



INFORMATION
FREEDOM

**Freedom of Information Unit
Report on Implementation
April 2009**

Prepared in accordance with the
Cayman Islands Government
FOI Implementation Plan
July 2007 – January 2010

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1 Introduction

The Freedom of Information (FOI) Law 2007 was brought into effect on January 5th 2009. This is the fourth monthly statistical report issued by the FOI Unit summarising the number of requests received by public authorities and decisions made during that month. Public authorities have a maximum of thirty calendar days to respond to requests, and therefore this reporting period will not reflect decisions on all requests submitted during the month, or only on those submitted in April. The FOI Unit relies entirely on self-reported statistics and progress from each Information Manager, which is inputted into a computer tracking and monitoring system entitled JADE.

2 Requests Made to Each Public Authority

Between April 1, 2009 and April 30, 2009, twenty-eight of the eighty-eight public authorities received a combined total of fifty-six requests for information under the FOI Law:

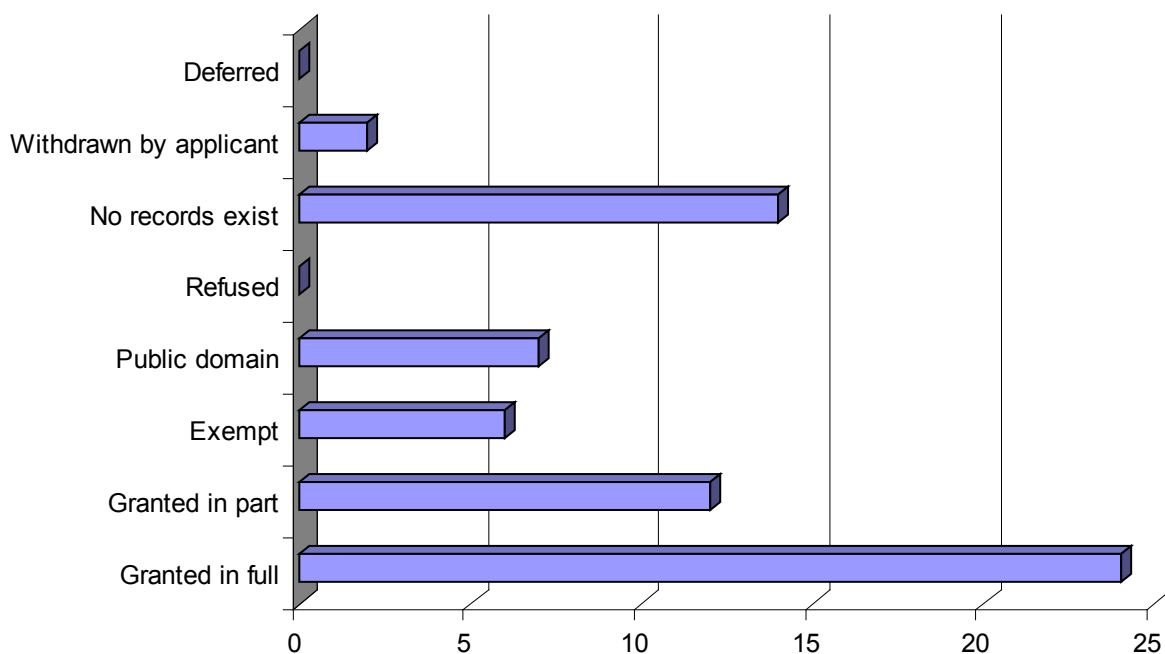
<i>PUBLIC AUTHORITY</i>	<i>NO.</i>
Audit Office	1
Cayman Airways	1
Cayman Islands Monetary Authority (CIMA)	7
Cayman Islands National Insurance Company (CINICO)	3
Cayman Turtle Farm (Boatswain's Beach)	3
Civil Service Portfolio	1
Communications, Works & Infrastructure Ministry	1
Customs Department	1
Education Services Department	2
Education, Training, Employment, Youth, Sports & Culture Ministry	2
Emergency 911	2
Environment Department	1
General Registry	1
Government Information Services (GIS)	1
Health Services Authority (HSA)	2
Health Regulatory Services Department	2
Immigration Department	4
Information Commissioner (Office of the)	1
Internal & External Affairs Portfolio	1
Lands & Survey Department	3
Legal Department	1
Legislative Assembly Department	1
Maritime Authority of the Cayman Islands (MACI)	1
Planning Department	3
Prison Service	2
Royal Cayman Islands Police Service (RCIPS)	4
Treasury Department	1
Water Authority	3
<i>TOTAL</i>	<i>56</i>

To date, three hundred and fifteen requests for information have been submitted to Cayman Islands public authorities under the Freedom of Information Law. Thirty-three of the eighty-eight public authorities have not received any FOI requests since January 2009.

<i>PUBLIC AUTHORITY</i>	<i>NO.</i>
Cayman Islands Cadet Corps	0
Cayman Islands Development Bank (CIDB)	0
Cayman Islands Government Office in the United Kingdom	0
Cayman Islands Investment Bureau (CIIB)	0
Cayman Islands National Museum	0
Cayman National Cultural Foundation (CNCF)	0
Children and Youth Services (CAYS) Foundation	0
Civil Service Appeals Commission	0
Community Rehabilitation Department	0
Computer Services Department	0
Counselling Services Department	0
District Administration Department Cayman Brac	0
District Administration, Planning, Agriculture & Housing Ministry	0
Education Standards and Assessment Unit (ESAU)	0
Elections Office	0
Electricity Regulatory Authority	0
Empowerment and Community Development	0
Hazard Management Cayman Islands	0
National Drug Council	0
National Gallery of the Cayman Islands	0
National Housing Development Trust (NHDT)	0
National Pensions Office	0
Public Library Service	0
Public Works Department	0
Recreational Parks and Cemeteries Department (RPCU)	0
Sister Islands Affordable Housing Development Corporation (SIAHDC)	0
Sports Department	0
Sunrise Adult Training Centre	0
Tax Information Authority	0
Telecommunications Office	0
University College of the Cayman Islands (UCCI)	0
Vehicle and Equipment Services Department	0
Youth Services Unit	0

3 Outcome of Requests

During the month of April, decisions were made by public authorities on sixty-five individual requests. Of these closed requests, twenty-four were granted in full, twelve were granted in part, and six were exempt in their entirety. Seven applicants requested records that were already available in the public domain, two requests were withdrawn by the applicant and fourteen other applicants asked for information but the Information Managers determined that their public authority held no records related to that request. No requests were deferred or refused during the reporting period.



3.1 Timeline of Requests

Of the 65 requests closed in April, only 8 decisions made by Information Managers missed the deadlines allowed under the FOI Law without a legitimate reason. 5 of those decision letters were due after 30 calendar days but sent between 35 and 73 calendar days after the request was received. A further 3 requests had a 60 calendar day deadline after a one time extension of an additional 30 days was taken, but were responded to after this extended deadline. Those responses were sent between 76 and 103 days after the request was received.

Though 5 additional applicants did not receive a decision within the 30 calendar day timeline, these responses were still within legal boundaries. In 2 cases, a legitimate extension of a further thirty calendar days was taken under Section 7(4) of the FOI Law and they were responded to within 60 calendar days. The other 3 decisions that were made more than 30 calendar days after receipt of the request were due to required consultation with a third party whose personal information was being released, or whose personal information was potentially being released.

It is useful to explain the multiple reasons why an Information Manager may legally take more than thirty calendar days to respond to a request after it is submitted. When an Information Manager requests clarification from an applicant the timeline freezes awaiting the applicant's response. A request for information is not considered to be complete until the Information Manager is clear on exactly what records the applicant is seeking.

Where third parties are consulted prior to release of an individual's personal information the third party is given twenty-eight days to consent or object to the release of his personal information. If an objection is made and the Information Manager decides to release the information regardless, this decision can be appealed to the Information Commissioner by the third party. Information Managers must wait until the time for an appeal has expired, or if a formal appeal is filed, until the appeal is fully resolved, before making a decision.

If an application is made to one public authority but they hold no records related to the request and another public authority does hold such records, the request must be transferred to that second public authority. A transfer can also be made if the subject matter is more closely related to the functions of a different public authority. In either case, the Information Manager must transfer the request as soon as practicable, but no later than 14 calendar days after receipt. The Information Manager of the receiving public authority then has 30 calendar days to respond.

The average response time for requests that did not require third party consultation or an extension of time of an additional thirty days was 14.4 calendar days. This average time is the number of days between receipt of a complete request (either after a transfer is made to another public authority or after clarification is received) and the date that the decision was sent to the applicant by the Information Manager.

3.2 Provisions Utilised to Exempt or Refuse Access

The following exemptions were utilised to justify the redaction of information where access to a record was granted in part, or to exempt the record in its entirety:

- ❖ Section 15(a) – disclosure would prejudice the security, defence or international relations of the Cayman Islands (Royal Cayman Islands Police Service);
- ❖ Section 16(d) – records relating to law enforcement that would, or could reasonably be expected to reveal lawful methods or procedures for preventing, detecting, investigating or dealing with matters arising out of breaches or evasions of the law, where such revelation would, or could be reasonably likely to, prejudice the effectiveness of those methods or procedures (Royal Cayman Islands Police Service);
- ❖ Section 17(a) – an official record would be privileged from production in legal proceedings on the ground of legal professional privilege (Health Regulatory Services Department, Legal Department, Royal Cayman Islands Police Service);
- ❖ Section 17(b)(i) – disclosure would constitute an actionable breach of confidence (Cayman Islands National Insurance Company);
- ❖ Section 20(1)(b) – a record is exempt from disclosure if its disclosure would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation (Cayman Islands National Insurance Company);
- ❖ Section 20(1)(c) – the record is legal advice given by or on behalf of the Attorney-General (Royal Cayman Islands Police Service);
- ❖ Section 21(1) – records related to commercial interests where disclosure would reveal trade secrets or any other information of commercial value, which value would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed (Cayman Islands National Insurance Company, Portfolio of the Civil Service);
- ❖ Section 21(1)(b) – the record contains information concerning the commercial interests of any person or organisation and the disclosure of that information would prejudice those interests (Health Services Authority, Water Authority);
- ❖ Section 23(1) – unreasonable disclosure of personal information (Cayman Islands National Insurance Company, Government Information Services, Immigration Department);

4 Popular Requests and General FOI Applications of Interest

During the month of April the Cayman Islands Monetary Authority (CIMA) received 7 requests, the most of any public authority during that time period. The Immigration Department and Royal Cayman Islands Police Service received 4 requests each and the other 25 public authorities received between 1 and 3 requests. Some other requests made during the month which may be of general interest are as follows (please note that decisions have not been made on all of the following requests, and not all that have been finalised were granted full access):

- Cayman Islands National Insurance Company* – Information related to the exact nature of health care coverage provided to civil servants, including potential two-tiered coverage.
- Civil Service Portfolio* – The total number of students provided with work experience in 2008 by the Cayman Islands Government, Statutory Authorities and Government-owned Companies.
- Education, Training, Employment, Youth, Sports & Culture Ministry* – Of the students granted local or overseas scholarships in the past five years, how many passed or failed.
- Health Services Authority (HSA)* – Policy related to the handling of employees who must work on Public Holidays, specifically whether they are compensated for this special work.
- Maritime Authority of the Cayman Islands (MACI)* – The total cost for delegations from MACI to travel internationally for the purpose of signing agreements with Global Class Societies.
- Prison Service* – the number of persons employed by the public authority and the number of persons who retired between January 2008 and March 2009 but remained employed as a normal officer, including their salaries.
- Treasury Department* – The policy under which salary advancements are granted to employees of Government departments, statutory authorities and Government companies and any collateral required to guarantee the funds. Also, the total number of civil servants who have received salary advances and the total dollar amount across Government.

5 Internal Reviews and Appeals to the Information Commissioner

During the reporting period there were five internal reviews requested of Chief Officers due to decisions made by the Water Authority, the Portfolio of Civil Service, the Ministry of Health and Human Services, the Legal Affairs Portfolio and the Governor's Office.

Five appeals were made to the Information Commissioner during the month of April. An appeal was made based on a decision by Cayman Islands National Insurance Company to extend the time for a decision by an additional 30 calendar days; two appeals were logged after the applicants did not receive responses¹ from the Ministry of Tourism, Environment, Investment & Commerce; and two appeals were against decisions of the Royal Cayman Islands Police Service. One was based on the RCIPS denying access to request records and the last due to deemed refusal by the same public authority (failure to respond).

6 More Information

For more information about Freedom of Information in the Cayman Islands and the activities of the FOI Unit, please visit our website at www.foi.gov.ky or pick up a user guide from our office in Elizabethan Square in George Town. We can also be contact by telephone at (345) 244-3609 or by email at FreedomOfInformationUnit@gov.ky.

Each public authority will maintain a disclosure log that records requests which are of general public interest and the decisions made on these requests. For more information about a particular request please see the disclosure log or contact the public authority's Information Manager at the contact details provided on their website. Websites for each public authority can be found on the main Government portal www.gov.ky and the FOI Unit also maintains a list of public authorities and Information Managers on our website.

To learn about the Information Commissioner's Office, including the policy and procedures for appeals, please contact the Office Manager at (345) 747-5402 or appeals@ico.gov.ky.

¹ If no decision is made by a public authority after thirty calendar days has passed the applicant may appeal on the basis that there was no response. This type of appeal is also called a "deemed refusal."