expenses, the Consulting Association and surveillance dominating headlines, media coverage was strong this year. Our e-newsletter is proving popular, with around 6,000 subscribers.

To sign up, go to www.ico.gov.uk/enewsletter

The ICO's External Relations and Communications Department won the prestigious Chartered Institute of Public Relations PRide award for outstanding in-house PR department.



We continued to improve internal communications, launching our staff competencies booklet to improve performance and completing the implementation of our staff engagement programme, to encourage initiative and involvement.

In line with our diversity and equality programme, we published fact sheets and held staff briefing sessions to raise awareness and understanding of the issues. We established our carbon footprint and started a project to reduce it, and ran internal initiatives to mark Green Week and European Data Protection day.

Information technology

A two year programme has begun to replace and improve our ageing IT infrastructure to support new and changed business requirements. This signals the start of a significant investment in IT which will also result in the replacement of our older legacy applications.

The benefits of the programme will be increases in capacity, resilience and security and a reduction in support effort and power consumption.

Infrastructure and ways of working are being developed to ensure the advice and good practice we recommend as an organisation are followed.

The overriding priority is to ensure that the new infrastructure provides a firm foundation suitable for our business requirements and as a robust platform for replacement applications. During the year a business case has been developed and agreed for a project to replace the application which supports the notification process.



Electronic documents and records management

Good progress has been made with the implementation of our new record management system. It is anticipated that this project will be completed in the next financial year.

Internal compliance

During the year we started a project to ensure that adequate internal controls were in place to manage information risks. This work has included identifying information asset owners, reviewing policies and procedures and guidance issued to staff, reviewing and testing technical controls, auditing third party data processors and holding a security awareness week.



7. Governance

The Information Commissioner reports directly to Parliament. As Accounting Officer he is directly responsible for safeguarding the public funds for which he has charge, for propriety and regularity in the handling of these public funds, and for the day-to-day operations and management of his office.

The Commissioner is supported by his Management Board which is responsible for developing strategy, monitoring progress in implementing strategy, and providing corporate governance and assurance for the ICO.

The board meets quarterly and is made up of members of the Executive Team and four Non-Executive directors:

Dr Robert Chilton
David Clarke
Sir Alistair Graham
Clare Tickell

The Executive Team provides leadership and oversight of the ICO and has overall responsibility for developing and delivering against the ICO's corporate and business plans.

The Executive Team meets monthly for business meetings. In addition to the Commissioner its members are:

Vicky Best	Director of Human Resources
Simon Entwisle	Chief Operating Officer
Susan Fox	Director of Communications and External Relations
David Smith	Deputy Commissioner Data Protection
Graham Smith	Deputy Commissioner Freedom of Information

The Commissioner is also supported by the Audit Committee which provides scrutiny, oversight and assurance of risk control and governance procedures. The Committee members are:

Dr Robert Chilton - Chair
David Clarke
Graham Smith





8. Information requests to the ICO

Requests for information received by the Information Commissioner's Office under the Freedom of Information Act (2000) and Data Protection Act (1998)

The Information Commissioner's Office is a public authority for the purposes of the Freedom of Information Act (2000) and a data controller for the purposes of the Data Protection Act (1998).

This year the Internal Compliance Team has expanded in line with the increased number of requests for information which are being received.

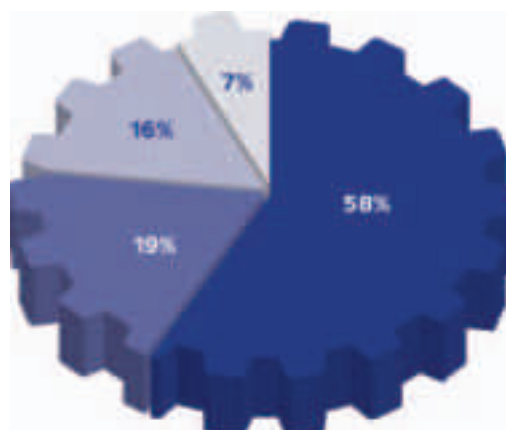
In October 2008 we started to administer requests for information on our electronic case management system which has resulted in our ability to produce more detailed statistics than previously. More detailed information can be found on our website.

In the period 1 April 2008 to 31 March 2009 we answered 513 requests for information of which over 77% resulted in either the requested information being fully provided or partially provided.

Received requests since 2005

Received in 2005/06	232
Received in 2006/07	297
Received in 2007/08	232
Received in 2008/09	526

Outcomes for the 513 cases closed during 2008/09



- Information provided
- Information partially provided
- Information not held
- Information withheld



9. Financial statements

for the year ended 31 March 2009

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1. Foreword

History

The Data Protection Act (1984) created a corporation sole in the name of Data Protection Registrar. The name was changed to Data Protection Commissioner on implementation of the Data Protection Act (1998) and again to Information Commissioner on implementation of the Freedom of Information Act (2000).

Statutory background

The Information Commissioner is an independent non-departmental public body sponsored by the Ministry of Justice, but reports directly to Parliament.

The Information Commissioner's main responsibilities and duties are contained within the Data Protection Act (1998), Freedom of Information Act (2000), Environmental Information Regulations (2004) and Privacy and Electronic Communications Regulations (2003).

The Information Commissioner's decisions are subject to appeal to the Information Tribunal and on points of law to the courts.

The Information Commissioner is responsible for setting the priorities of his office (ICO), for deciding how they should be achieved, and is required annually to lay before each House of Parliament a general report on performance.

Annual accounts and audit

The annual accounts have been prepared in a form directed by the Secretary of State for Justice with the consent of HM Treasury in accordance

with paragraph (10)(1)(b) of schedule 5 to the Data Protection Act (1998).

Under paragraph (10)(2) of schedule 5 to the Data Protection Act (1998) the Comptroller and Auditor General is appointed auditor to the Information Commissioner. The cost of audit services in the year was £29,500 (2007/08: £24,000) which includes fees of £3,500 for the audit of the shadow International Financial Reporting Standard (IFRS) re-stated balance sheet as at 31 March 2008. No other assurance or advisory services were provided.

So far as the Accounting Officer is aware, there is no relevant audit information of which the Comptroller and Auditor General is unaware, and the Accounting Officer has taken all the steps that he ought to have taken to make himself aware of relevant audit information and to establish that the Comptroller and Auditor General is aware of that information.

Staff issues

The ICO has a policy of cooperation and consultation with recognised trade unions over matters affecting staff. The Director of Human Resources meets regularly with the trade union side to exchange information on issues of current interest. Formal negotiations are held on pay awards and a range of other issues are discussed on a more informal basis. Staff involvement is actively encouraged as part of the day-to-day process of line management and information on current and prospective developments is widely disseminated.

Diversity

The ICO is committed to promoting equality and diversity in all that it does. The ICO wants to eliminate barriers that prevent people accessing its services or enjoying employment opportunities within the ICO.

The ICO values diversity and the benefits it can bring to the organisation and is committed to proactively making sure there are no restrictions to building and developing a diverse workforce. The ICO is committed to developing its staff and to fair and inclusive employment practices.

The ICO has put in place an Equality and Diversity Committee chaired by the Director of Human Resources to develop, implement and measure progress of strategy and Equal Opportunity Policies. Our Disability Equality Scheme was developed through consultation with staff, and was amended substantially from the draft version as a result.

Sustainability

The ICO has assembled a 'Green Group', which is a team of influential, environmentally-minded ICO employees, who meet regularly to discuss new ideas and practices which the ICO could adopt to lower the organisation's impact upon the environment. It reviews suggestions from other members of staff, and has the power to ask departments to implement its policies. It can also refer ideas to the Executive Team for approval or support.

Work undertaken in the year by The Carbon Trust estimated the carbon footprint of the office to be 513.3 tonnes, of which 79% was from the consumption of gas and electricity, and the balance mostly from staff rail and air travel.

During the year there have been a number of recycling and energy-saving initiatives and stationery products from recycled materials are now routinely sourced.

Management commentary

A detailed review of activities and performance for the year is set out in the published Annual Report, and future plans are set out in the Corporate Plan 2009-12.

Financial performance

Grant-in-aid

Freedom of information expenditure continued to be funded by a grant-in-aid from the Ministry of Justice, and for 2008/09 £5,500K (2007/08: £5,050K) was drawn down.

Under the conditions of the agreed framework document between the Information Commissioner and the Ministry of Justice up to 2% of the annual grant-in-aid can, with the prior consent of the Ministry of Justice, be carried forward to the following financial year. No grant-in-aid was carried forward to 2009/10 (2008/09: £nil).

There are no fees collected in respect of freedom of information activities.

Fees

Expenditure on data protection activities is financed through the retention of the fees collected from data controllers who notify their processing of personal data under the Data Protection Act (1998).

The annual notification fee is £35, and remains unchanged from its introduction on 1 March 2000.

Fees collected in the year totalled £11,312K (2007/08: £10,818K) representing a 4.6% increase over the previous year. This information is provided for fees and charge purposes, rather than compliance with Standard Statement of Accounting Practice 25 (SSAP 25).

Under the conditions of the framework document agreed between the Information Commissioner and the Ministry of Justice, fees 'cleared' through the banking system (in other words available to spend), up to an amount of 3% of the total fees collected, can be carried forward for expenditure in the following financial year. At the end of the year an amount of £156K (1.4%) was carried forward (2007/08: £236 (2.2%)) as was a further £137K (2007/08: £144K) of cash in transit.

Accruals outturn

There was a retained deficit for the year of £5.785 million.

This result is largely brought about due to the required accounting policy for grant-in-aid which resulted in £5.5 million of grant-in-aid received in the year being taken to the Income and expenditure reserve rather than the

Income and expenditure account. In addition, accruals of both Income and expenditure have contributed to the year end position, whilst on a cash basis the ICO met the cash controls placed upon it.

The accounts continue to be prepared on a going concern basis as a non-trading entity continuing to provide public sector services. Grant-in-aid has already been included in the Ministry of Justice estimate for 2009/10, which has been approved by Parliament, and there is no reason to believe that future sponsorship and future parliamentary approval will not be forthcoming.

HM Treasury management

Under the terms of the agreed framework document between the Information Commissioner and the Ministry of Justice, the Commissioner is unable to borrow or invest funds speculatively.

Fee income is collected and banked into a separate bank account, and 'cleared' funds are transferred weekly to the Information Commissioner's administration account to fund expenditure.

In accordance with HM Treasury guidance on the issue of grant-in-aid that precludes non-departmental public bodies from retaining more funds that are required for their immediate needs, grant-in-aid is drawn in quarterly tranches. In order not to benefit from holding surplus funds, all bank interest and sundry receipts received are paid to the Secretary of State for Justice on a quarterly basis.

Payment of suppliers

The Information Commissioner has adopted a policy on prompt payment of invoices which complies with the 'Better Payment Practice Code' as recommended by government. In the year ended 31 March 2009 98.58% (31 March 2008: 98.55%) of invoices were paid within 30 days of receipt or in the case of disputed invoices, within 30 days of the settlement of the dispute. The target percentage was 95%.

In October 2008, government made a commitment to speed up the public sector payment process. Public sector organisations should aim to pay suppliers wherever possible within ten days, and to this end the Information Commissioner pays all approved invoices on a weekly cycle.

Personal data related incidents

There were no personal data related incidents reportable to the Information Commissioner in 2008/09 or in any previous financial years.

Future developments and post balance sheet events

The Ministry of Justice is considering changes to the notification fee regulations to introduce a tiered notification fee structure, which would also provide the opportunity to increase the financial resources available to the Information Commissioner for data protection work.

Amendments to the Data Protection Act (1998) to strengthen the Information Commissioner's inspection powers are included as part of the Coroners and Justice Bill, currently before Parliament.

Christopher Graham will succeed Richard Thomas, as Information Commissioner on 29 June 2009.

Richard Thomas Information Commissioner

15 June 2009

2. Remuneration report

Remuneration policy

Schedule 5 to the Data Protection Act (1998) provides that the salary of the Information Commissioner is to be specified by a resolution of the House of Commons.

On 24 November 2008, the House of Commons resolved, that in respect of service after 30 November 2007 (the start of the Commissioner's second term of office), the salary of the Information Commissioner shall be at a yearly rate of £140,000.

The salary of the Information Commissioner is paid directly from the consolidated fund in accordance with the schedule.

The remuneration of staff and other officers is determined by the Information Commissioner with the approval of the Secretary of State for Justice.

In reaching the determination, the Information Commissioner and Secretary of State for Justice have regard to the following considerations:

- the need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities;
- government policies for improving the public services;
- the funds available to the Information Commissioner;

and

- the government's inflation target and HM Treasury pay guidance.

A Remuneration Committee comprising two Non-Executive board members considers, and advises the Management Board on, remuneration policies and practices for all staff. Sir Alistair Graham and Claire Tickell are the members of the committee.

Service contracts

Unless otherwise stated below, staff appointments are made on merit on the basis of fair and open competition, and are open-ended until the normal retiring age. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the civil service compensation scheme.

Non-Executive board members are paid an annual salary of £12,000 and are appointed on on-going contracts that can be terminated with two months' notice.

Directorships and other significant interests held by board members which may conflict with their management responsibilities

A Register of Interests is maintained for the Information Commissioner and his Management Board, and is published on the Commissioner's website www.ico.gov.uk

Salary and pension entitlements

The following sections provide details of the remuneration and pension interests of the Information Commissioner and the most senior officials employed by the Information Commissioner.

Remuneration (audited)

Salary	2008/09 £'000	2007/08 £'000
Richard Thomas, Information Commissioner In November 2008, the House of Commons resolved to increase the salary of the Information Commissioner to £140,000 per annum with effect from 30 November 2007. Therefore the salary reported for 2008/09 includes back-dated salary arrears from 30 November 2007.	180-185	95-100
Graham Smith, Deputy Commissioner	75-80	75-80
Simon Entwisle, Chief Operating Officer	75-80	75-80
David Smith, Deputy Commissioner	70-75	65-70
Susan Fox, Director of Communications and External Relations	50-55	50-55
Victoria Best, Director of Human Resources	50-55	45-50

Salary

'Salary' comprises gross salary and any other allowance to the extent that it is subject to UK taxation.

Benefits in kind

None of the above received any benefits in kind during 2008/09.

Pension benefits (audited)

	Accrued pension at age 60 as at 31 March 2009 and related lump sum £'000	Real increase in pension and related lump sum at age 60 £'000	CETV at 31 March 2009 £'000	CETV at 31 March 2008 £'000	Real increase in CETV £'000
Richard Thomas, Information Commissioner	40-45	2.5-3	840	737	35
David Smith, Deputy Commissioner	30-35 +lump sum 90-95	0-2.5 +lump sum 3-3.5	662	595	18
Simon Entwisle, Chief Operating Officer	25-30 +lump sum 85-90	0-2.5 +lump sum 2.5-3	581	529	17
Graham Smith, Deputy Commissioner	5-10 +lump sum 20-25	0-2.5 +lump sum 2.5-3	141	114	17
Susan Fox, Director of Communications and External Relations	0-5	0-2.5	56	42	10
Victoria Best, Director of Human Resources	0-5	0-2.5	21	11	7

CETV – Cash Equivalent Transfer Value

The Cash Equivalent Transfer Value at 31 March 2008 may be different from the closing figure in last year's accounts. This is due to the Cash Equivalent Transfer Value factors being updated to comply with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations (2008).

The Cash Equivalent Transfer Value figures are provided by Capita Hartshead, the ICO's Approved Pensions Administration Centre, who have assured the ICO that they have been correctly calculated following guidance provided by the government Actuary's Department.

Partnership pensions

There were no employer contributions for the above executives to partnership pension accounts in the year.

Civil service pensions

Pension benefits are provided through the civil service pension arrangements. From 30 July 2007, employees may be in one of four defined benefit schemes; either a 'final salary' scheme (classic, premium or classic plus); or a 'whole career' scheme (nuvos). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus and nuvos are increased annually in line with changes in the Retail Prices Index (RPI). Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a good quality 'money purchase' stakeholder pension with a significant employer contribution (partnership pension account).

Employee contributions are set at the rate of 1.5% of pensionable earnings for classic and 3.5% for premium, classic plus and nuvos. Benefits in classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits in respect of service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 calculated as in premium. In nuvos a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is up-rated in line with RPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act (2004).

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution).

Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus and 65 for members of nuvos.

Further details about the civil service pension arrangements can be found at the website

www.civilservice-pensions.gov.uk

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A Cash Equivalent Transfer Value is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional pension benefits at their own cost. Cash Equivalent Transfer Value's are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are drawn.

Real increase in Cash Equivalent Transfer Value

This reflects the increase in Cash Equivalent Transfer Value effectively funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Richard Thomas
Information Commissioner
15 June 2009

3. Statement of the Information Commissioner's responsibilities

Under paragraph 10(1)(b) of schedule 5 to the Data Protection Act (1998) the Secretary of State for Justice has directed the Information Commissioner to prepare for each financial year a statement of accounts in the form and on the basis set out in the accounts direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Information Commissioner at the year end and of his income and expenditure, recognised gains and losses and cash flows for the financial year.

In preparing the accounts the Information Commissioner is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:

- observe the accounts direction issued by the Secretary of State for Justice with the approval of the HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;

- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the financial statements

and

- prepare the financial statements on the going concern basis, unless it is inappropriate to presume that the Information Commissioner will continue in operation.

The Accounting Officer of the Ministry of Justice has designated the Information Commissioner as Accounting Officer for his office. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances and for keeping of proper records and for safeguarding the Information Commissioner's assets, are set out in the Non-Departmental Public Bodies' Accounting Officer Memorandum, issued by HM Treasury and published in Managing Public Money.

4. Statement on internal control

Scope of responsibility

As Information Commissioner and Accounting Officer I have responsibility for maintaining a sound system of internal control that supports the achievement of the ICO's policies, aims and objectives, whilst safeguarding the public funds and assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Managing Public Money.

I work directly with my Executive Team and Management Board. The Executive Team has responsibility for developing and delivering against the ICO's corporate and business plans, and for allocating resources and delegating financial and managerial authority as appropriate. The ICO's Management Board develops strategy, monitors progress in implementing strategy and provides corporate governance and assurance. The board receives regular reports on financial and operational performance. It is involved in the management of risk at a strategic level by considering the major factors which could prevent the ICO's strategic aims from being met.

The ICO is funded from both grant-in-aid and from data protection fee income, collected and spent under the direction of the Ministry of Justice. I am designated as Accounting Officer by the Ministry's Principal Accounting Officer. As such, I advise the Ministry on the discharge of my responsibilities in connection with income and expenditure in accordance with

the terms of an agreed framework document, and by way of quarterly liaison meetings with the Ministry of Justice for which financial and performance reports (amongst others) are provided.

The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of ICO policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control has been in place in the ICO for the year ended 31 March 2009 and up to the date of approval of the annual report and accounts, and accords with HM Treasury guidance.

Capacity to handle risk

As Accounting Officer I acknowledge my overall responsibility for the effective management of risk in the ICO. There is a Corporate Risk Register which identifies, assesses and sets out mitigating actions for significant risks to the achievement of the ICO's aims. There are also risk registers in place for specific projects.

The ICO's Risk Management Policy and the register have continually changed in light of experience. In particular during 2008/09 the register has been revised to clarify the difference between risk status before mitigation and anticipated risk status after mitigation. Mitigating actions have also been assigned owners to ensure clarity of responsibility for and reporting of the actions. These changes have improved the management of risk by the ICO.

The management and review of corporate risks are led at Executive Team level, with Executive Team members identified as risk owners, and quarterly reviews of both the risks facing the ICO and performance in meeting mitigating actions. The Corporate Risk Register is also considered at the Management Board and at Audit and Operational Management Committees. The Corporate Risk Register and the underlying Risk Management Policy and procedure are made available to all staff via the ICO's intranet.

Individual business units also report on performance against their business plans on a quarterly basis, identifying successes and problems, detailing variances against plan and work undertaken during the quarter. The reports also identify expected variances against plans for the next quarter.

In addition, internal audit identifies areas of risk and makes recommendations to mitigate these risks. During 2008/09 the ICO has focused on improving on its performance at actioning the recommendations more promptly.

The risk and control framework

The main element of the risk management strategy is the maintenance of the Corporate Risk Register, with risks and mitigating actions reviewed and updated on a quarterly basis by way of discussion with individual risk owners at Executive Team level, and discussion at Executive Team, Management Board, Audit Committee and Operational Management Committee meetings. Changes to risks and new risks are identified during discussions on risks at these meetings and also in discussion of other issues. New risks and changes to existing risks are also raised by officials.

Other elements of the strategy include quarterly reports on financial and operational performance to the Executive Team and Management Board, a comprehensive budgeting process with an annual budget approved by the board, and a system of delegation and accountability. These demonstrate the continuing achievement of efficiencies in the work of the ICO, and better ways of monitoring efficiencies.

The system of internal control continues to be supported by a Fraud policy and a Whistle-Blowing policy covering confidential reporting of staff concerns.

The ICO acknowledges that its position, as regulator in respect of the Data Protection Act (1998) and the Freedom of Information Act 2000, means that it has to maintain the highest standards in its handling of information. Failure to comply with the legislation the ICO regulates would damage the ICO's reputation and the confidence placed in the ICO by Parliament. To manage this risk, a Security Committee, chaired by the Chief Operating Officer, meets

quarterly to provide security expertise and strategic direction, as well as advice on the adequacy of the ICO's security policy. It also provides a forum for reviewing any significant security incidents. In light of past high profile losses of personal data, independent reports have been considered by the Security Committee in respect of the ICO's data handling practices and procedures.

On a practical level the ICO continues to encrypt the hard drives of all laptops, and training on data protection information security is mandatory for all staff.

Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors (PricewaterhouseCoopers), Executive Team members who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Management Board and the Audit Committee. Plans are in place to address weaknesses and ensure continuous improvement of the system.

The effectiveness of the system of internal control was maintained and reviewed throughout the year by:

- **The Management Board**

The board meets on a quarterly basis and considers the Corporate Risk Register and reports detailing financial and operational performance across the ICO, including operational performance in relation to data protection and freedom of information case work and enquiries as well as current and projected data protection fee income.

- **The Executive Team**

The Executive Team holds monthly business meetings. It is responsible for providing leadership and oversight for the ICO and has overall responsibility for developing and delivering the ICO's corporate and business plans.

- **The Audit Committee**

The Committee is chaired by a Non-Executive board member and is attended by internal auditors (PricewaterhouseCoopers) and external auditors (the National Audit Office). The Committee reports directly to me, as the Accounting Officer, on the adequacy of audit arrangements and on the implications of assurances provided in respect of risk and control. It considers all audit reports and recommendations and the formal management response. I am invited to attend Audit Committee meetings and have seen the annual report of the Audit Committee which is available on the ICO's web site.

The internal auditors have a direct line of communications to me as the Accounting Officer. In addition the internal auditors regularly report to the Audit Committee in accordance with government internal audit standards including their independent opinion on the adequacy and effectiveness of the ICO's system of internal control. The internal auditors also provide an annual statement based on areas they scrutinise during the year.

I am pleased that for 2008/09, the internal auditors established that they could give moderate assurance on the design, adequacy and effectiveness of the system of internal control.

Richard Thomas
Information Commissioner
15 June 2009

5. The certificate and report of the Comptroller and Auditor General to the Houses of Parliament

I have audited the financial statements of the Information Commissioner for the year ended 31 March 2009 under the Data Protection Act (1998). These comprise the Income and expenditure account, the balance sheet, the cash flow statement and statement of recognised gains and losses and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration report that is described in that report as having been audited.

Respective responsibilities of the Information Commissioner and Auditor

The Information Commissioner as Accounting Officer is responsible for preparing the Annual Report, which includes the Remuneration report, and the financial statements in accordance with the Data Protection Act (1998) and directions made thereunder by the Secretary of State for Justice with the approval of HM Treasury and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of the Information Commissioner's responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration report to be audited have been properly prepared in accordance with the Data Protection Act (1998) and directions made thereunder by the Secretary of State for Justice with the approval of HM Treasury. I report to you whether, in my opinion, the information, which comprises the accounts: foreword and governance sections, included in the Annual Report is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In addition, I report to you if the Information Commissioner has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed. I review whether the Statement on internal control reflects the Information Commissioner's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Information Commissioner's corporate governance

procedures or its risk and control procedures. I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises the Information Commissioner's foreword, Year at a glance, Educating and influencing, Resolving problems, Enforcing, Developing and Improving, Information requests to the ICO, and the unaudited part of the Remuneration report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinions

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration report to be audited. It also includes an assessment of the significant estimates and judgments made by the Information Commissioner in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Information Commissioner's circumstances, consistently applied and adequately disclosed. I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration report to be audited.

Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the Data Protection Act (1998) and directions made thereunder by the Secretary of State for Justice with the approval of HM Treasury, of the state of Information Commissioner's affairs as at 31 March 2009 and of its deficit, recognised gains and losses and cash flows for the year then ended;
- the financial statements and the part of the Remuneration report to be audited have been properly prepared in accordance with the Data Protection Act (1998) and directions made thereunder by the Secretary of State for Justice with the approval of HM Treasury;

and

- information, which comprises the accounts: foreword and governance sections, included in the Annual Report, is consistent with the financial statements.

Opinion on regularity

In my opinion, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Report

I have no observations to make on these financial statements.

Amyas C E Morse
Comptroller and Auditor General
National Audit Office
151 Buckingham Palace Road
Victoria
London
SW1W 9SS

18 June 2009

6. Income and expenditure account for the year ended 31 March 2009

	Note	2008/09 £'000	£'000	2007/08 £'000	£'000
Income					
Operating income	2	11,101		10,593	
Other income	3	<u>50</u>		<u>20</u>	
			11,151		10,613
Expenditure					
Staff costs	4	9,218		8,616	
Other operating costs	5	7,151		7,088	
Depreciation and amortisation of fixed assets	7	468		1,254	
Loss on revaluation of fixed assets		72		-	
Profit on disposal of fixed assets		<u>-</u>		<u>(2)</u>	
			16,909		16,956
Operating deficit			(5,758)		(6,343)
Interest receivable	6		43		63
Notional cost of capital	1.7		<u>103</u>		<u>81</u>
Deficit for the year			(5,612)		(6,199)
Notional cost of capital	1.7		(103)		(81)
Surrender of sundry receipts to the Ministry of Justice	6		<u>(70)</u>		<u>(83)</u>
Retained deficit for the year			<u>(5,785)</u>		<u>(6,363)</u>

Statement of recognised gains and losses for the year ended 31 March 2009

	Note	2008/09 £'000	£'000	2007/08 £'000	£'000
Net (loss) on revaluation of fixed assets	12		<u>(73)</u>		<u>(116)</u>

All income and expenditure relates to continuing operations.
There were no material acquisitions or disposals in the year.

7. Balance sheet as at 31 March 2009

	Note	31 March 2009 £'000	31 March 2008 £'000
Fixed assets			
Tangible fixed assets	7	2,548	2,105
Intangible fixed assets	7	36	-
Current assets			
Debtors and prepayments	8	737	655
Cash at bank and in hand	9	305	391
		<u>1,042</u>	<u>1,046</u>
Creditors - amounts falling due within one year	10	<u>(6,566)</u>	<u>(6,079)</u>
Net current (liabilities)		<u>(5,524)</u>	<u>(5,033)</u>
Total assets less current liabilities		(2,940)	(2,928)
Provision for liabilities and charges	11	<u>(8)</u>	<u>(32)</u>
Net (liabilities)		<u><u>(2,948)</u></u>	<u><u>(2,960)</u></u>
Reserves			
Income and expenditure reserve	12	(2,948)	(3,033)
Revaluation reserve	12	-	73
		<u><u>(2,948)</u></u>	<u><u>(2,960)</u></u>

Richard Thomas
Information Commissioner
15 June 2009

8. Cashflow statement for the year ended 31 March 2009

	Note	31 March 2009 £'000	31 March 2008 £'000
Net cash outflow from operating activities	13	(4,467)	(4,917)
Return on investment and servicing of finance			
Interest received		43	63
Capital expenditure and financial investment			
Payment to acquire tangible fixed assets	(1,044)	(198)	
Payment to acquire intangible fixed assets	(48)	-	
Proceeds from the sale of tangible fixed assets	-	5	
Net cash outflow before financing		(1,092)	(193)
Financing		(5,516)	(5,047)
Grant-in-aid received	5,500	5,050	
Surrender of sundry receipts to the Ministry of Justice	(70)	(83)	
		5,430	4,967
Decrease in cash		(86)	(80)

Notes to the accounts

1 Statement of accounting policies

1.1 Accounting convention

These accounts have been prepared in accordance with an Accounts Direction issued by the Secretary of State for Justice, with the approval of the HM Treasury, in accordance with paragraph (10)(1)(b) of schedule 5 to the Data Protection Act (1998).

These accounts shall give a true and fair view of the income and expenditure, and cashflows for the financial year, and state of affairs at the year end. The accounts are prepared in accordance with The Government Financial Reporting Manual for 2008/09 and other guidance which HM Treasury has issued in respect of accounts which are required to give a true and fair view, except where agreed otherwise with the Treasury, in which case the exception is described in the notes to the accounts.

These accounts have been prepared under the historical cost convention, as modified by the inclusion of fixed assets at current cost. The accounts meet the accounting disclosure requirements of the Companies Act (1985) and the accounting standards issued or adopted by the Accounting Standards Board to the extent that those requirements are appropriate.

Going concern

The accounts have been prepared on a going concern basis. For non-trading entities in the public sector, the anticipated continuation of the provision of a service in the future, as evidenced by the inclusion of financial provision for that service in published documents is normally sufficient evidence of going concern. The Government Financial Reporting Manual states sponsored entities whose balance sheet show total net liabilities should prepare their financial statements on the going concern basis unless, after discussion with their sponsors, the going concern basis is deemed inappropriate.

1.2 Grant-in-aid

Grant-in-aid is received from the Ministry of Justice to fund expenditure on freedom of information responsibilities, and is credited to the income and expenditure reserve upon receipt.

1.3 Fee income

Fee income is received from notifications made under the Data Protection Act (1998), and is retained as operating income.

The notification fee is paid in advance for a period of one year, and a proportion of this income is deferred and released back to the income and expenditure account over the fee period.

1.4 Fixed assets

Tangible fixed assets

Assets are capitalised as fixed assets if they are intended for use on a continuous basis, and their original purchase cost, on an individual basis, is £2,000 or more, except for laptop and desktop computers procured through the IS Managed Services Agreement which are capitalised even when their individual cost is below £2,000. Fixed assets (excluding assets under construction) are valued at net current replacement cost by using appropriate indices published by national statistics, when the effect of re-valuing assets over time is material.

Intangible fixed assets

Intangible fixed assets are stated at the lower of replacement cost and recoverable amount. Computer software licences and their associated costs are capitalised as intangible fixed assets where expenditure of £2,000 or more is incurred. Software licences are amortised over the shorter of the term of the licence and the economic useful life.

1.5 Depreciation

Depreciation is provided on all fixed assets on a straight-line basis to write off the cost or valuation evenly over the asset's anticipated life. A full year's depreciation is charged in the year in which an asset is brought into use. No depreciation is charged in the year of disposal.

The principal lives adopted are:

Leasehold improvements: over the remaining life of the property lease.

Equipment and furniture: 5 – 10 years.

Information technology: 5 – 10 years.

1.6 Stock

Stocks of stationery and other consumable stores are not considered material and are written off to the income and expenditure account as they are purchased.

1.7 Notional charges

Cost of capital

A notional charge reflecting the cost of capital employed in the year is included in the income and expenditure account along with an equivalent reversing notional income to finance the charge. The charge is calculated using HM Treasury's discount rate of 3.5% applied to the mean value of capital employed during the year.

Salary of the Information Commissioner

The salary and pension entitlements of the Information Commissioner are paid directly from the consolidated fund as a standing charge, and are included within staff costs and also as a corresponding credit to the income and expenditure reserve.

Secondments

A notional charge reflecting the benefit of central government secondees, working on freedom of information casework whilst being paid by their home department, has been included within staff costs at the rate the Information Commissioner would have paid such staff had they been employed directly by him, together with a corresponding credit to the income and expenditure reserve.

1.8 Pension contributions

Pension contributions are charged to the income and expenditure account in the year of payment.

1.9 Provisions – early departure costs

The additional cost of benefits, beyond the normal Principal Civil Service Pension Scheme benefits in respect of employees who retire early, are provided for in full.

1.10 Operating leases

Amounts payable under operating leases are charged to the income and expenditure account on a straight-line basis over the lease term, even if these payments are not made on such a basis.

1.11 Value added tax

The Information Commissioner is not registered for VAT as most activities of the Information Commissioner are outside the scope of VAT and fall below the registration threshold. VAT is charged to the relevant expenditure category, or included in the capitalised purchase cost of fixed assets.

2 Operating income

Fees collected under the Data Protection Act (1998)	2008/09 £'000	2007/08 £'000
Deferred income at 1 April 2008	5,739	5,514
Fee receipts	11,312	10,818
Deferred income at 31 March 2009	(5,950)	(5,739)
	<u>11,101</u>	<u>10,593</u>

3 Other income

Other income is paid to the Ministry of Justice	2008/09 £'000	2007/08 £'000
Legal fees recovered	32	10
Travel expenses	18	10
	<u>50</u>	<u>20</u>

4 Staff costs

Staff costs were	2008/09 £'000	2007/08 £'000
Wages and salaries	7,390	6,968
Social security costs	491	453
Other pension costs	1,337	1,195
	<u>9,218</u>	<u>8,616</u>

Average numbers of full-time equivalent staff were:	2008/09 Number	2007/08 Number
Staff with a permanent UK employment contract with the ICO	268	245
Other staff engaged on the objectives of the ICO	14	16
	<u>282</u>	<u>261</u>

The salary and pension entitlements of the Information Commissioner are paid directly from the consolidated fund as a standing charge. Included in staff costs above are notional costs of £251,046 (2007/08: £133,597), which comprises salary and backdated arrears of pay from 2007/08 plus associated pension contributions and national insurance.

Also included in staff costs above are notional costs of £118,730 (2007/08: £nil) in respect of staff seconded to the Information Commissioner during the year from central government departments. Costs have been estimated on the basis of the salary which would have been paid had the Information Commissioner recruited such staff under his current pay scales.

Staff costs above also includes expenditure of £242,836 (2007/08: £497,907) for temporary agency staff.

The Principal Civil Service Pension Scheme is an un-funded multi employer defined benefit scheme. The Information Commissioner is unable to identify its share of the underlying assets and liabilities. The Scheme Actuary valued the scheme as at 31 March 2007. You can find details in the resource accounts of the Cabinet Office: Civil superannuation (www.civilservice-pensions.gov.uk).

For 2008/09, employer contributions of £1,256,042 (2007/08: £1,186,353) were payable to the Principal Civil Service Pension Scheme at one of four rates in the range 17.1% to 25.5% of pensionable pay, based on salary bands. The Scheme's Actuary reviews employer contributions every four years following a full scheme valuation. From 2009/10 the range of rates will change to 16.7% to 24.3%. The contribution rates are set to meet the cost of benefits accruing during 2008/09 to be paid when the member retires, and not the benefits paid during this period to existing pensioners.

4 Staff costs (continued)

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employers' contributions of £15,931 (2007/08: £8,545) were paid to one or more of a panel of three appointed stakeholder pension providers. Employers' contributions are age related and range from 3% to 12.5% of pensionable pay. Employers also match employee contributions up to 3% of pensionable pay. In addition, employers' contributions of £579 (2007/08: £815), 0.8% of pensionable pay, were payable to the Principal Civil Service Pension Scheme to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees. Contributions due to partnership providers at the balance sheet date were £1,783 (2007/08: £1,526).

Other pension costs include notional employers' contributions of £46,288 in respect of the Information Commissioner and £18,259 in respect of staff seconded to the Information Commissioner.

No individuals retired early on health grounds during the year.

5 Other operating costs

	2008/09 £'000	2007/08 £'000
Accommodation (rent, rates and services)	1,217	1,178
Office supplies, printing and stationery	318	268
Carriage and telecommunications	118	101
Travel, subsistence and hospitality	484	488
Staff recruitment	203	175
Specialist assistance, consultancy and policy research	537	358
Communications and External Relations	1,415	1,473
Legal costs	425	533
Staff training, health and safety	301	374
Information services	2,102	2,115
Vehicle expenses	1	1
Audit fee	30	24
	<u>7,151</u>	<u>7,088</u>

Included above are operating lease payments for land and buildings of £609,403 (2007/08: £580,666).

Included in audit fees above are fees of £3,500 for the audit of the shadow International Financial Reporting Standards (IFRS) re-stated balance sheet as at 31 March 2008.

6 Surrender of sundry receipts to the Ministry of Justice

Sundry receipts are paid over to the Ministry of Justice	2008/09 £'000	2007/08 £'000
Interest receivable	43	63
Other income	27	20
Appropriations due	<u>70</u>	<u>83</u>

During the year the Ministry of Justice directed that legal costs of £23,500 awarded to the Information Commissioner, which were recovered from The Corporate Officer of the House of Commons, should not be paid over to the Ministry of Justice, but instead retained by the Information Commissioner to offset his expenditure incurred in respect of those proceedings.

7 Fixed assets

Tangible fixed assets	Leasehold improvements	Equipment and furniture	Information technology	Assets in the course of construction	Total
	£'000	£'000	£'000	£'000	£'000
Cost or valuation					
At 1 April 2008	601	461	7,311	-	8,373
Additions	-	10	155	879	1,044
Disposals	-	-	-	-	-
Revaluation	(40)	11	(149)	-	(178)
At 31 March 2009	<u>561</u>	<u>482</u>	<u>7,317</u>	<u>879</u>	<u>9,239</u>
Depreciation					
At 1 April 2008	258	324	5,686	-	6,268
Charged in year	67	26	363	-	456
Disposals	-	-	-	-	-
Revaluation	(17)	7	(23)	-	(33)
	<u>308</u>	<u>357</u>	<u>6,026</u>	<u>-</u>	<u>6,691</u>
Net book value					
At 31 March 2009	<u>253</u>	<u>125</u>	<u>1,291</u>	<u>879</u>	<u>2,548</u>
At 31 March 2008	<u>343</u>	<u>137</u>	<u>1,625</u>	<u>0</u>	<u>2,105</u>

Following a review of the estimated useful lives of individual assets, information technology assets are now being depreciated over a period of up to ten years (previously five years) on an asset by asset basis. If these changes in depreciation rates had not been applied, the depreciation charge would have been higher by £0.7m, with a corresponding impact on the results for the year.

Tangible fixed assets of £83,491 (2007/08: £24,426) have not been capitalised and are included within 'other operating costs', as the individual costs were below the capitalisation threshold of £2,000.

Information services are outsourced through a managed service agreement by Carillion (AMBS) Limited. The Information Commissioner is entitled to purchase the title of hardware and software procured under this agreement for a nominal sum on cessation of the contract. The current contract term is a period of five years expiring in July 2012.

Information technology above includes software licences, procured prior to 1 April 2008, as part of the managed service agreement, which are not separately identifiable, and therefore, can not be disclosed as intangible assets below.

Intangible fixed assets	Software licences and implementation costs
	£'000
Cost or valuation	
At 1 April 2008	-
Additions	48
At 31 March 2009	<u>48</u>
Amortisation	
At 1 April 2008	-
Charged in year	12
	<u>12</u>
Net book value	
At 31 March 2009	<u>36</u>
At 31 March 2008	<u>-</u>

8 Debtors

	31 March 2009 £'000	31 March 2008 £'000
Other debtors	13	57
Prepayments	724	598
	<u>737</u>	<u>655</u>
Split:		
Other central government bodies	-	42
Bodies external to government	737	613
	<u>737</u>	<u>655</u>

9 Cash at bank and in hand

	31 March 2009 £'000	31 March 2008 £'000
Balance at 1 April 2008	391	472
(Decrease) in cash	(86)	(81)
Balance at 31 March 2009	<u>305</u>	<u>391</u>
Split:		
Commercial banks	304	389
Cash in hand	1	2
	<u>305</u>	<u>391</u>

10 Creditors; amounts falling due within one year

	31 March 2009 £'000	31 March 2008 £'000
Other taxes and social security	180	2
Trade creditors	164	183
Other creditors	165	26
Accruals and deferred fee income	6,057	5,868
	<u>6,566</u>	<u>6,079</u>
Split:		
Other central government bodies	167	28
Bodies external to government	6,399	6,051
	<u>6,566</u>	<u>6,079</u>

Deferred fee income includes amounts relating to other central government bodies, local authorities, NHS bodies and public corporations in respect of unexpired notification fees made under the Data Protection Act 1998, however the creditor balance split between these bodies cannot be determined.

11 Provision for liabilities and charges

	Early departure costs £'000
Balance at 1 April 2008	32
Provision provided in the year	-
Provision utilised in the year	(24)
Balance at 31 March 2009	<u>8</u>

12 Reserves

	Income and expenditure reserve £'000	Revaluation reserve £'000	Total £'000
Balance at 1 April 2008	(3,033)	73	(2,960)
Retained deficit for the year	(5,785)	-	(5,785)
Grant-in-aid from Ministry of Justice	5,500	-	5,500
Information Commissioner's salary	251	-	251
Salary of central government secondees	119	-	119
Net (loss) on revaluation of fixed assets	-	(73)	(73)
Balance at 31 March 2009	<u>(2,948)</u>	<u>0</u>	<u>(2,948)</u>

13 Reconciliation of operating surplus to net cash inflow from operations

	2008/09 £'000	2007/08 £'000
Operating deficit for the year	(5,758)	(6,343)
Depreciation charged in the year	456	1,254
Amortisation charged in the year	12	-
Loss on revaluation of fixed assets	72	-
Profit on disposal of tangible fixed assets	-	(2)
Information Commissioner's salary	251	134
Salary of central government secondees	119	-
Movement in provisions	(24)	32
Increase in debtors relating to operating activities	(82)	(141)
Increase in creditors relating to operating activities	487	149
	<u>(4,467)</u>	<u>(4,917)</u>

14 Commitments under operating leases

	31 March 2009 £'000	31 March 2008 £'000
Land and buildings		
Expiry within 1 year	14	9
Expiry within 2 to 5 years	127	159
Expiry thereafter	422	429
	<u>563</u>	<u>597</u>

15 Capital commitments

There were authorised and contracted for capital commitments outstanding at 31 March 2009 of £31,757 in respect of IT infrastructure assets (31 March 2008: £56,999).

16 Financial commitments

Information services are outsourced through a managed service agreement with Carillion (AMBS) Limited. The anticipated service charges for the coming year are £1,682,834 (2007/08: £1,634,980). Depending on the services provided under the contract, service charges will fluctuate over the life of the contract.

17 Related party transactions

The Information Commissioner confirms that he had no personal or business interests which conflict with his responsibilities as Information Commissioner. The Ministry of Justice is a related party to the Information Commissioner. During the year no related party transactions were entered into, with the exception of providing the Information Commissioner with grant-in-aid, and the appropriation-in-aid of sundry receipts to the Ministry of Justice. In addition the Information Commissioner has had various material transactions with other central government bodies, most of these transactions have been with the Central Office of Information (COI) and Principal Civil Service Pension Scheme (PCSPS). None of the key managerial staff or other related parties has undertaken any material transactions with the Information Commissioner during the year.

18 Financial instruments

As the cash requirements of the Information Commissioner are met through the collection of the statutory notification fee paid by data controllers and grant-in-aid paid by the Ministry of Justice, financial instruments play a more limited role in creating risk than would apply to a non-public sector body of a similar size.

The majority of financial instruments relate to contract to buy non-financial items in line with the Information Commissioner's expected purchase and usage requirements and the Information Commissioner is therefore exposed to little credit, liquidity or market risk.

The Information Commissioner does not face significant medium to long-term financial risks.

19 Accountability

No exceptional kinds of expenditure such as losses and special payments that required separate disclosure because of their nature or amount were incurred.

20 Post balance sheet events

In accordance with the requirements of FRS21, post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General. Christopher Graham succeeds Richard Thomas as Information Commissioner on 29 June 2009.

21 Resources by function

Data protection

The Secretary of State for Justice has directed that the notification fees collected by the Information Commissioner under the Data Protection Act (1998) shall be retained by the Information Commissioner to fund his expenditure on data protection work. The annual fee for notification has remained unchanged since its introduction on 1 March 2000 at £35.

The data protection notification fee is set by the Secretary of State, and in making any fee regulations under section 26 of the Data Protection Act (1998), as amended by paragraph 17 of schedule 2 to the Freedom of Information Act (2000), he shall have regard to the desirability of securing that the fees payable to the Information Commissioner are sufficient to offset the expenses incurred by the Information Commissioner, the Information Tribunal and any expenses of the Secretary of State in respect of the Commissioner or the Tribunal, and any prior deficits incurred, so far as attributable to the function under the Data Protection Act (1998).

These accounts do not include the expenses incurred by the Information Tribunal or the expenses incurred by the Secretary of State in respect of the Information Commissioner, and therefore these accounts cannot be used to demonstrate that the data protection fees offset expenditure on data protection functions.

Freedom of information

The Secretary of State for Justice provides an annual grant-in-aid to the Information Commissioner to fund his expenditure on freedom of information work. Grant-in-aid issued to the Information Commissioner reflects a need for cash, and is not paid to match accrual based expenditure. There are no fees collected by the Information Commissioner in respect of freedom of information.

Apportionment of costs

Staff costs and other running costs are apportioned between the data protection and freedom of information functions on the basis of costs recorded in the Information Commissioner's management accounting system. This system allocates expenditure to various cost centres across the organisation. A financial model is then applied to apportion expenditure between data protection and freedom of information on an actual basis, where possible, or by way of reasoned estimates where costs are shared.

Accounting basis

Accruals accounting is an accounting concept under which income and expenditure are recognised in the accounts for the period in which they are earned or incurred. This is in contrast to cash accounting under which income and costs are recognised in the accounts as money is received and paid out. Accruals accounting allows the income received from fees to be properly matched over the accounting period to the expenditure.

Controls

The apportioned splits between data protection and freedom of information activities is shown below, firstly on an accruals basis to comply with the spirit of the Treasury Fees and Charges Guide, and secondly to demonstrate compliance with the general framework of controls agreed between the Ministry of Justice and the Information Commissioner, on a cash basis.

Under the terms of the agreed framework document between the Ministry of Justice and the Information Commissioner up to 2% of the annual grant-in-aid received for freedom of information work can, with prior consent, be carried forward for spending in the next financial year. Similarly up to 3% of fees collected (once they have cleared the banking system and are available to be spent) can be carried forward for spending in the next financial year. Fees not cleared through the banking system at the end of the year are regarded as cash in transit and are available for expenditure in the next financial year.

The segmental information has not been disclosed for the purpose of Standard Statement of Accounting Practice 25: Segmental reporting

Accruals basis	Freedom of information £'000	Data protection £'000	Total 2008/09 £'000	Freedom of information £'000	Data protection £'000	Total 2007/08 £'000
Income						
Operating Income	-	11,101	11,101	-	10,593	10,593
Other Income	-	50	50	-	20	20
	<u>-</u>	<u>11,151</u>	<u>11,151</u>	<u>-</u>	<u>10,613</u>	<u>10,613</u>
Expenditure						
Staff costs	3,440	5,778	9,218	3,110	5,506	8,616
Other operating costs	2,129	5,022	7,151	1,925	5,163	7,088
Depreciation and revaluation	31	509	540	194	1,058	1,252
	<u>5,600</u>	<u>11,309</u>	<u>16,909</u>	<u>5,229</u>	<u>11,727</u>	<u>16,956</u>
Operating deficit	(5,600)	(158)	(5,758)	(5,229)	(1,114)	(6,343)
Grant-in-aid credited to reserves	5,500	-	5,500	5,050	-	5,050
Information Commissioner's salary	125	126	251	66	67	133
Notional salary for secondments	119	-	119	-	-	-
Surrender of sundry receipts	-	(27)	(27)	-	(20)	(20)
Income and expenditure reserve b/f	235	(3,268)	(3,033)	348	(2,201)	(1,853)
Income and expenditure reserve c/f	<u>379</u>	<u>(3,327)</u>	<u>(2,948)</u>	<u>235</u>	<u>(3,268)</u>	<u>(3,033)</u>

Cash basis	Freedom of information £'000	Data protection £'000	Total 2008/09 £'000	Freedom of information £'000	Data protection £'000	Total 2007/08 £'000
Receipts						
Grant-in-aid drawn to spend	5,500	-	5,500	5,050	-	5,050
Fees available to spend (cleared)	-	11,176	11,176	-	10,673	10,673
	<u>5,500</u>	<u>11,176</u>	<u>16,676</u>	<u>5,050</u>	<u>10,673</u>	<u>15,723</u>
Payments						
Staff costs	3,178	5,308	8,486	3,094	5,538	8,632
Other operating costs	2,128	5,195	7,323	1,913	5,205	7,118
Purchase of tangible fixed assets	194	897	1,091	43	155	198
	<u>5,500</u>	<u>11,400</u>	<u>16,900</u>	<u>5,050</u>	<u>10,898</u>	<u>15,948</u>
Surplus cash from the year	-	(224)	(224)	-	(225)	(225)
Surplus cash from previous year	-	380	380	-	461	461
Fees available to spend (cleared)	-	156	156	-	236	236
Cash in transit	-	137	137	-	144	144
Fees held under direction	-	11	11	-	11	11
Surplus cash to next year	<u>-</u>	<u>304</u>	<u>304</u>	<u>-</u>	<u>391</u>	<u>391</u>
Percentage of cleared funds c/f	0.0%	1.4%		0.0%	2.2%	



Printed in the UK for The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office
ID6164755 07/09

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