



Freedom of Information Yes, You Can!

Six Months In – My Experience as a Research Officer

by Aubrey Bodden

The Freedom of Information Unit was working in overdrive during the last months of 2008, preparing for implementation of the FOI Law on 5 January 2009. We saw this date as the culmination of all of our hard work and potentially a moment to take a breath and watch what happened next. However, the first half of 2009 hasn't seen us slow down at all. Instead, we have embarked on new adventures and developed even more initiatives; all while continuing to train and support the public sector and encouraging best practice and adherence to the principles of FOI across Government.

I was tasked with preparing a monthly implementation report that attempts to capture statistics, trends, applications of interest and a broad analysis of how requests are being handled. These reports are intended to help government agencies and the public keep track of the implementation process. We were very pleased with the initial volume of requests – 117 in the first month! Though demand has declined to a low of 36 in June, we are hoping that the public will become more involved in the process as FOI becomes embedded in our culture.

At the beginning of the year, Information Commissioner Jennifer Dilbert began her work in an office across the courtyard of Elizabethan Square. Since then, there has been some confusion between our two offices, and public education will be needed for both the private and public sector on our different roles. The Information Commissioner's Office (ICO) is independent from Government and tasked with specific duties under the FOI Law. A message from the ICO is included on page 3 of this newsletter.



The FOI Unit Hard at Work

Although our role in public education is limited, the FOI Unit is looking forward to helping out with Sunshine Week 2009, and celebrating International Right to Know Day on 28 September. The majority of our time this year, however, will be spent educating and supporting the public sector. Our main task through the end of 2009 will be to consolidate our previous work and develop a new way forward that suits post-implementation needs, including expanding our training programme while continuing to provide advice to public authorities on procedural matters related to FOI.

There is also more work to be done in revising certain statutory, regulatory and policy requirements to ensure a clear and consistent framework for access to information in the Cayman Islands. Legislation should respond to the needs of the public, and FOI is no exception. The FOI Law will be reviewed from time to time to ensure that it is meeting its stated objectives, and the first review is mandated within 18 months of the Law coming into effect (by July 2010). Input is welcome at any time from public authorities, Information Managers and the public on how to improve FOI.

The FOI Unit has also taken on new responsibilities this year. We have been tasked

with developing a model for the introduction of data protection legislation in the Cayman Islands by the Attorney General, as this legislation is an essential partner with freedom of information. A Data Protection Working Group will soon be formed, and we look forward to leading this exciting new endeavour.

In all of our efforts the FOI Unit seeks to utilise the talent and expertise in both the public and private sectors to promote the government's stated goals of greater transparency, accountability and public participation in national decision-making. We are excited about the work ahead and look forward to continuing to improve Government together.

Did You Know?

FOI doesn't just allow access to records through requests - public authorities are required by law to proactively publish more information and to promote the aims of FOI in many different ways.

A Regional Example



Marisa Sharpe, Carole Excell and Kimberly McKeown discuss FOI

After only six months, the Cayman Islands Government has already been asked to share its experience in implementation internationally. Our implementation planning process is being viewed as one that other countries can learn from, both in terms of our successes and the challenges we faced.

The FOI Unit has recognised that detailed planning and preparation are necessary to successfully implement FOI legislation in any jurisdiction. The implementation process does not end when the law comes into force, as ongoing efforts are needed for real cultural change.

Last month, two officials from the Bermudan Cabinet visited the FOI Unit to learn about the Caymanian FOI experience. A rigorous schedule was prepared that included two half-day conferences. On the first morning, Policy Analysts Kimberly McKeown and Marisa Sharpe attended our quarterly Information Manager Network Meeting. Every three months Information Managers from the 88 public authorities meet to discuss procedural issues associated with FOI requests, and to keep up to date with local and international FOI trends.

The second day, the officials attended a special Freedom of Information Steering Committee (FOISC) Retreat. The retreat brought together stakeholders and aimed to determine the effectiveness of the Cayman Islands Government's implementation of FOI and to identify future directions to ensure the Law meets its objectives as a long-term commitment.

Did You Know?

The Information Commissioner is independent from Government, appointed by the Governor and reporting directly to the Legislative Assembly

The Bermudan contingent worked closely with FOI Unit staff throughout the visit and also met with Information Commissioner Jennifer Dilbert, Director of Special Projects for the Cabinet Office Tim Hubbell, and staff from the Portfolio of the Civil Service, Government Information Services, Computer Services Department and Cayman Islands National Archives, all of whom have been an integral part of the implementation process.

It was a long but informative week. We wish Bermuda, as a fellow overseas territory and small island jurisdiction, success in its efforts and look forward to seeing what it will accomplish.

Did You Know?

There are over 75 countries around the world that have FOI legislation, and at least 30 more have pending efforts to enact a law.



FOI Legislation Statistics Worldwide

Dark - Comprehensive national law enacted

Medium - National regulation enacted

Light - Pending effort to enact law

White - No law or law not operative

Map by David Banisar, Privacy International. Not all national laws have been implemented or are effective. See www.privacyinternational.org/foisurvey for reviews of the laws and practices.

The Life of an Information Manager

Petula Twinn is the Information Manager for the Department of Immigration, where 57 requests for information have been received in the past six months. This public authority was identified as having special requirements in the Cayman Islands Government Implementation Plan, as everyone suspected they would receive a large amount of requests, but 57, which is over 14% of all requests, may be even more than we expected. Reflecting on her experience, Petula had this to say:

“While the implementation of the FOI legislation is still fairly new, the Law is well written and geared towards achieving the objectives of transparency and openness within Government. Initially, the majority of requests to the Immigration Department

were for persons wishing to view their own files; however, requestors are now asking for more varied information (e.g. statistics on work permit holders, the policies of the Immigration Boards, number of persons appealing the refusal of a work permit and remaining on island working).

“Each request is different. Some can be dealt with in a couple of hours from start to finish; others can take much longer to process depending on the complexity of the request. However, each request brings its own unique challenges.

“The purpose of the Freedom of Information legislation is to give the public access to information about the way their government works. This information can be used to help persons make better decisions that may affect their day to day life, or even society as whole. However, the legislation can

only fulfill its purpose if it is utilized, and I would encourage people to become familiar with FOI and what it can do for them.”



Message from the Information Commissioner's Office



Information Commissioner Mrs. Jennifer Dilbert, MBE, JP

The Cayman Islands has welcomed the enactment of the Freedom of Information Law (2007) and appointment of Mrs. Jennifer Dilbert, MBE, JP as Information Commissioner. This reception is evidenced by the articles and comments in the media, the numerous requests for information submitted to public authorities, and the recognised significance of the role of the newly established Information Commissioner's Office (ICO).

Although these cultural advancements have not come without a few minor stumbling blocks, if the first six months is any indication of future progress, there should be no doubt that the Cayman Islands will be a leader in upholding the public's right to access.

The Information Commissioner's Office is fundamentally a body independent of government administration, designed to ensure a cultural shift towards enhancing the transparency of public authorities, by striking a balance between the public's legitimate right to know, and the need for public authorities to keep some information confidential. The main responsibilities of the Information Commissioner are to:

- Hear, investigate and rule on appeals filed under the FOI Law;
- Monitor and report on compliance by public authorities;
- Make recommendations for reform both of a general nature and directed at specific public bodies;
- Refer cases where it appears that a criminal offence has been committed to the appropriate authorities; and
- Publicise the requirements of the FOI Law and the rights of individuals under it.

As part of its normal procedures, the ICO tries to resolve appeals before they go to formal hearing by way of mediation conducted informally and without prejudice.

Mrs. Dilbert - who is no stranger to high-profile public arenas having served as the Cayman Islands Government Representative in the United Kingdom – has worked hard for these first six months to establish an efficient and effective office.

To date, the ICO has received 21 appeals, nine of which are currently in mediation. Six appeals have been closed through mediation, five were referred back to the public authority, and one is currently before the Commissioner in formal hearing.

In the first six months, the strategic focus was on dealing with the appeals, working

with Information Managers, and informing the public of their new rights. Investigating appeals will continue to be a key priority, and, as the ICO becomes more established, additional resources will be devoted to ensuring compliance by public authorities as required under the FOI law.

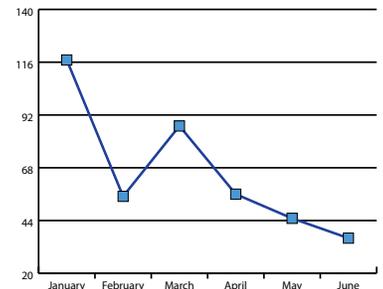
Public education and awareness are also an important responsibility of the ICO, and in conjunction with the FOI Unit we are currently planning for Sunshine Week 2009, an educational and fun-filled week consisting of family events, workshops and lectures, all promoting the public's right to access.

Freedom of Information in the Cayman Islands is here to stay and it is important for the public to familiarise themselves with access rights under the FOI Law and the systems and processes in place to assist in facilitating these rights. The Commissioner states: "I am optimistic that we can make FOI work" and "I hope, through these policies and procedures, to provide for all Cayman, certainty, transparency and efficiency in the dispute resolution and appeal process...to make sure that access to information is made as easy as possible."

For more information about the ICO, and to view the ICO's First Quarter Operational Plan and Policies and Procedures for Appeals, please visit their website at www.infocomm.ky.

Facts and Figures from the First Six Months

Total requests received:



The number of requests submitted to public authorities has been levelling off since January, and public authorities have gone from a high of 117 requests in January to 36 new requests this past month. However, statistics are showing a great deal of success in granting access to records, and public authorities are proactively publishing more information.

ACROSS

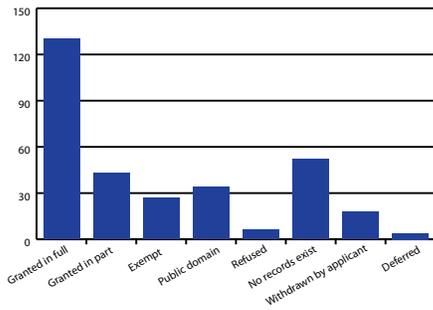
- What an Information Manager cannot ask you.
- Our partner in records management.
- The second aim of FOI: _____ government.
- FOI awareness week.
- You have to provide this, but it doesn't have to be real.
- The first aim of FOI.

DOWN

- How information is held by government.
- What you can ask for.
- The common name for the Government Administration Building: Glass _____.
- You have a new right to _____.
- FOI applies to every public _____.
- The third aim of FOI _____ participation in decision-making.
- The month in 2010 when the FOI Law will be reviewed.

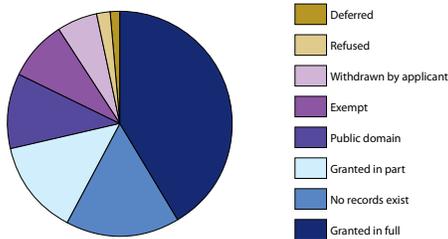
Outcomes of closed requests:

In these first six months 314 requests, or 79% of the total number of requests received, have been closed.



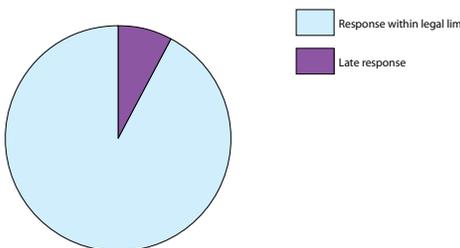
Outcome of resolvable requests

(excludes no records and withdrawn):



Discounting the 18 requests that were withdrawn by the applicant and 52 requests where no records were found to exist in relation to the application, 244 requests were "resolvable." Of these, 53% were granted fully, 14% were already in the public domain, and 2% were deferred (i.e. full access will be granted at a defined later date). A further 18% were granted in part, some with only minimal redaction.

Timelines:



More than 95% of requests are being responded to within legal timeframes, and the average response rate is approximately half of the thirty calendar days allowed for by law.

Farewell from Coordinator Carole Excell



Carole Excell (second from left) and the FOI Unit staff

It has been a pleasure and a privilege for me to lead the Freedom of Information (FOI) Unit for the last two years. I have learnt a lot from this experience, and I hope I have helped to build a robust FOI system that will promote greater transparency and accountability in the Cayman Islands Government.

To me, FOI is about the users of the system and how the public actually accesses government records. With a Freedom of Information Law, you hope to build an effective system to provide information to citizens, one that is easy to use and built on the presumption of disclosure.

The objective of FOI is simply to allow citizens to have a greater say in governing their country. It is a new way of thinking and it should lead to a new way of decision making by government which is inclusive and open.

The transformation of a traditional government with a culture of secrecy to one of openness is never easy. It takes time to build

buy-in from the political directorate, to increase the capacity of civil servants, and also for the public to realize the potential of a Freedom of Information Law. This journey is by no means complete. Continued hard work is needed to ensure sustainability and improvement of Government systems to create, manage and disseminate information. Key to this journey will be the continued work of the Freedom of Information Unit and the work of the new Information Commissioner's Office.

I want to thank all my staff from the Freedom of Information Unit, Natasha Bodden, Aubrey Bodden, Christina Smith (now with the Information Commissioner's Office) and Zara Yates. I especially want to thank Natasha, who went on this journey with me from the beginning and was a great support, fast learner and source of laughter.

I also want to mention Michael Johnston "my project manager" from the Portfolio of the Civil Service, I could not have completed any of this work without his advice and management skills, and Mrs. Cornelia Olivier from Government Information Services, who was the "ideas" lady and provided help and assistance in all our public relations and events. Finally I want to thank Ms Sonya Sherman from the National Archives for all her hard work. What a team!

Starting in September, I will be moving to Washington, D.C. to work with the World Resources Institute on their 'Access Initiative,' a project focusing on public access to environmental information. I will still stay closely connected to international developments in freedom of information, especially in the Caribbean. I wish all who I have worked with continued success with FOI, especially all of "our information managers." FOI is important work and it is at the core of what is important to public service -- the people.

Cabinet Secretary Says Goodbye

Over the past two years, FOI Coordinator Carole Excell has played a significant role in building the impressive machinery that is dedicated to ensuring the continued and enhanced success of FOI in the Cayman Islands.

Carole and her small team have offered us as a textbook lesson on how to implement big, cross-government projects. As a manager, her work ethic, attention to detail, and adaptability served as a foundation that enabled the unit to offer training to countless civil servants, while at the same time providing extensive support

to government departments in preparation for implementation.

With Special Projects Director Tim Hubbell and the FOI Steering Committee, she also worked to develop the FOI Law and Regulations, in addition to regularly updating Cabinet. If the team ever tried to recoup all of the comp time that it has accumulated, their offices would be vacant for several weeks!

The Cabinet Office knew when it hired Carole that she had considerable experience in FOI implementation in her home country of Jamaica. She has more than fulfilled our expectations in that regard; she also leaves behind a trained and qualified staff, and in particular a Caymanian who will now take over the reins. We could not ask any more of her than what she has done.

Cabinet Secretary Mr. Orrett Connor, MBE, JP

CONTACT INFO

Location:
Elizabethan Square, Building D
George Town, Grand Cayman

Mailing Address:
Government Administration Building
Grand Cayman, KY1-9000 CAYMAN ISLANDS

Telephone: (345) 244-3609 **Fax:** (345) 947-5712
Email: foi@gov.ky
Web: www.foi.gov.ky