



INFORMATION  
**FREEDOM**

**Freedom of Information Unit  
Report on Implementation  
March 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 Law was brought into effect on January 5<sup>th</sup> 2009. This is the third 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 March.

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. The number of requests and outcomes will reflect when they were logged in JADE and the details given there, as mandated in detail in Section 24 of the FOI (General) Regulations.

## 2 Requests Made to Each Public Authority

Between March 1, 2009 and March 31, 2009, thirty-three of the eighty-eight public authorities received a combined total of eighty-seven requests for information under the FOI Law:

| <i>PUBLIC AUTHORITY</i>   | <i>NO.</i> |
|---|------------|
| Immigration Department  | 10         |
| Health Services Authority (HSA)                                   | 8          |
| Royal Cayman Islands Police Service                               | 7          |
| Finance & Economics Portfolio                                     | 5          |
| Planning Department   | 5          |
| Tourism, Environment, Investment & Commerce Ministry              | 5          |
| Internal & External Affairs Portfolio                             | 4          |
| Legal Department  | 4          |
| Cabinet Office  | 3          |
| Health & Human Services Ministry                                  | 3          |
| Lands and Survey Department                                       | 3          |
| Water Authority   | 3          |
| Cayman Islands Monetary Authority (CIMA)                          | 2          |
| Civil Service Portfolio   | 2          |
| Education Services Department                                     | 2          |
| Employment Relations Department                                   | 2          |
| Government Information Services (GIS)                             | 2          |
| Prison Service  | 2          |
| Agriculture Department  | 1          |
| Cayman Airways  | 1          |
| Cayman Islands Airports Authority (CIAA)                          | 1          |
| Cayman Islands National Archive (CINA)                            | 1          |
| Complaints Commissioner (Office of the)                           | 1          |
| Economics and Statistics Office                                   | 1          |
| Education, Training, Employment, Youth, Sports & Culture Ministry | 1          |

|   |   |
|---|---|
| Emergency Communications 911                    | 1 |
| Governor's Office                               | 1 |
| Health Regulatory Services Department           | 1 |
| Judicial Administration                         | 1 |
| Legislative Assembly Department                 | 1 |
| Maritime Authority of the Cayman Islands (MACI) | 1 |
| Radio Cayman                                    | 1 |
| Vehicle and Drivers' Licensing Department       | 1 |

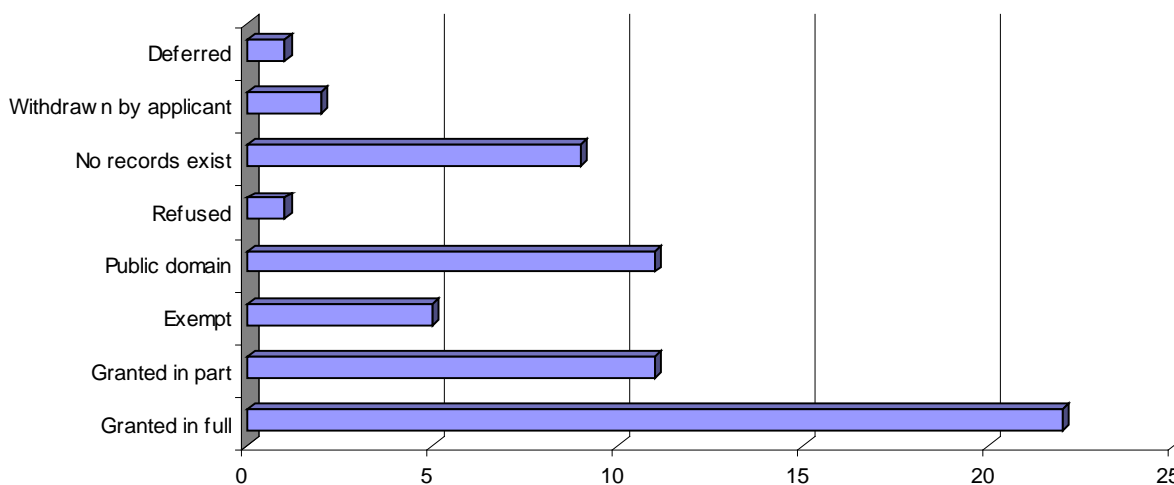
To date, 259 requests for information have been submitted to Cayman Islands public authorities under the Freedom of Information Law. 38 of the 88 authorities have not received any FOI requests:

| <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 Insurance Company (CINICO)                 | 0          |
| Cayman Islands National Museum                                     | 0          |
| Cayman National Cultural Foundation (CNCF)                         | 0          |
| Cayman Turtle Farm (Boatswain's Beach)                             | 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          |
| Customs 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          |
| Information Commissioner (Office of the)                           | 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          |
| Treasury Department  | 0          |
| University College of the Cayman Islands (UCCI)                    | 0          |
| Vehicle and Equipment Services Department                          | 0          |
| Youth Services Unit  | 0          |

### 3 Outcome of Requests

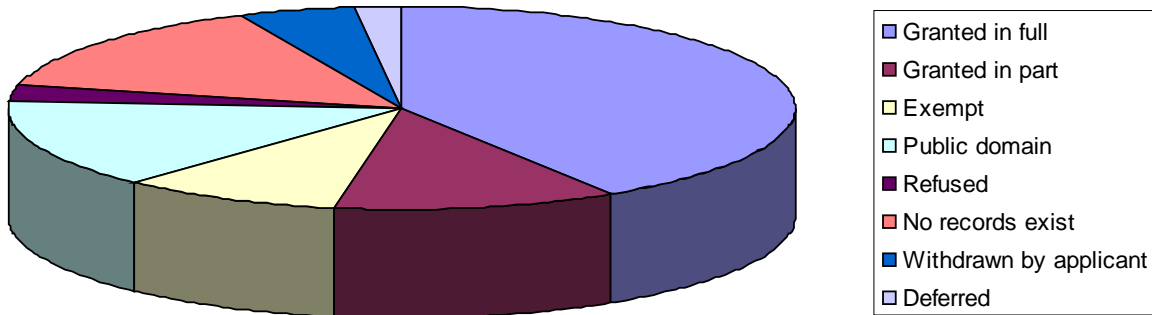
As of March 31, 2009, the end of the first quarter of full implementation of the FOI Law, ninety-six total requests (submitted between January 5, 2009 and March 31, 2009) remained in progress. During the month of March, sixty-two individual requests were closed.

Of the sixty-two requests that were closed in this time period, twenty-two were granted in full, eleven were granted in part, and five were exempt in their entirety. Eleven applicants requested records that were available in the public domain and nine other applicants asked for certain information but the Information Managers determined that their public authority held no records related to that request. Two requests were withdrawn by the applicants, one request was deferred under Sections 11(2)(a) and 11(2)(b) of the FOI Law, and one request was refused because another law takes precedence over the FOI Law and mandates a policy of non-disclosure of the information contained in the requested record.



To date, of the 163 requests that have been closed, 67 applications (41%) were granted in full. In addition, 23 applicants (14%) made requests for information that was already available in the public domain and 3 more (2%) were deferred, but will be granted full access when the record is made public. Totalling these figures, 57% of applications to date have been or will be granted full access or applicants will otherwise receive all of the information requested under the Freedom of Information Law. Not including withdrawn applications or applications where records were not found to exist, the percentage of applications to which full access will be given is 81%.

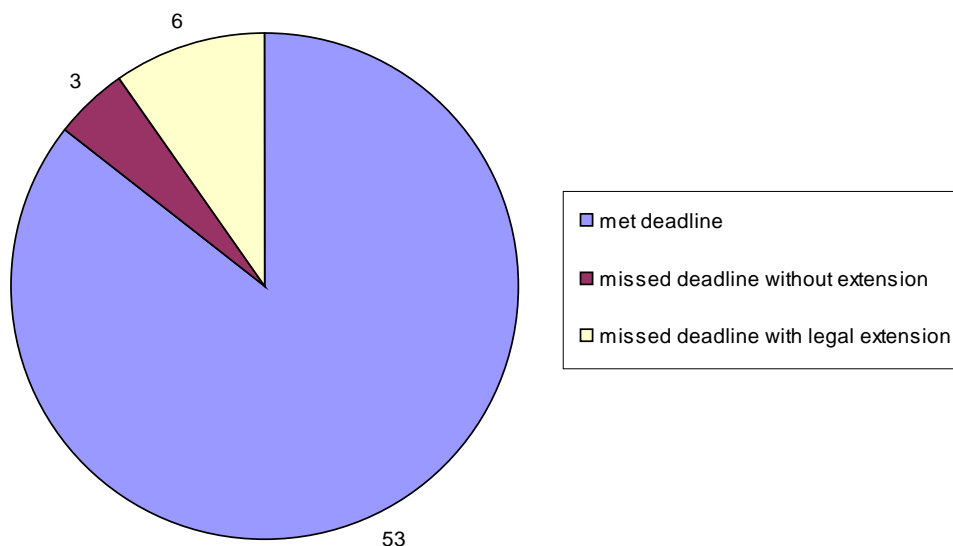
A further 19 requests have been granted in part since the implementation of FOI and 15 exempt in their entirety. 24 applications were found to request records that do not exist, 8 were withdrawn by the applicant and 4 were refused.



### 3.1 Timeline of Requests

Of the 62 requests closed in March, only three responses sent by Information Managers missed the 30-day response deadline allowed under the FOI Law without a legitimate reason. Those decision letters were sent after thirty-two, thirty-five and fifty-seven calendar days respectively.

Though six additional applicants did not receive a decision within the 30-day timeline, these responses were still within legal boundaries. In half of the cases, a legitimate extension of a further thirty days was taken under Section 7(4) of the FOI Law. Of the last three decisions that were made more than 30 days after receipt of the request, one was because the Information Manager needed clarification from the applicant on the scope of the request before continuing, another due to required consultation with a third party whose personal information was being released, and the third because the request had to be transferred to a separate public authority.



When an Information Manager requests clarification from an applicant the 30 day timeline freezes awaiting the applicant's response. 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 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.

### **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 (Cabinet Office);
- ❖ Section 16(a) – records relating to law enforcement that would, or could reasonably be expected to endanger any person's life or safety if disclosed (Cayman Islands Monetary Authority);
- ❖ Section 17(a) – an official record would be privileged from production in legal proceedings on the ground of legal professional privilege (Governor's Office, Health & Human Services, Ministry, Judicial Administration, Planning Department);
- ❖ Section 17(b)(i) – disclosure would constitute an actionable breach of confidence (Cayman Islands Airports Authority);
- ❖ Section 19(1)(a) – the record contains opinions, advice or recommendations prepared for the proceedings of the Cabinet (Tourism, Environment, Investment & Commerce Ministry);
- ❖ Section 19(1)(b) – the record contains a record of consultations or deliberations arising in the course of proceedings of the Cabinet or a committee thereof (Governor's Office);

- ❖ Section 20(1)(c) – the record is legal advice given by or on behalf of the Attorney-General (Health & Human Services Ministry);
- ❖ Section 21 – records related to commercial interests (Tourism, Environment, Investment & Commerce Ministry);
- ❖ Section 21(1)(a)(ii) – disclosure would reveal information of a commercial value, which value would be, or could reasonable be expected to be, destroyed or diminished if the information were disclosed (Cayman Islands Airports Authority);
- ❖ 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 (Cayman Islands Airports Authority);
- ❖ Section 23(1) – unreasonable disclosure of personal information (Education, Training, Employment, Youth, Sports & Culture Ministry, Planning Department, Finance & Economics Portfolio);
- ❖ Section 24(b) – disclosure would, or would be likely to endanger the safety of any individual (Cayman Islands Monetary Authority).

Further, the Cayman Islands Airports Authority also cited Section 54(1)(b) to refuse access to a record, which states nothing in the FOI Law shall be construed as authorising the disclosure of any official record which would be in breach of confidence or of intellectual property rights.

The Office of the Complaints Commissioner refused one request under Section 3(7) of the FOI Law, which states nothing in the FOI Law abrogates the provisions of any other law that restricts access to records. The OCC cited Sections 14(2) (investigations shall be conducted in private) and 16(1) (provision for secrecy of information) of the Complaints Commissioner Law to justify non-disclosure of a full report by the OCC. The Information Manager did, however, provide the applicant with a summary of the case previously distributed to the media.

Separately, but also under Section 3(7) of the FOI Law, the Water Authority granted partial access to a record, citing a client confidentiality policy under the accreditation process of the American Association for Laboratory Accreditation (A2LA) which prohibits the divulgence of third party information without proper authorisation. However, the applicant's request did not seem to include the severed portion of the record, and the request itself was answered in full from other sections of the record in which no redactions were made.

The Economics and Statistics Office (ESO) deferred a request for economic indicators from the fourth quarter of 2008, citing Section 11(2)(a) and (b) of the FOI Law. Under Section 8(1) of the Statistics Law, ESO publications are released upon the direction of the Governor in Cabinet and cannot be disclosed before they are submitted to Cabinet and noted by the Governor in Cabinet. After this process the information will be published and available to members of the public.

#### **4 Popular Requests and General FOI Applications of Interest**

For the third month in a row, the Immigration Department and Royal Cayman Islands Police Service received the highest number of 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):

- Cabinet Office* – The total cost of implementing the FOI Law in the Cayman Islands.
- Emergency Communications 911* – Whether a Caymanian, Permanent Resident or Expatriate worker was hired after a recent job advertisement.
- Portfolio of Finance & Economics* – Whether the government has accepted the recommendation of the Caymanian Bar Association and the Cayman Islands Law Society that the Confidential Relationships Preservation Law should be repealed.
- Health Services Authority (HSA)* – The names of the obstetricians who made negligent errors delivering a baby resulting in serious injury or death, the nature of such errors, and disciplinary action taken to prevent recurrences.
- Immigration Department* – The number of special marriage licences granted to non-residents in 2008.
- Legal Department* – Information on pending legislation that would prevent strata boards from including provisions in their by-laws prohibiting owners from installing hurricane protection.
- Legislative Assembly Department* – Personal salaries for all Members of the Legislative Assembly, including bonuses, overtime, incentive pay and expense accounts.
- Planning Department* – The plan for the development of the public beach in Bodden Town.
- Prison Service* – Information related to the introduction of the Rolling Sex Offenders Treatment Programme (SOTP) and Constructs, including which have been scientifically

validated for use in the Cayman context, how many people have participated in and completed each programme, how many people convicted of sex offences have entered the prison service since the SOTP programme has operated, and the educational and specific training requirements for psychologists and facilitators of each programme.

- Royal Cayman Islands Police Service (RCIPS)* – The RCIPS moonlighting policy with information on how many persons have received approval via this policy (if one exists) or through their Chief Officer to hold another job and/or operate an independent business.
- Tourism, Environment, Investment & Commerce Ministry* – The cost of recent global marketing meetings in Miami, FL and Washington, DC.
- Water Authority* – The number of sewage treatment plants (both public and private) on Grand Cayman, how many of those plants have been tested or monitored by the Water Authority, and the results of tests that have been conducted by the company.

## **5 Internal Reviews and Appeals to the Information Commissioner**

During the reporting period there were no internal reviews requested of Chief Officers and no appeals were made to the Information Commissioner. To date, one dissatisfied applicant has requested an internal review and two appeals have been sent to the Information Commissioner.

In March the Information Commissioner published Interim Policies and Procedures for her Office and invited public comment on the document. The ICO has also moved to their permanent location in Elizabethan Square and will be launching a website by the end of this month. For information on the Information Commissioner's powers, responsibilities and activities in relation to FOI, or to request a copy of her Interim Policies and Procedures, please call (345) 747-5402.

## **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](http://www.foi.gov.ky) or pick up a user guide from our office in Elizabethan Square in George Town. 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.