

Information  
Commissioner's Annual  
Report and Financial  
Statements 2011/12

In the Rights space -  
at the right time



# Information Commissioner's Annual Report and Financial Statements 2011/12

Presented to Parliament pursuant to Section 52(1) of the Data Protection Act 1998 and Section 49(1) of the Freedom of Information Act 2000 and Schedule 5 paragraph 10(2) of the Data Protection Act 1998.

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Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

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## Our mission

The ICO's mission is to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

## Our vision

To be recognised by our stakeholders as the authoritative arbiter of information rights, delivering high-quality, relevant and timely outcomes, responsive and outward-looking in our approach, and with committed and high performing staff – a model of good regulation, and a great place to work and develop.

# 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 to 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, including the use of cookies.

The **Infrastructure for Spatial Information in the European Community Regulations 2009** gives the Information Commissioner enforcement powers, in relation to the pro-active provision by public authorities, of geographical or location based information.

# Information Commissioner's foreword

The Information Commissioner's Office (ICO), it seems, has seldom been out of the headlines over the past year. The Right to Privacy and the Right to Know are of increasing practical concern to consumers and citizens. At the same time, government and business, assisted by technology, are forever pushing the boundaries of the possible and the permissible. So the business of holding both commercial interests at bay and politicians to account is high up both the political and the news agenda. We call this 'upholding information rights in the public interest'. It's what the ICO does. In the Rights space – at the right time.

A few examples. The Information Commissioner's ruling, under the Freedom of Information Act, that the Department of Health should, in the public interest, publish its 'transition risk register' setting out how the changes

to NHS structures were being managed, was strongly resisted by the Government. The ICO's approach to enforcing the 'consent for cookies' provisions of the E-Privacy Directive provoked howls of anguish from internet businesses. The Leveson Inquiry put the spotlight on what the ICO had and had not done about Fleet Street's often cavalier approach to data protection.

The ICO can expect to remain in the news as we engage with two further Government initiatives that impact on information rights – the Communications Capability Development Programme and the

drive for Open Data. We are working to secure necessary limitations and safeguards for personal information and we want to enable appropriate data sharing and encourage openness provided it complies with the law.

Aside from all the politics, the NHS risk register decision showed the Freedom of Information Act working as it should. The Tribunal supported the Commissioner's Decision Notice (while overturning a second and parallel decision about the Department's strategic risk register.) Together, the Commissioner and the Tribunal have a well-established record of applying the exemptions set out in the Act so as to respect the necessary 'safe space' for the development of policy. Much of the criticism of the current law that the episode provoked has ignored the public interest exemptions already in the Act. It was regrettable that, in the end, the Ministerial veto was deployed to block publication. But the existence of the veto is part of the current law.

The revised Privacy and Electronic Communications Regulations (PECR) came into force in May 2011. As the regulator, we gave websites a year's lead-in to adjust to the new 'consent for cookies' rule. We issued helpful guidance and will take appropriate and proportionate enforcement action in the coming months where businesses cannot demonstrate that they are taking reasonable steps to comply with what are, admittedly, challenging provisions. At the same time, the ICO is on the trail of some of the rogue

**An organisation,  
that I believe,  
is performing  
effectively - ready  
to do more and  
better in the year  
ahead.**

operators whose unsolicited texts are a clear breach of the updated PECR rules.

On Leveson, the ICO has received precious little credit for having been the first to blow the whistle on Fleet Street practices in our 2006 publications 'What Price Privacy?' and 'What Price Privacy Now?' We are still waiting for the stronger deterrent penalty to the section 55 offence of 'blagging' personal information from unsuspecting data controllers that was the key recommendation of those reports of six years ago. Meanwhile, we have been facilitating 'fast track' subject access from the so-called Motorman Files for any concerned citizen who wants to know whether or not journalists had, for whatever reason, been commissioning potentially unlawful breaches of their privacy.

No cases more than a year old and the average much less and falling. More Decision Notices than ever before. More enforcement action. This against the background of more cases received - and fewer resources to devote to them. (See pages 14 - 33 for the details.) As the complaints backlogs shrink and the average age of the caseload reduces the Commissioner has less to say - except to thank the ICO's staff, more than 300 of them, who have got the job done, improved productivity, and delivered a first class service to our customers and stakeholders, coping all the time with increasing volumes of business - against a background of change and uncertainty, and in the second year of a wage freeze.

Major developments of ongoing significance for the ICO are the proposals from the European Commission for a revision of the legal framework for data protection in the EU and the post-legislative scrutiny of the Freedom of Information Act by the House of Commons Justice Committee. We are closely engaged in both processes. Our aim is to safeguard citizens' complementary rights to information and to privacy. We can leave the campaigning to others, but we shall contribute our detailed and increasingly expert perspective to ensure that the framework that emerges delivers real, and not just theoretical, benefits for consumers and citizens.

Following public consultation, we published our Information Rights Strategy, recognising the need for joined up approaches to the joined up world of information rights. We recognise that freedom of information can intrude on privacy and that data protection can limit freedom of information. It is important to look at things in the round. It would be well for Parliament to adopt a similar approach and avoid piecemeal amendment to the twin pillars of information rights - the separate Data Protection and Freedom of Information Acts. The same integrated information rights perspective is needed when considering how to fund the ICO for the future.

During the year, we took a further look at the way the ICO is organised. The Next Steps project aimed to address the need to achieve 'better for less', primarily in our support functions. We are currently engaged in re-procurement of our IT services and we are looking to find significant savings in third-party procurement generally. We are also working towards a more modern and user-friendly online notification system, to be followed by an upgrade of our finance systems. We were delighted to be able to recruit a Director of Corporate Services to a streamlined senior management team, providing focus and impetus to the efficient delivery of all support functions.

Three years ago, we developed a vision for an ICO that was fit for the challenges of the future. We said 'By 2012, we will be recognised by our stakeholders as the authoritative arbiter of information rights ...' that was our Olympic challenge – and I'm glad to say that the findings of our stakeholder research suggest that the ICO has not disappointed. But even our greatest fans want us to do better. Improvements to the ICO website will be a priority in the year ahead.

The reorganisation of our senior management team was prompted, at least in part, by the departure of two colleagues who had played key roles in the modernisation of the ICO. Director of Corporate Affairs Susan Fox, who has left to work for the Ombudsman Service, was responsible, among many other achievements, for the ICO's smart new corporate look. Director of Organisational Development Vicky Blainey professionalised our HR function and also led the building project which established the bulk of our operation on a single site, with flexible, open plan accommodation.

I am grateful to all the Executive Team for their hard work and commitment over a challenging year. Our non-executive Management Board colleagues have also contributed greatly to the task of setting the strategy, assessing risk, and monitoring performance.

The next 46 pages tell the story of an organisation that, I believe, is performing effectively – ready to do more and better in the year ahead.



**Christopher Graham**  
**Information Commissioner**

26 June 2012

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KVKZC GUBJ

**Alan Turing**

'Founder of computer science' in Enigma Code

## Alan Turing 1912-1954

Based as we are in Wilmslow, near Manchester, the ICO honours the great Alan Turing whose centenary year this is. The Enigma Code breaker and "founder of computer science" lived in the town and taught at Manchester University. The story of Turing's life and work resonates with the ICO's contemporary concerns – computers and data; information and secrecy; technology and innovation; citizens' rights and privacy. The ICO is marking the Turing Year with a design competition for schools, to make the connection between Turing's work and the ICO, and in September, the first ICO Alan Turing Lecture.

# Our plan

The ICO Corporate Plan for 2011/12 set out the following:

## The ICO way

We shall adopt a rounded approach to safeguarding information rights.

Our data protection and freedom of information responsibilities may, to some extent, be seen as different sides of the same coin. Certainly there are advantages to be secured from a more integrated approach to our work, although we must be careful not to lose knowledge and expertise around the specific requirements of the different regimes.

We shall aim to relate better, as one ICO, to stakeholders who are themselves managing information systems, records management, data protection and freedom of information compliance as a single information function.

## Educating and influencing

Our aim is to reduce the number of times organisations get information rights wrong in the first place (under either data protection or freedom of information), being more proactive and imaginative in communicating with organisations as to their responsibilities under legislation.

## Providing advice, resolving complaints and taking action

We aim to deliver an efficient and effective end-to-end operational process, where customers, partners and stakeholders receive a timely and responsive service, appropriate to their requirements.

We shall make early and effective use of our new data protection powers to undertake audits and impose civil monetary penalties on data controllers who seriously get it wrong.

## Developing and improving

The ICO will seek to deliver its programme by doing things differently and better in five main areas of activity: direction, people, knowledge, resources and governance.



# Our year at a glance

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## April 2011

New E-Privacy Directive (cookies) regulations published.

Information Commissioner, Christopher Graham gives evidence to the Home Affairs Select Committee about Operation Motorman.

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## May 2011

We publish advice on complying with EU law on the use of cookies - businesses running websites aimed at UK consumers are given 12 months to 'get their houses in order'.

We launch our 'Data sharing code of practice' at the House of Commons.

We issue a monetary penalty against law firm ACS Law, for failing to keep sensitive personal information relating to around 6,000 people secure.

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## June 2011

We prosecute two former T-Mobile

employees who illegally stole and sold customer data. They are ordered to pay a total of £73,700 in fines and confiscation costs by Chester Crown Court.

We host data sharing events in Cardiff, Belfast and Glasgow for organisations from across the public, charity and voluntary sectors to discuss the importance of effective data sharing.

We order the disclosure of the names of 24 public sector workers who earn more than £150,000.

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## July 2011

We welcome commitments from the government aimed at opening up public services and improving transparency in the health, education, criminal justice and transport sectors.

We issue a reminder to the health service to keep patients' personal information secure following enforcement action taken against five health organisations

in breach of the Data Protection Act.

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## August 2011

We remind students about their data protection right to access information about their exam marks.

We launch a research project to explore ways of embedding information rights into the National Curriculum in the UK.

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## September 2011

We publish guidance on freedom of information legislation and research information, aimed specifically at public authorities in the higher education sector.

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## October 2011

We launch a project teaming up with students at 15 universities across the UK, aimed at raising young people's awareness of information rights and promoting the ICO's work on campus.

We host a conference in Northern Ireland to discuss the business case for data protection, Over 100 delegates from all sectors attended.

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## November 2011

We welcome our new powers, enabling the ICO to impose monetary penalties of up to £500,000 for serious breaches of the Privacy and Electronic Communications Regulations.

We launch the ICO blog.

We launch a consultation - 'Tell me more' - asking the public to offer their views about what information public authorities should proactively release.

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## December 2011

We successfully prosecute an estate agent under the Data Protection Act for failing to notify with the ICO as a data controller.

We issue new guidance making it clear that information concerning official business held in private email accounts is subject to the Freedom of Information Act.

We submit a business case to the Ministry of Justice to extend our assessment notice powers to secure consensual audits in the NHS and local government sector.

We successfully prosecute a health sector employee who unlawfully obtained her sister-in-law's medical records in order to find out about the medication she was taking has been found guilty of an offence under section 55 of the Data Protection Act.

We launch our Information Rights strategy.

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### January 2012

We welcome our new powers, enabling the ICO to impose monetary penalties of up to £500,000 for serious breaches of the

Privacy and Electronic Communications Regulations.

We launch our Plain English Guide to Freedom of Information.

We mark European Data Protection Day launching a new 'Personal information toolkit' and promoting the 'i in online' project – reaching 6,000 young people across the UK.

We successfully prosecute a former health worker for unlawfully obtaining patient information by accessing the medical records of five members of her ex-husband's family in order to obtain their new telephone numbers.

We issue a response to the European Commission's proposals for a new data protection legislative framework.

Information Commissioner, Christopher Graham gives evidence to the Leveson Inquiry.

We issue our first monetary penalty against an organisation in Scotland, and our largest to date (£140,000), to Midlothian Council for disclosing sensitive personal data relating to children and their carers to the wrong recipients on five separate occasions.

Information Commissioner, Christopher Graham is elected Vice Chair of the Article 29 Working Party.

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### February 2012

Working with the Serious Organised Crime Agency (SOCA), we secure convictions under the Fraud Act sentencing four private investigators for blagging.

We present a Ministerial veto report to Parliament, setting out the Information Commissioner's response to Attorney General Dominic Grieve's freedom of information veto on Cabinet Committee minutes relating to

devolution to Scotland, Wales and the English Regions.

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### March 2012

We host the Data Protection Officer conference in Manchester, with nearly 500 delegates attending the event.

We issue a decision confirming that an email sent by the Secretary of State for Education on a private email account is subject to the Freedom of Information Act.

We host an event in London on the revised EU data protection directive, attended by 145 delegates representing organisations across all sectors as well as other regulators, government representatives and MEPs.

We give evidence to the Justice Committee as part of its post-legislative scrutiny of the Freedom of Information Act.

# Providing advice, resolving complaints and taking action

## Handling complaints and encouraging good practice

We achieved our challenging target of closing 90% of our complaints cases within six months of receipt. The figure for data protection complaints was 95% and for freedom of information it was 83%.

## Data protection complaint casework

### Complaint casework received

2010/11	13,034
2011/12	12,985

**0.3%**  
decrease compared  
to 2010/11

### Complaint casework finished

2010/11	14,276
2011/12	12,725

**10.8%**  
decrease compared  
to 2010/11

### Complaint casework caseload

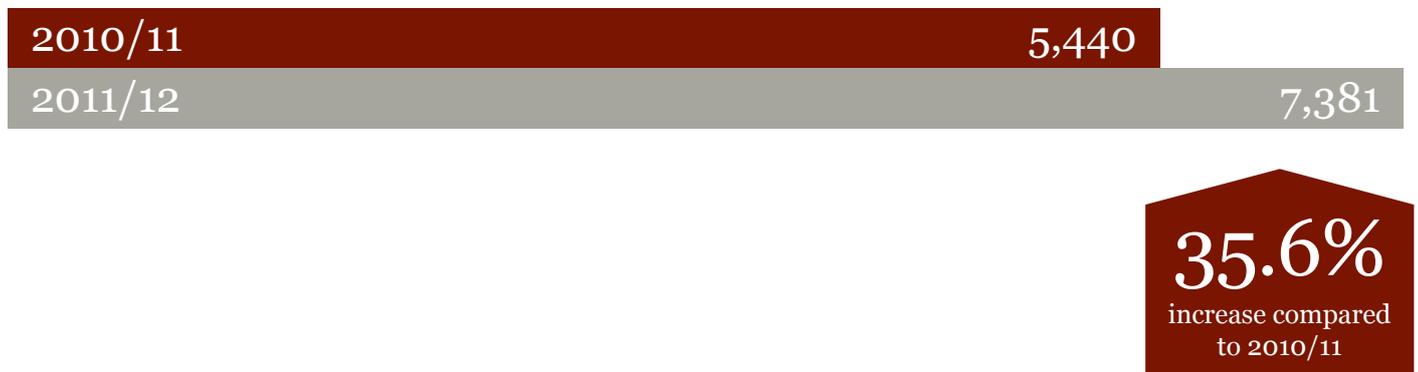
2,627	Caseload at 1 April 2011
2,396	Caseload at 31 March 2012

# Privacy and electronic communication complaint casework

## Complaint casework received



## Complaint casework finished

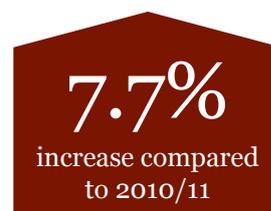
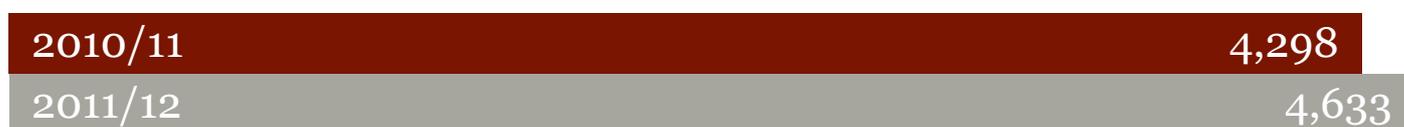


## Complaint casework caseload

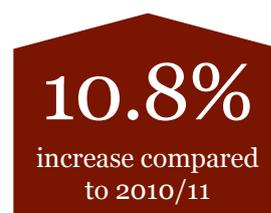


# Freedom of information and environmental information complaint casework

## Complaint casework received



## Complaint casework finished



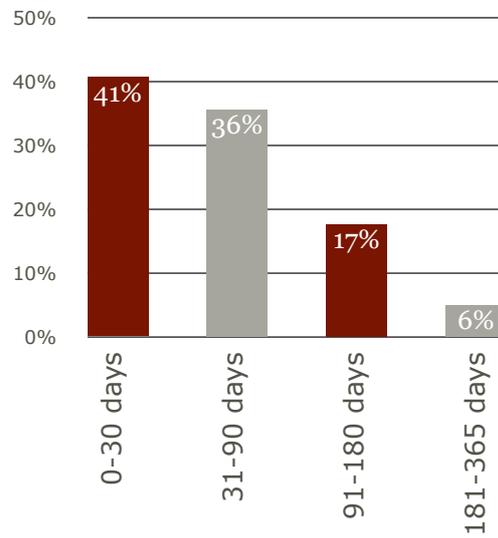
## Complaint casework caseload



# Freedom of information complaint casework

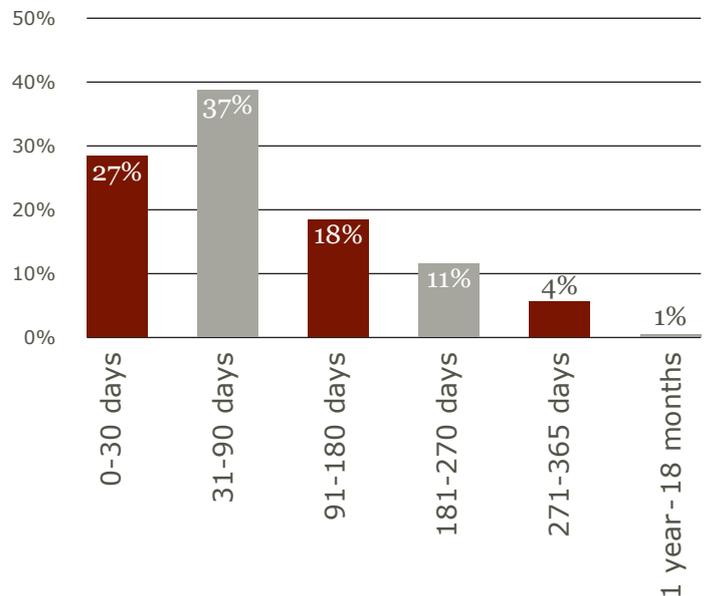
Received in year	4,633
Finished in year	4,763
1,029	Caseload at 1 April 2011
958	Caseload at 31 March 2012

Age distribution of complaint caseload



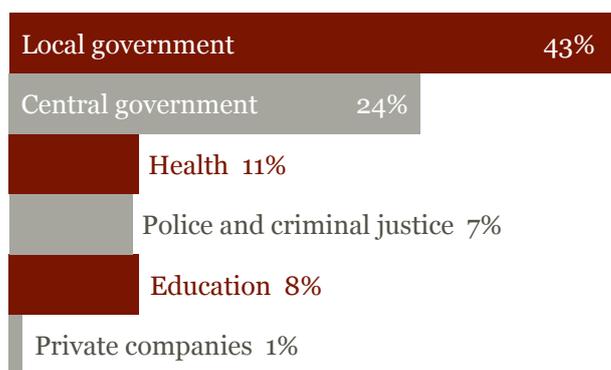
Age distribution of finished complaint casework

30 days or less	27%
90 days or less	64%
180 days or less	83%
365 days or less	99%



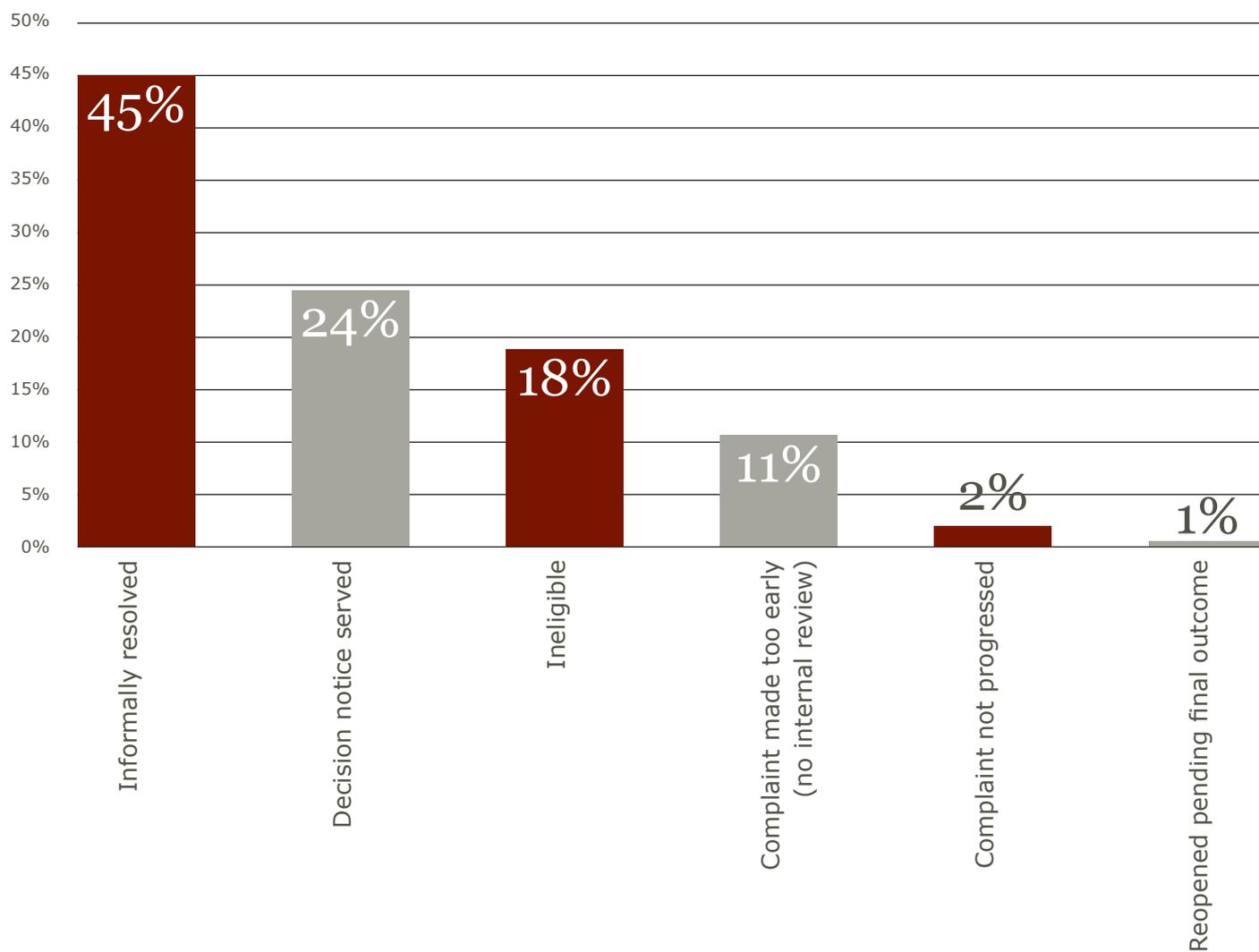
\* Complaints over 18 months - 2

Areas generating most complaints where sector is specified



Outcome of a complaint where a decision notice is served		
Total served	1,131	
Upheld	308	27%
Not upheld	569	50%
Partially upheld	254	23%

Outcomes of complaint casework finished



\* All percentages are rounded to nearest whole figure

## Freedom of information complaints

We deal with complaints relating to freedom of information (and environmental information requests) as well as complaints about how organisations deal with personal data.

In 2011/12 we closed 4,763 **freedom of information** complaints. This allowed us to reduce our caseload to 958 with only 6% over six months old. We believe that a caseload of two to three months intake (800 to 900 cases) will allow us to consistently meet our closure targets.

Total receipts increased to 4,633, with the final quarter seeing the biggest rise.

We closed 1,131 freedom of information complaints with a decision notice, nearly 40% more than last year. All decision notices are published on our website. We either fully or partially upheld the complaint in 562 (50%) cases. This is more than the equivalent figure for last year (448) but a similar proportion. We will continue to monitor this figure for any indication that request handling is either improving or getting worse. On this year's evidence, there was no significant change.

## Reviewing the complaint handling process

The freedom of information complaint handling review project provided a focus for our continuous improvement in complaint handling. We have made considerable progress in identifying at a much earlier stage those cases giving rise to novel or difficult issues where a new policy line or a steer from more senior staff is required.

The majority of decision notices are now signed off by Group Managers within the Complaints Resolution Department.

A significant minority of complex, novel and high-profile cases are directed and signed off by senior signatories led by the Deputy Commissioner and Director of Freedom of Information, Graham Smith

## Freedom of information monitoring

We continue to monitor public authorities with a poor record for dealing with freedom information requests and this year 14 of them signed formal undertakings to improve. We will continue to work with these organisations and to advise them on good practice.

## Freedom of information appeals

The number of appeals to the First-tier Tribunal (Information Rights) against ICO decisions in continues to rise but it is in proportion to the number of decision notices issued.

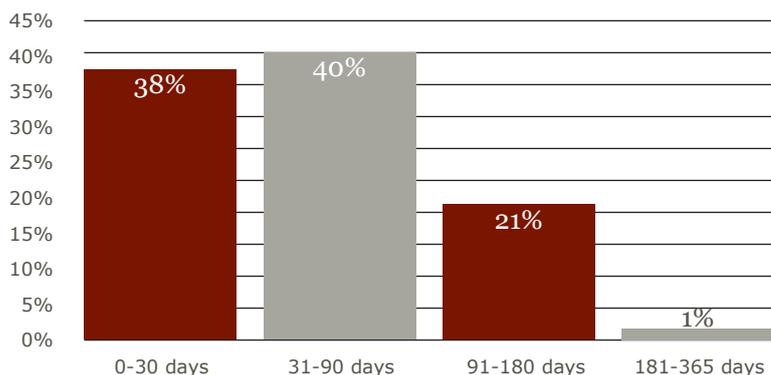
We have taken decisions not to attend oral hearings before the Tribunal when we consider that being represented will not add anything significant over and above the arguments in the decision notice itself and any further written representations.

It is too early to identify any clear pattern in terms of the impact on outcomes in these cases, but clearly there is an immediate cost saving as we are not employing a Barrister.

# Data protection complaint casework

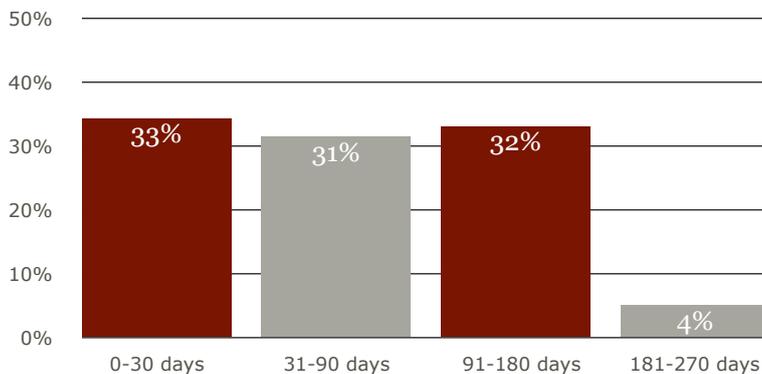
Received in year	12,985
Finished in year	12,725
2,627	Caseload at 1 April 2011
2,396	Caseload at 31 March 2012

Age distribution of complaint caseload



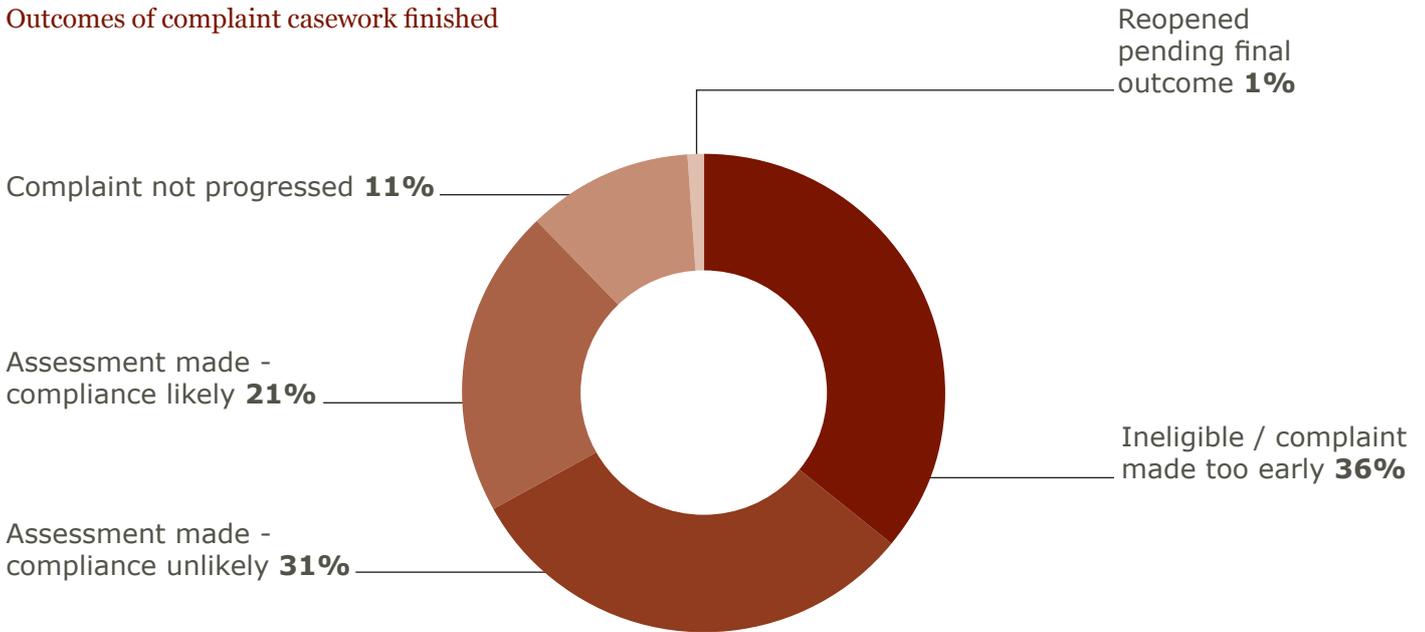
Age distribution of finished casework

30 days or less	33%
90 days or less	63%
180 days or less	95%

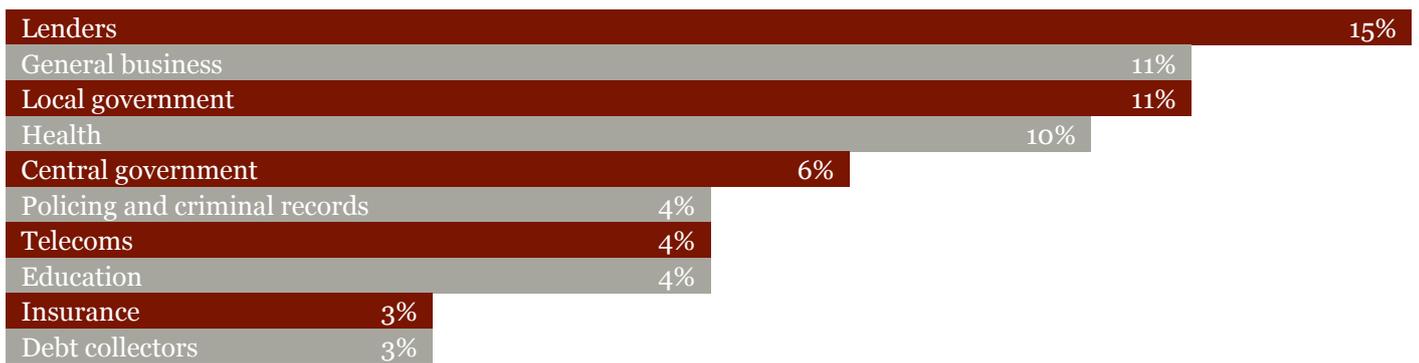


\* Complaints 270 - 365 days - 48  
 Complaints 1 year - 18 months - 14

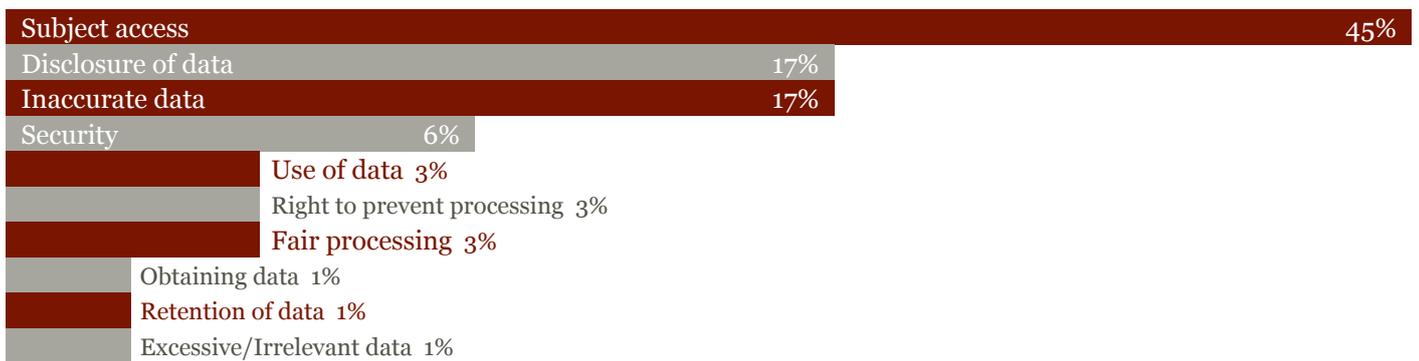
Outcomes of complaint casework finished



Top 10 areas generating most complaints where sector is specified



Top 10 reasons for complaining



\* All percentages are rounded to nearest whole figure

We received **12,985 data protection** complaints and closed 12,725. These are very similar numbers to last year. 33% of completed complaints took less than 30 days.

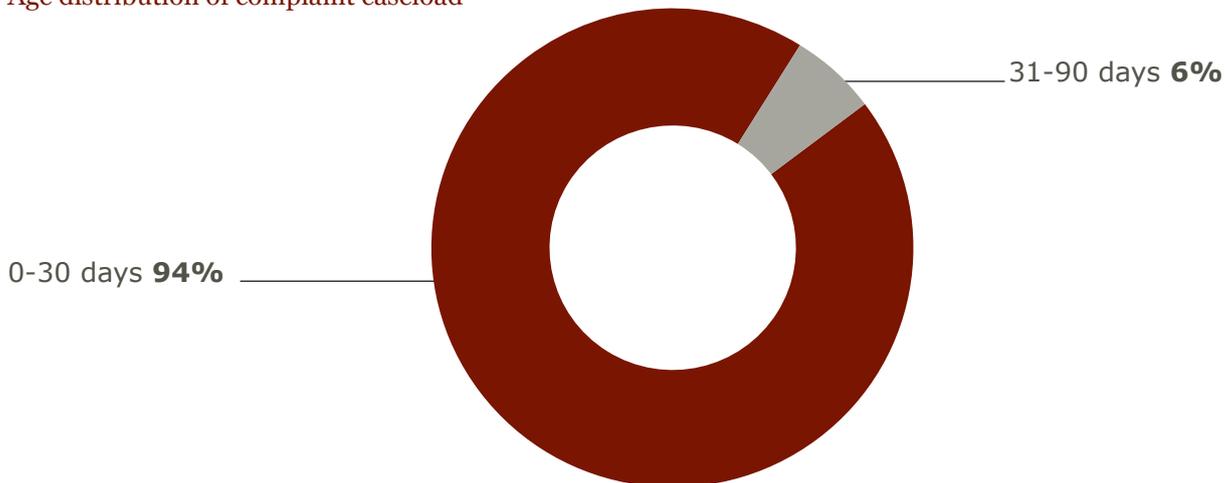
Complaints about subject access requests made up 45% of these cases with complaints about lenders and debt collectors accounting for 18%.

We found that a breach of the data protection legislation was likely in 31% of complaints.

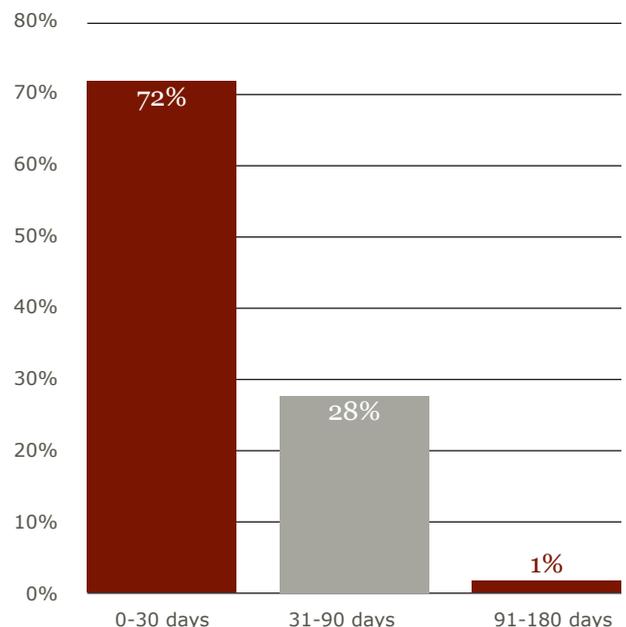
# Privacy and Electronic Communications Regulations complaint casework



Age distribution of complaint caseload

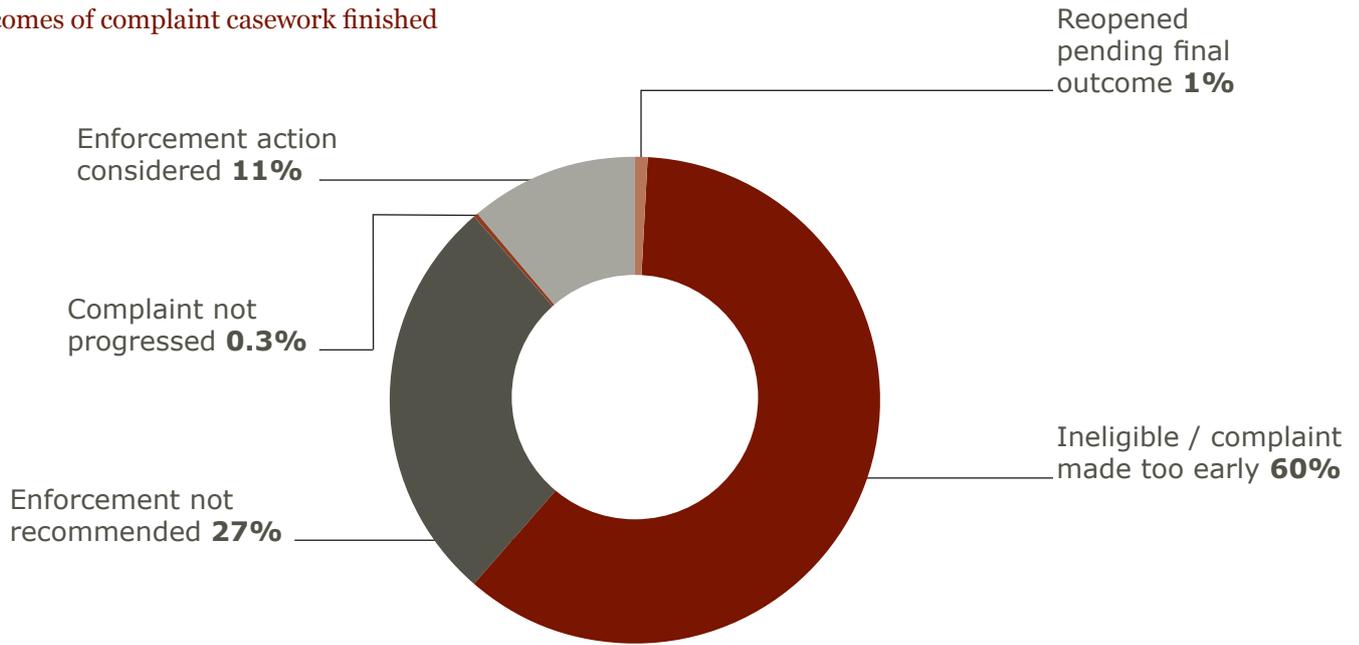


Age distribution of finished complaint casework	
30 days or less	72%
90 days or less	99%
180 days or less	100%

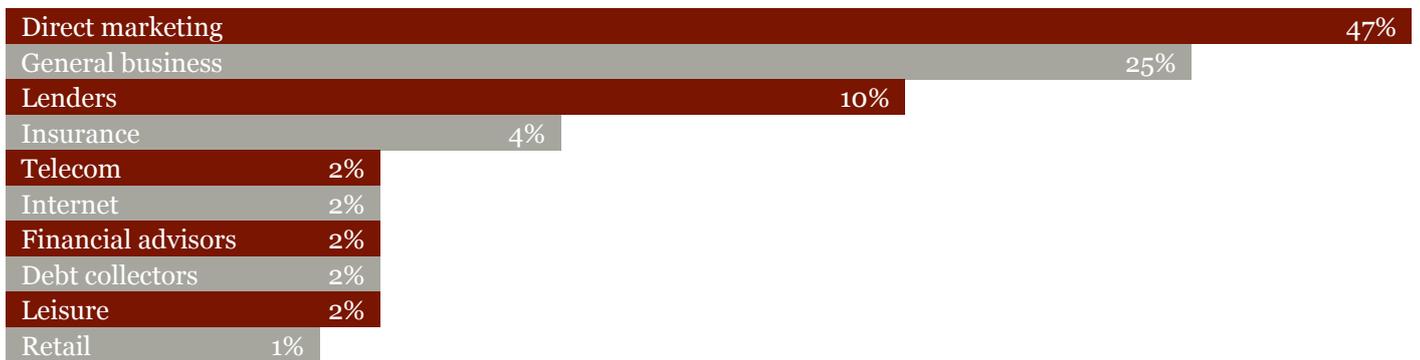


\* Complaints 270 - 365 days - 8  
Complaints 1 year - 18 months - 3

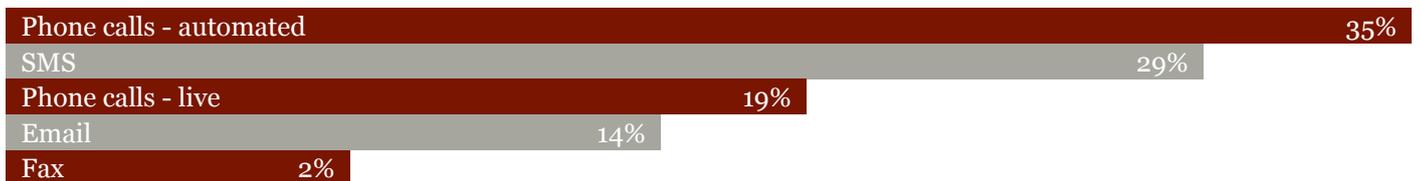
Outcomes of complaint casework finished



Top 10 areas generating most complaints where sector is specified



Top 10 reasons for complaining



\* All percentages are rounded to nearest whole figure

May 2011 saw the introduction of some significant amendments to the **Privacy and Electronic Communications Regulations (PECR)**. Following Parliamentary approval of the ICO's guidance on how we intend to use this power, the ICO can now issue monetary penalties for significant breaches of these regulations of up to £500,000.

Technological advances make it ever more feasible to obtain and subsequently trade the personal data of large numbers of individuals. This data is often obtained and used in ways that breach these regulations and the unscrupulous can make large sums of money at the expense of individual privacy. With new powers at our disposal, the ICO has prioritised work in this area and will now be reporting separately on what we have done to address widespread public concern.

There was a 43% increase in complaints under these regulations. By carefully managing our staff resources, we met this increased demand and have a caseload that allows us to deal with 94% of these complaints within 30 days. On average, each complaint took 16 days.

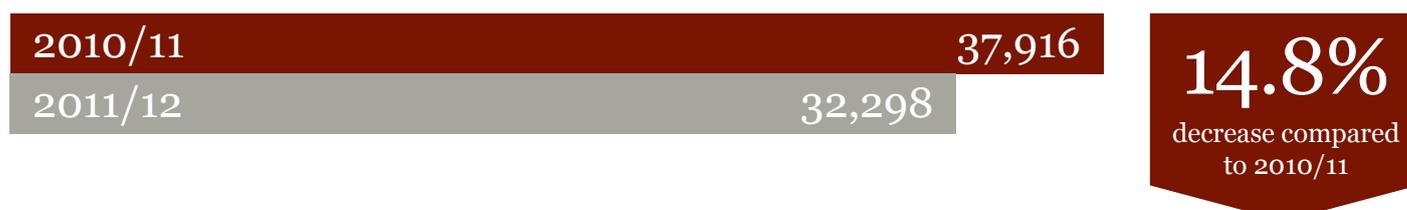
We also looked at other ways of dealing with these complaints and now use our website to allow the public to raise their concerns without making a formal complaint. We use this information to help us take enforcement action. The public are particularly concerned about unsolicited texts and phone calls (which together accounted for 83% of our complaints). Nearly half of all concerns are about direct marketing.

Since March, a further 3,000 customers have used our website to let us know about unsolicited calls they have received. These calls have mainly been from people who have registered with the telephone preference service and who should not be receiving such calls and bring the total number of people contacting us to well over 10,000.

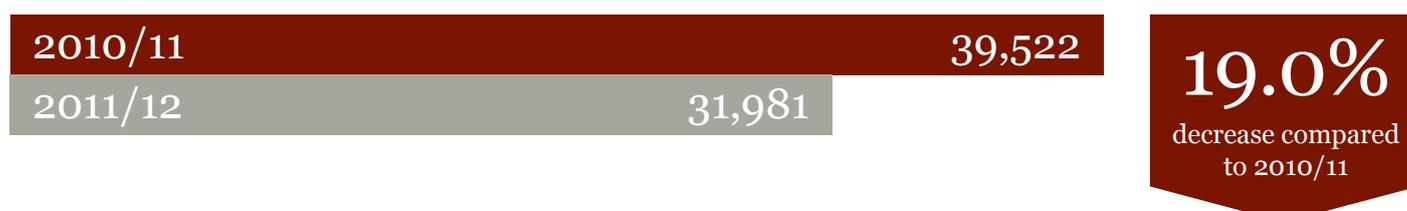
## Written advice casework

Requests for written advice this year have fallen overall, particularly those relating to our Notification services following some good work to increase the amount of information available on our website.

### Written advice casework received



### Written advice casework finished



### Written advice casework caseload



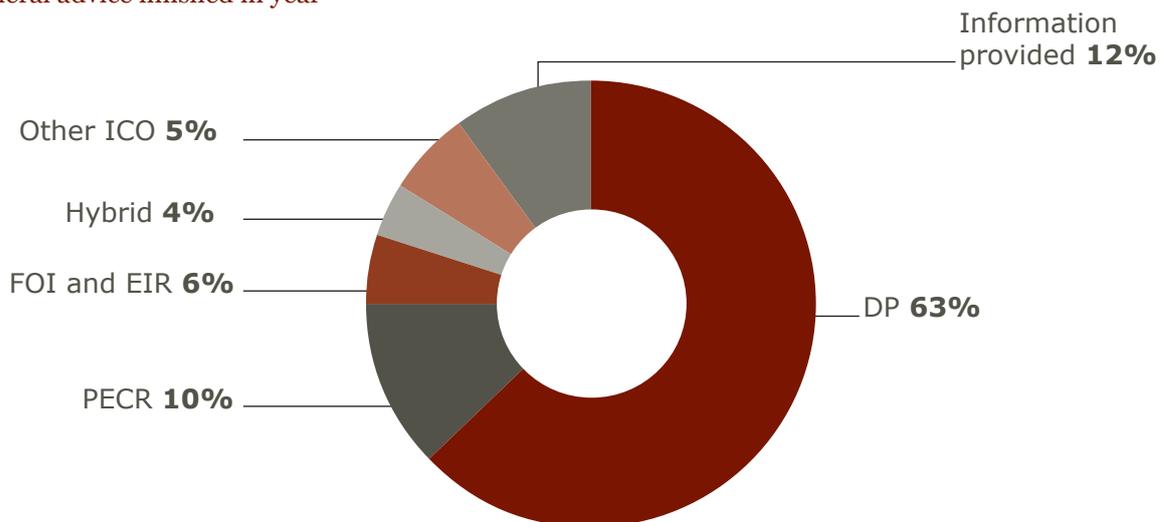
## Written advice casework

Received in year	32,298
Finished in year	31,981
<b>827 Caseload at 1 April 2011</b>	
<b>899 Caseload at 31 March 2012</b>	

Breakdown of written advice finished in year	
Notification advice	20,434
General advice	9,892
Information provided to the ICO	1,655

Nature of general advice finished in year	
How to apply the legislation	41%
General advice about legislation and the role of the ICO	29%
Advice requested is not in the ICO's remit	12%
What rights do I have to access information	10%
Electronic and postal marketing	8%

### Type of general advice finished in year



Age distribution of finished advice work	
Within 7 days	70%
Within 30 days	100%

## Helpline advice

We provide advice to, and answer enquiries from both the public and from organisations. We received over 217,000 calls to our Helpline this year, 10,000 more than the year before. Despite the increase we reduced the average wait time to below our 60 second target.

### Helpline advice calls received



### Helpline advice calls answered

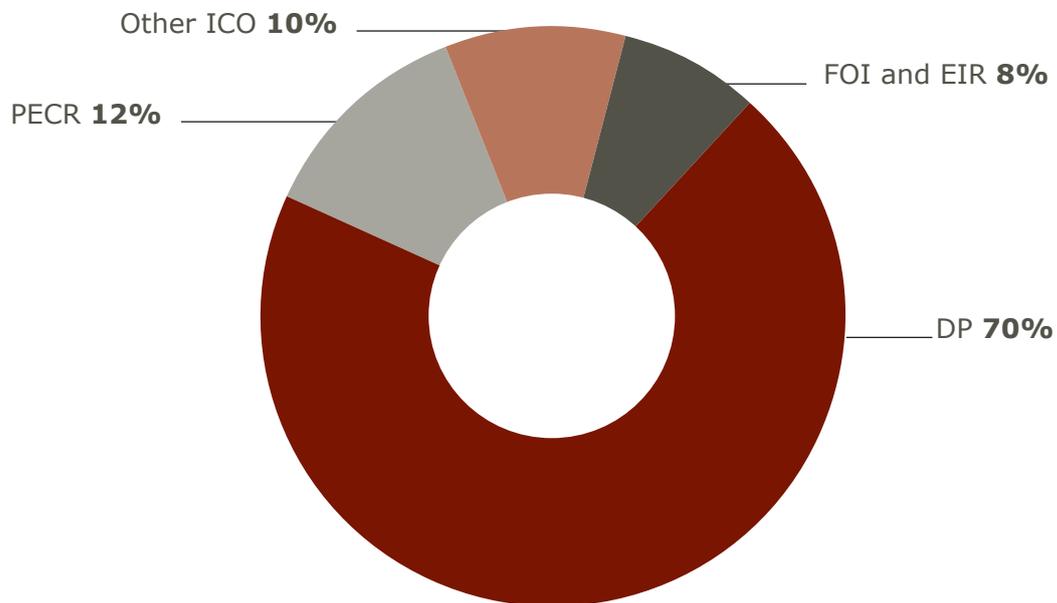


Call answer rates	
Percentage answered	95%
Average wait time	45 seconds

Breakdown of helpline advice	
Notification	88,266
General helpline advice	118,848

Nature of general helpline advice	
General advice about legislation and the role of the ICO	42%
What rights do I have to access information	22%
Security of my data	16%
Electronic and postal marketing	11%
Accuracy and relevance of data held about me	6%
How to apply the legislation	3%

## Type of general advice finished in year



Our website has the answers to most frequently asked questions. But not everyone has access to the internet and people sometimes want to talk to a real person. Our helpline is available between 9am and 5pm, Monday to Friday on 0303 123 1113.

"You're through to the Information Commissioner's helpline, how can I help you?"

"I have got an enquiry..."

- How do I access information an organisation holds about me?
- How do I complain about an organisation disclosing my personal data?
- How do I make a freedom of information request?
- How can I stop unwanted marketing messages?
- How can the ICO help me and how can I complain?
- Do I need to notify and how do I do it?"

## Freedom of information and environmental information complaint outcome definitions

<b>Informally resolved</b>	Complaint resolved without a formal decision notice being served.
<b>Decision notice served</b>	Complaint resolved with a formal decision notice being served.
<b>Ineligible</b>	<b>This includes the following outcomes:- Insufficient evidence</b> – Where the ICO has not received enough relevant information to be able to accept the complaint.
	<b>Not PA</b> – The complained about organisation is not a formal public authority as defined by the Freedom of Information Act.
	<b>Not section 50</b> – The matters raised are not eligible for consideration under the complaints section of the Freedom of Information Act.
	<b>Not EIR</b> – The matters raised are not eligible for consideration under the Environmental Information Regulations.
	<b>Vexatious</b> – The complaint is deemed to be vexatious by the ICO.
<b>Frivolous</b> – The complaint is deemed to be frivolous by the ICO.	
<b>Complaint made too early (no internal review)</b>	An internal review that examines the original decision has not been completed by the public authority.
<b>Complaint not progressed</b>	The complaint was raised with the ICO after an undue length of time or the customer no longer wishes to pursue their complaint.
<b>Reopened pending final outcome</b>	Where the complaint has been closed, then reopened after receiving new evidence. No decision has yet been reached.

## Data protection complaint outcome definitions

<b>Ineligible / complaint made too early</b>	Where the ICO has not received enough relevant information to be able to accept the complaint. This may include complaints that have not yet been investigated by the organisation concerned.
<b>Assessment made - compliance likely</b>	The ICO concludes that an organisation is likely to have complied with their obligations under the Data Protection Act.
<b>Assessment made - compliance unlikely</b>	The ICO concludes that an organisation is unlikely to have complied with their obligations under the Data Protection Act.
<b>Complaint not progressed</b>	The ICO has not been able to pursue the complaint. Examples include where the organisation processing personal information is based outside the UK, where the ICO has been able address the issue by providing advice, or where the customer wishes to withdraw their complaint.
<b>Reopened pending final outcome</b>	Where the complaint has been closed, then reopened after receiving new evidence. No decision has yet been reached.

## Privacy and electronic communications outcome definitions

<b>Ineligible / complaint made too early</b>	The matter raised does not fall under the Privacy and Electronic Communications Regulations or where the ICO has not received enough relevant information to be able to accept the complaint. This may include complaints that have not yet been raised with the organisation concerned.
<b>Enforcement not recommended</b>	Enforcement action not considered.
<b>Enforcement action considered</b>	Enforcement action considered.
<b>Complaint not progressed</b>	Where there is insufficient evidence of a breach. For example although sufficient information has been provided it remains unclear what information was processed/whether marketing material was sent by a particular organisation. This also includes complaints where the customer wishes to withdraw their complaint.
<b>Reopened pending final outcome</b>	Where the complaint has been closed, then reopened after receiving new evidence. No decision has yet been reached.

## Audit – an integral part of the ICO’s work

Our data protection audit programme continued to grow, with 42 audits completed, compared to 26 in the prior year, a 60% increase. We continued to publish the summaries of these reports on our website to promote the sharing of good practice.

By providing practical and pragmatic recommendations, these audits have made a difference to the way organisations handle personal information. When we have gone back to check on progress, 90% of our high risk recommendations had been acted on. When asked for feedback, all organisations audited agreed that the recommendations were constructive and appropriate. In addition, 90% also felt the process raised awareness of the importance of data protection in their organisation.

We encouraged organisations to participate in the audit programme. The proactive approach adopted last year led to a wider range of organisations being involved in our audit programme this year, and the first private sector audit executive summaries have been published. In fact, over one quarter of our audits have been undertaken with private sector organisations this year, as well as 24% with central government departments and 38% with NHS trusts and local authorities.

The focus of these audits remains on the promotion of good practice, and this year saw the publication of the first ‘green’ or high assurance audit reports. The executive summaries on the ICO website contain a summary of identified good practice and the outcomes of audits have been used in presentations and at the annual DPO conference. Through our visits, we have been able to make recommendations on a range of issues, giving practical advice on how to keep personal information secure and on how to raise awareness of data protection within organisations. We also use the audits to identify emerging issues, and have, for example, used audit findings on the use of new technologies to assist in the development of ICO guidance and advice. Communicating and analysing the outcomes of our audit work will continue to be a focus for us in the upcoming year.

Although we have seen an encouraging increase in the recognition of the benefits of this work, we still experience difficulties in convincing some organisations of the benefits of a free audit to improve their data protection policies and procedures. Our assessment notice (compulsory audit) powers are a powerful tool in helping to secure consensual audits, but are currently limited to covering central government departments. In December 2011, we submitted a business case to the Ministry of Justice to extend these powers to the NHS and local government sector. Experience has taught us that sectors where we already have compulsory audit powers are much more likely to consent to an audit. We will continue to push for these powers where the evidence supports it.

While our audits continue to focus on data protection, we have taken steps to incorporate the other legislation we regulate into our work.

One of our key focuses this year has been to develop new services for smaller organisations. In order to promote data protection in schools we have started a programme of self assessment. This programme was successfully piloted and is now being rolled out across councils in the UK. In addition, we have developed and delivered a new advisory visit process to enable smaller organisations to access good practice advice. This service provides practical advice and assistance to small and medium sized organisations. 15 visits have been undertaken this year and this will be a growing area of work for the team in the future.

We have also developed a manual for the conduct of audits under our new compulsory audit powers granted in the amendments to the Privacy and Electronic Communications Regulations.

## Enforcement

The threats resulting from the inappropriate disclosure, theft or loss of sensitive personal data contained in electronic storage devices and paper records remain a concern.

This year we have regulated data security breaches more firmly, focusing more on the use of our civil monetary powers and reducing the number of undertakings issued. We received over 600 self reported data protection breaches.

We issued 10 civil monetary penalty notices totaling £1,171,000.

We issued two enforcement notices and 76 undertakings. We have reviewed the effectiveness of the new self-reported security breach form and process and expect to conclude these cases more quickly in the future.



### Unscrubbed hard drives case study

An investigation commissioned by the ICO found that one in ten second-hand hard drives sold online contained personal information. An ICO survey also found that 65% of people hand on their old phones, hard drives and memory sticks to another user. One in five of these people sell the device online, usually to a stranger.

The research found that, while 52% of the hard drives investigated were unreadable or had been wiped of data, 48% contained information and 11% of that information was personal data. The amount of personal data found on the mobile phones and memory sticks was negligible.

In total 34,000 files containing personal or corporate information were recovered from the devices. At least two of the hard drives contained enough information to enable someone to steal the former owner's identity. The documents included scanned bank statements, passports, information on previous driving offences, and some medical details. A further four hard drives contained information about the employees and clients of four organisations, including individuals' health and financial details.

All four organisations were contacted and have now taken action to ensure people's information is securely deleted from redundant equipment, or the equipment is destroyed as necessary. One company signed an undertaking to introduce further improvements.

## Enforcement case studies



### **Midlothian Council: five incidents involving the inappropriate disclosure of sensitive personal data**

#### **January 2012**

Five incidents concerning the disclosure of sensitive personal data to incorrect recipients were reported to the Commissioner. In one case, a 'looked after care review' and an 'accommodation review' were attached to the papers of other children and posted to four unintended recipients. In another case, minutes of a child protection conference were sent to the former address of the child's mother's partner where his former partner still lived. This person had no need to see the data.

At the time of the incidents the Council operated an overarching policy which covered data protection, but did not have any role-specific guidance or working procedures in place within the Children & Families Service.

As a result of the failure of the Council to take appropriate steps to prevent these incidents, the Commissioner issued a monetary penalty of £140,000.

Two other local authorities, Powys County Council (December 2011) and Norfolk County Council (February 2012) also received civil monetary penalty notices following the inappropriate disclosure of sensitive personal data to incorrect recipients. In support of the monetary penalty, the Commissioner issued Powys County Council with an Enforcement Notice (December 2011) which required the authority to take steps to provide and maintain formal data protection training for staff.



### **Surrey County Council: email incidents leading to the disclosure of sensitive personal data**

#### **June 2011**

A monetary penalty of £120,000 was issued to the Council following three data security email incidents. On each occasion, sensitive personal information was emailed to incorrect recipients. As a result of the first incident, data including the complex needs of adult social care service users, was sent in error to 361 email addresses. The addresses included taxi hire and mini cab firms. In the second incident, minutes of a Strategy Discussion containing confidential personal data, were emailed to a newsletter distribution group. The third incident occurred when a Family Support Worker in the data controller's Children's Services erroneously sent sensitive personal data to an internal email group based at County Hall. The group had no business need to view the data.

The Commissioner's investigation found that the data controller had failed to take appropriate technical and organisational measures against unauthorised processing of personal data, such as providing its employees with appropriate IT training and support.

Three other local authorities, Worcestershire County Council (November 2011), North Somerset Council (November 2011) and Cheshire East Council (February 2012) also received civil monetary penalty notices following data protection breaches involving emails.



## **Staffordshire County Council: Enforcement Notice served following failure to process a subject access request in accordance with the requirements of the Act**

**January 2012**

Following a complaint from a member of the public, the Commissioner issued an Enforcement Notice to Staffordshire County Council requiring the authority to take steps to respond to a subject access request. The Commissioner took this course of action as he considered that the individual concerned was likely to have suffered damage or distress as a result of the Council's failure to deal with the request appropriately. The Enforcement Notice required the Council to provide the requester with specific information in order for the request to be fulfilled.

## **Prosecutions**

We secured eight convictions for criminal offences relating to unlawfully obtaining personal data. We also administered seven cautions for this type of offence. We took prosecution action against one data controller for non-notification offences under the Data Protection Act.



## **Slough Borough Council Benefits Office**

**March 2012**

In March, we took prosecution action against an employee of Slough Borough Council Benefits Office. The employee had used his position as a customer service adviser to obtain and try to sell personal data to associates who were directors of a letting company, SAI Property Investments Ltd. The information was provided without the council's knowledge and used by the company to chase up their tenants' outstanding debts.

On 30 March three defendants were convicted at Reading Magistrates Court. A director of SAI Property Investments Limited at the time the offences were committed, was fined a total of £260 for two offences under the Data Protection Act. A second Director of SAI Property Investments Limited was also convicted of two offences under the Act and received a total fine of £260, and the Slough Borough Council employee fined £690 for three offences under the Act.



## **Manor West Estates (property management)**

### **February 2012**

In February we took prosecution action against a letting agent who unlawfully tried to obtain details about a tenant's finances from the Department for Work and Pensions (DWP).

In an attempt to obtain housing benefit information about one of their tenants, the employee of the property management and rental business based in Hackney, telephoned the DWP pretending to be the tenant.

The defendant pleaded guilty and was convicted of attempting to obtain personal data contrary to Data Protection Act and the Criminal Attempts Act 1981. He was sentenced to a £200 fine and ordered to pay prosecution costs of £728.60.

## **Search warrants**

We applied for search warrants in respect of eight premises during the last year. Two of these related to breaches of the Privacy and Electronic Communications Regulations and the sending of mass unsolicited text messages linked to claims management.

## Educating and influencing

The past year has seen the launch of our new Information Rights strategy. This replaces our separate data protection and freedom of information strategies, and cements our commitment to the integration of these twin strands of our work. The strategy focuses on the information rights outcomes we are seeking to achieve. It sets out what our stakeholders can expect of us as we seek to maximise the long term and sustained impact our effort has on movement towards these outcomes. Education, the provision of advice and the influence we can bring to bear from our expertise and experience remain key to our success.

Using this approach and the evidence available to us from our casework we identified five priority areas to guide the application of our discretionary effort. These areas were: health, credit and finance, criminal justice, internet and mobile services, and security.

### Post-legislative scrutiny of the Freedom of Information Act

We have made a full written submission and given oral evidence to the Justice Committee in their post-legislative scrutiny of the Freedom of Information Act.

We have indicated matters which we think the Committee could usefully address to overcome some of the perceived difficulties with the operation of the Act.

Our suggestions include an exclusion for frivolous requests (in addition to vexatious requests), a statutory time limit on internal reviews and extensions of time for consideration of the public interest test and extending the time limit for bringing a prosecution under section 77.

We have also indicated, in the light of the exercise of the ministerial veto in respect of Cabinet minutes, that if the potential disclosure of Cabinet minutes is an unintended consequence of the Act, then Parliament should consider a specific absolute exemption for such information.

### Revised EU data protection framework

The primary focus of our international work has been the European Commission's proposals to revise the EU data protection legislative framework. This will have a significant impact on data protection regulation in the UK in the years to come. We have published our views on proposals and are working with our colleagues on the Article 29 Working Party on a coordinated response at that level. We have also conducted direct key stakeholder engagement work and organised a workshop for MEPs in Brussels. We will continue to give this work priority in the year to come and hope to continue to work closely with the Ministry of Justice as the proposals progress through the legislative process.

In March we hosted a two-day event in London looking at some of the newer aspects of the EU's revised data protection legislative proposals, which was attended by 145 delegates representing organisations across all sectors and of varying sizes as well as other regulators, government representatives and MEPs.

### Protection of Freedoms Act

The passage of the Protection of Freedoms Bill involved us in engaging with ministers, parliamentarians and other interested parties. A number of its provisions impact on information rights issues. These include strengthening the independence of the Commissioner, provisions on open data including reuse obligations, restrictions on retention of DNA profiles, improved criminal record vetting arrangements, further regulation of CCTV and ANPR and restrictions on schools taking biometric data from children. We provided briefings on our views at the various stages during the formulation and passage of the legislation. Our views were reflected in debates on its provisions, including on potential amendments such as creating new exemptions from freedom of information for research data.

Now the legislation has reached the statute book we are actively involved in various work to implement provisions in practice. These include the National DNA Strategy Board, Surveillance Camera Systems Steering Group and a group developing statutory guidance required under the Act for chief police officers on release of non conviction information for Criminal Records Bureau employment vetting checks. We also participated in related earlier work led by the Government's Independent Advisor on Criminality Information Management reviewing the criminal records regime for England and Wales. The Advisor's final report reflected a number of the ICO's concerns about access to criminal records and suitable future approaches.

## The revised Privacy and Electronic Communications Regulations

These regulations included new security notification and audit requirements and also what has become known as 'consent to cookies'. The latter has created substantial concern over how organisations comply in practice. We have issued further guidance and made clear our policy of giving organisations a year to comply with the new 'consent to cookie' requirements as substantial work is necessary. We published our mid term review in October and have undertaken work with many stakeholder groups including a joint expert workshop with DCMS. We have also continued to participate in the work in the EU Article 29 Working Party to help ensure a consistency of approach across Europe to interpretation of key provisions.

## Transparency by public bodies

We have played an active role in the government's drive to promote greater transparency by public bodies with the proactive release of information and data sets. We have contributed to the Department for Communities and Local Government's work developing a code of practice on transparency for local government. We sit on the Crime and Justice Transparency Panel and are now on the Department for Work and Pensions Welfare Sector Transparency Board. We have also made clear how to balance transparency and privacy with crime mapping by sitting on the National Strategic Steering group and producing revised crime mapping guidance.

We also worked closely with the Cabinet Office, the National Archives and other government departments in support of the Transparency Agenda.

## Surveillance

The concern about the increase used of CCTV and ANPR is reflected by the additional regulation of these in what is now the Protection of Freedoms Act. Although, initially at least, these provisions will only affect the police and local government and apply only in England and Wales, the Data Protection Act will still apply across the whole of the UK and to all sectors. We have been active in ensuring its requirements are complied with in practice. Our investigation of a complaint by Privacy International into the amount of data held at the police's National Automatic Number Plate Recognition Data Centre (NADC) identified compliance concerns resulting in each police force having to make changes to their systems as well as at the NADC. This work has now been implemented after constructive cooperation with the National Policing Improvement Agency resulting in the deletion of some 6.7 billion records. As a direct result of this complaint and our intervention, we have been able to ensure that data is held no longer than necessary. New retention rules are now also in place that restrict retention and access over time, and we will continue to monitor how these are adhered to in practice.

The increased use of surveillance on public transport is provoking concerns. Our investigation of a complaint from Big Brother Watch about CCTV with sound recording being mandated as part of taxi cab licensing conditions has resulted in a preliminary enforcement notice being served on a local authority on the grounds that the use of continuous sound recording in a taxi results in unfair and unlawful processing contrary to the first data protection principle. We are investigating other authorities and bus companies involved in similar practices.

## Health

The passage of the Health and Social Care Act attracted much media attention. The ICO's concerns centred upon the effects of organisational change for information governance in the NHS, an area which has attracted a significant number of self reported security breach notifications and poses many information governance challenges. In addition to commenting on the proposals we have worked with the Department of Health and the National Information Governance and Review Board to ensure that risks are addressed and reduced in times of significant change. We sent a joint letter from the Commissioner and the Chief Executive of the National Health Service calling on the wider NHS family to redouble their efforts to protect patient information.

The health sector continues to be one where we have significant input within Wales. We have observer status on the Welsh Information Governance Board, which provides ministerial-level direction for information governance within NHS Wales, and have advised on topics such as monitoring, security, information sharing and consent. Regular meetings with the NHS Wales Informatics Service (NWIS) have meant that the ICO has been kept fully abreast of developments in this important area, ensuring that information rights are fully considered at all stages of system development in the NHS in Wales, such as the Individual Health Record and the Welsh Clinical Portal.

In Scotland, we provided advice relating to the introduction of an electronic log book and revalidation process for surgeons to the Royal College of Surgeons of Edinburgh (RCSEd). The scheme operated by RCSEd is likely to be adopted by the other Royal Colleges (the Royal College of Physicians and Surgeons of Glasgow, the Royal College of Surgeons of England and Royal College of Surgeons in Ireland).

## Credit and finance

Given the amount of information financial institutions hold about their customers, the sensitivity of that information and the complaints and enquiries this can lead to, we made data protection compliance in the finance sector an operational priority for 2011/2012.

We brought together a group of staff from a wide range of ICO departments. Group members worked on a number of activities that were designed to have small but positive effects on the way the industry handles its customers' data.

We first looked at measures to help reduce some of the most common complaints we receive. We produced a new 'access aware' toolkit, which helps private sector businesses respond properly to information requests from customers and staff. We also fast-tracked finance related complaints through our system and assigned single points of contact for some financial institutions for complaints work, to help further build relationships and understanding between them and the ICO.

We also took measures to prevent new issues becoming data protection problems. The ruling that many PPI policies had been sold inappropriately had the potential to lead to a huge rise in subject access requests to the companies that sold them. We encouraged the industry association to work with its members to ensure their processes were robust enough to cope with an increase. Given the increased popularity of credit unions we attended a number of industry meetings in Northern Ireland to raise awareness of data protection requirements, delivering presentations and holding question and answer sessions.

Although new priorities will be identified for 2012/13, we will continue to look for ways in which we can help the finance industry comply with its data protection obligations.

## Criminal justice

The House of Lords European Union Committee asked the ICO to review the operation of the Serious and Organised Crime Agency's (SOCA) suspect financial transaction database. We undertook a review with the full cooperation of SOCA resulting in recommendations including implementing a shorter retention period. We have worked with SOCA to ensure our recommendations are addressed and this has resulted in the deletion of over half a million records of no ongoing interest. We gave oral evidence to the Committee on the outcome of our work.

Structural changes are also proposed within the police service and it is again important that any changes do not lead to reductions in information rights compliance. The arrangements for running national police information systems and the newly created Police and Crime Commissioners are just two examples. We have engaged with relevant parties and participate on the Police Databases Board.

We have worked closely with the Scottish Children's Reporters Agency (SCRA, the administrative body for criminal justice relating to children and young people in Scotland) to raise awareness of data protection amongst staff in its Head Office and its various operational regions. In doing so, we also undertook a Compliance Review which highlighted priority areas of work.

We gave written and oral evidence to the Justice Committee of the Scottish Parliament on the provisions of the Criminal Cases (Punishment and Review) (Scotland) Bill relating to the publication of the Statement of Reasons of the Scottish Criminal Case Review Commission for referring a case to appeal in circumstances where the appeal was subsequently withdrawn before being heard. This evidence was given a high profile because the first case affected by the new provisions would be that of the Lockerbie bomber. The ICO's position – which was that finally taken by the Justice Committee – was not the same as that of the Scottish Government.

We accepted an invitation to attend the governance board of the newly-established Northern Ireland (NI) DNA Database as observers. The board amended its terms of reference following advice given by us and will be working with the Police Service NI and the Forensic Service NI to ensure that the data controller/data processor relationships within the management of the database are properly reflected in the agreements between the two Services.

## Internet and mobile services

As more and more services are provided online, the way in which individuals prove their identity to the satisfaction of service providers and what they then hold about them results in a number of privacy concerns. We have participated in a number of initiatives aimed at giving individuals more control of their own information such as Mydex and the EnCore research project. The government is also developing its identity assurance programme known as IDA, intended to enable individuals to use and choose between various identity providers and so avoid detailed collections of personal identity information being held by different government departments. We have been involved in this programme as it may have a number of privacy benefits including greater individual control, data minimisation and reduced information risk. We have also engaged with the Government's Midata initiative which will give individuals greater flexibility in managing their own data in electronic form.

## Guidance

We have undertaken a major exercise in refreshing our guidance on information rights issues, particularly on practical matters of interpretation which arise under the legislation we enforce. We have produced many pieces of new guidance as we move towards the publication of a comprehensive suite of improved, relevant, consistent and up to date guidance.

The basis of our new approach to guidance is to develop a 'spine' of central documents and in January we published the ICO's Plain English Guide to Freedom of Information. A parallel guide for Environmental Information will be available mid 2012. The Guide to Freedom for Information, alongside The Guide to Data Protection provide a comprehensive overview of the law, from which all other, more complex areas will be linked.

Originally designed for ICO staff, we also published our FOI knowledge base which has proved a useful tool, particularly for experienced practitioners.

## Leveson inquiry

The Commissioner was a witness in the first phase of the Leveson inquiry into the culture, practice and ethics of the press. We provided evidence to the Inquiry on our past work uncovering the unlawful trade in personal data and on Operation Motorman which first exposed the activities of private investigators working on behalf of the press and resulted in our two reports to Parliament 'What Price Privacy?' and 'What Price Privacy Now?'.

## Data sharing

The 'Data sharing code of practice' was launched in May 2011 at an event held at the House of Commons, following a public consultation. A statutory document approved by the Secretary of State, the code explains how the Data Protection Act applies to the sharing of personal data and provides practical advice and good practice recommendations. Workshop events for our regional stakeholders took place in Cardiff, Edinburgh and Belfast.

Sharing information has in fact been the subject of much of our work during the year, particularly in the context of the Welsh Government's Sharing Personal Information (SPI) programme, with its associated set of framework documentation, the Wales Accord on the Sharing of Personal Information (WASPI). We are now involved in the Change Advisory Board set up to agree the next revision of the WASPI documentation, and meet regularly with the programme's Steering Board.

Other data sharing exercises continue to be developed throughout the public sector. In June we addressed attendees at a consultation event on the Scottish Accord for the Sharing of Personal Information (SASPI).

We are represented on the Scottish Government's Data Linkage Steering Group and are participating within the main working group for this project which aims to establish a collaborative framework that will facilitate data linkages for research and statistical purposes to be conducted safely, securely, legally, ethically and efficiently. We also spoke at a conference launching the public consultation on the framework which was held in Edinburgh in March 2012

## Working with young people

We commissioned a research project aimed at embedding information rights in the UK education system. The project was led by the University of Edinburgh Centre for Families and Relationships and consisted of two phases: the first a feasibility study and the second the practical steps the ICO need to take. The research considered that the objective was feasible and went on to produce a comprehensive report detailing the steps the ICO could take including the development of teaching materials for primary and secondary schools. We have embarked on work to put the research findings into practice.

## Technological challenges

We have set up a technology reference panel which met for the first time during the year. This panel of external experts acts as a sounding board for us and helps alert us to the impact of developing technologies on information rights. Meanwhile, our own Technology Advisor has become fully established and has demonstrably influenced not just our own work but also that of the international community of data protection authorities. We are now working on plans to further develop our technological capability.

## The 'red tape' challenge

How regulation affects small and fledgling businesses is always a concern. The government's 'Red Tape Challenge' has flagged data protection regulation as an area for consideration. We have participated in a No10 workshop on the issue and provided support to the Department for Business and the Ministry of Justice. We have explained how data protection regulation not only protects customers but can also be a business benefit. We have also flagged the further work we can do to help ease the burdens on a new small business.

## Electoral registration

The government's plans to move from household to individual voter registration in Great Britain will involve new ways of working including increased data matching. We have been working with government to ensure that the appropriate safeguards are in place as this work proceeds.

## Smart metering

The advent of 'smart metering' means that it will be possible for energy suppliers to work out more about the activities within a household raising understandable privacy concerns. We have been working with the Department of Energy and Climate Change (DECC) and Ofgem on clear guidance ensuring privacy and data protection issues are addressed from the outset. This included the publication of guidance by DECC on data access and privacy. We have also encouraged the completion of a privacy impact assessment and been working as rapporteur to help the Article 29 Working Party develop an opinion on the issue.

## The voluntary sector

Links with the voluntary sector have been developed over the year. In particular, a substantial amount of work has been done with the Bryson Charitable Group, the largest third sector organisation in Northern Ireland. The Group deals with some 400,000 clients annually (slightly less than 25% of the population in NI) in a range of initiatives for the vulnerable and disadvantaged.

## Data protection officer conference

In March we hosted the Data Protection Officer Conference in Manchester, attended by 487 delegates from public, private and third sector organisations. The event included presentations and workshops on issues such as cloud computing, data sharing as well as a keynote address by Minister for the Cabinet Office, Francis Maude, on the transparency agenda.

## Business case for data protection

In October, a conference on the Business Case for Data Protection was held in Londonderry, with over 100 delegates from all sectors attending.

## International conferences

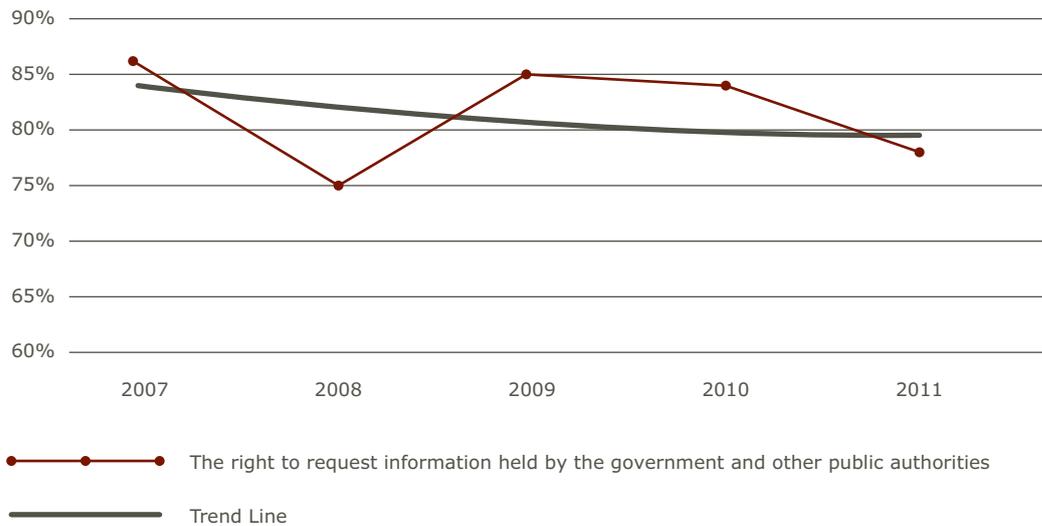
We participated in the 7th International Conference of Information Commissioners, a biennial event for freedom of information regulators and the 2011 International Conference of Data Protection and Privacy Commissioners.

## Awareness of information rights

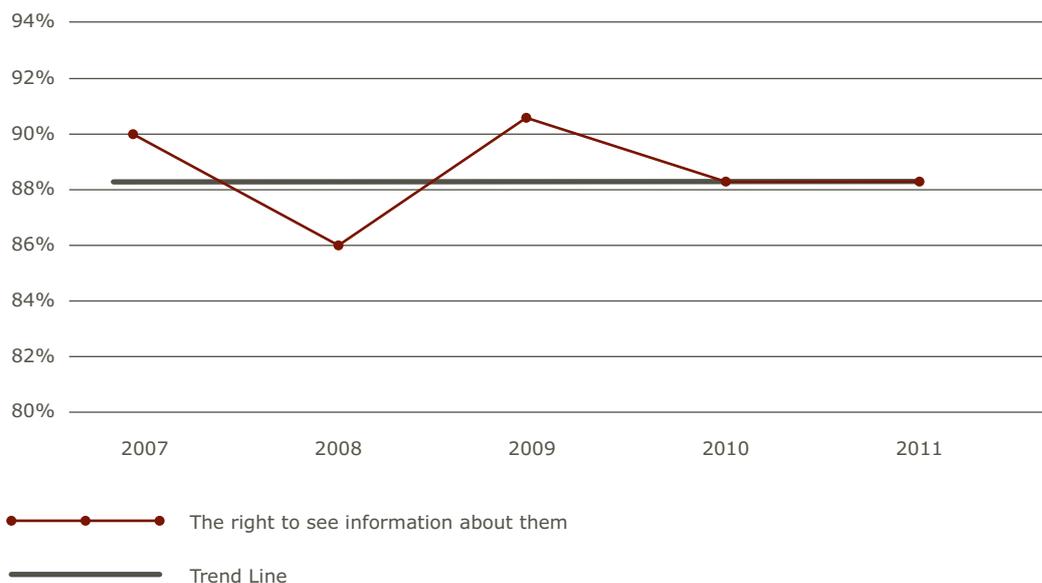
Awareness of information rights remained high this year.

Following peaks in awareness in 2009 (85%) and 2010 (84%), individuals' prompted awareness of the freedom of information right to see information held by government and other public authorities remains high, but has decreased to 77% in 2011.

Individuals are more aware of their specific rights under the Freedom of Information Act – finding out what money is being spent on (84%), the type of information that is available (84%) and requesting information on the environment (83%).



Individuals' prompted awareness of the right to see information held about them under the Data Protection Act remains consistently high at 89%; the same level of awareness as in 2010.

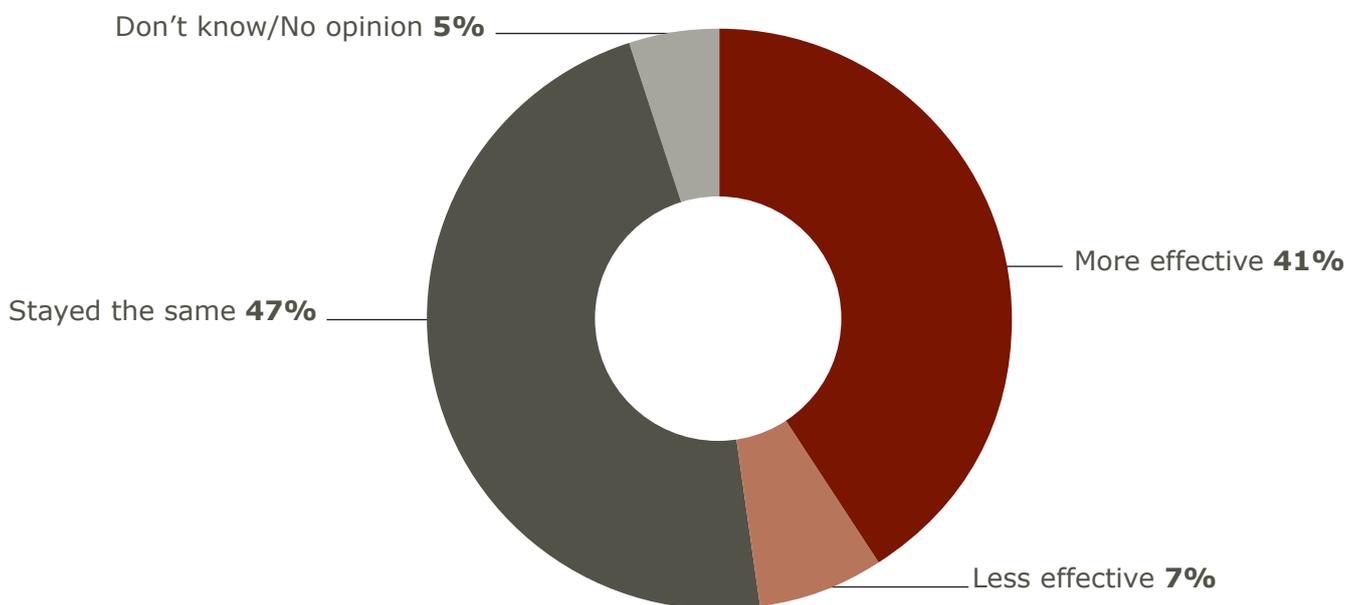


## Successfully working with our stakeholders

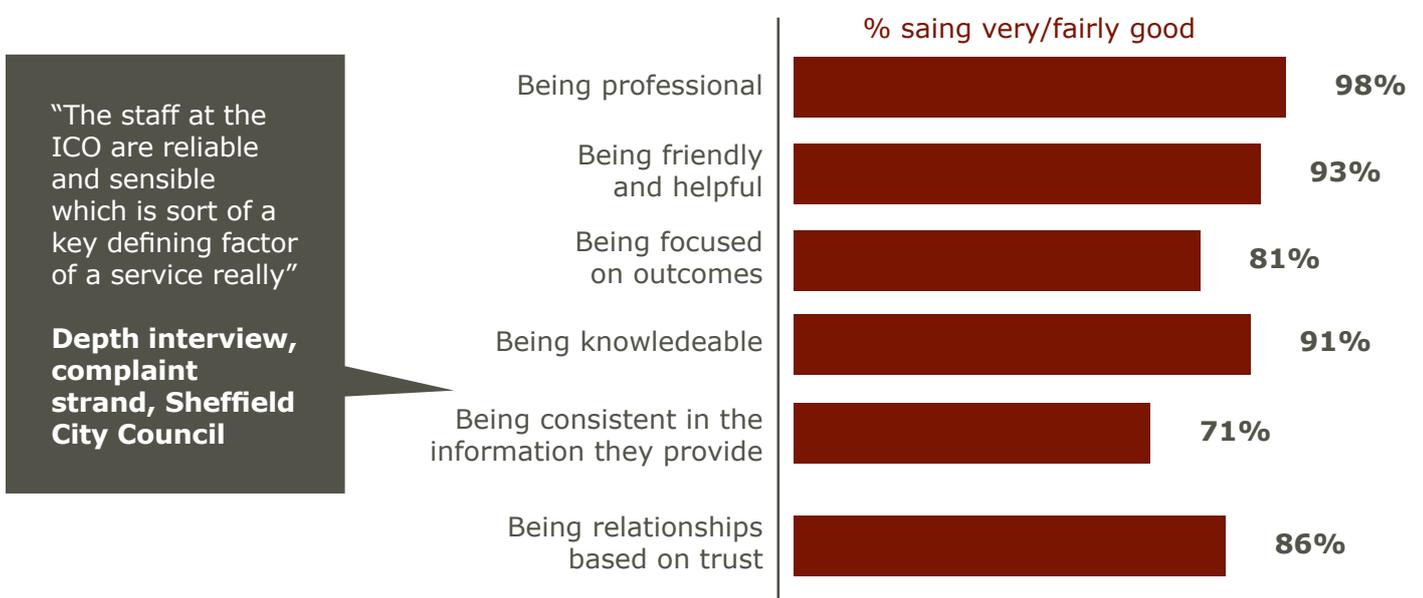
In December, we commissioned market research company Ipsos Mori to conduct a stakeholder perception study among 71 key stakeholders drawn from the public and private sectors and civil society groups. Those contacted held policy development, implementation and complaint handling roles.

The research, conducted between December 2011 and February 2012, found that 81% of our stakeholders have favourable view of the ICO, which compares well to the public sector norm of 66%. 41% of ICO stakeholders rated the ICO as more effective than we were this time last year.

### Compared to one year ago, do you think the ICO is more effective or less effective in its role now or has it stayed the same?



### Thinking about the people you typically deal with at the ICO, can you rate them against each of the following attributes...



## Targeted communications

The number of subscribers to our e-newsletter continues to rise steadily, and stood at over 13,000 by the year end.

## Media

During the year we took 2,300 calls from journalists and carried out 137 media interviews. Proactively, we issued 92 news releases that generated extensive and generally positive press coverage; in particular around the enforcement action we took, our information rights awareness raising campaigns, the guidance we issued and our good practice audit programme. We also featured strongly in several national broadcast news stories during the year. These included a number of high profile data breaches, the action we took over unwanted spam texts and the issues arising out of the Leveson inquiry.

## Communicating online

During the course of the year, 320 updates and additions were made to the website, the Plain English Guide to Freedom of Information was published and 13 'How the ICO has helped' (data protection) case stories were launched.

In November we launched our ICO blog, offering an informal channel through which to share current views with our stakeholders. The first post written by Deputy Commissioner and Director for Data Protection, David Smith, on the upcoming changes to the EU data protection directive was well received by the online community.

Our social media presence, more widely has also become more established throughout the year. Our Twitter followers have increased by 175%, and forums established on networks such as LinkedIn saw a 600% increase in membership.

The data protection principles postcard continues to lead the top five most popular publications with the Data Sharing checklist in second.

In an effort to involve more of the general public in the ICO's new Publication Scheme consultation, we launched an online 'Tell me more' survey, alongside focus groups in Bolton, London and Cardiff. Members of the general public offered their views about the sort of information public authorities should make available and ideas about how public authorities could improve the way they communicate what they do.

# Developing and improving

## Great place to work

We have updated our performance and development review process which has helped to clarify expected performance standards.

Our staff survey showed very high levels of appreciation of the benefits of working at the ICO, but also that there is more we can do to engage with staff. We have worked with our staff to produce action plans to improve levels of engagement.

We have delivered more training in-house and developed new in-house training programmes. We have also reduced our spending on external venues.

## Pay

The ICO operated under the public sector pay freeze.

## Management and leadership development

Our Executive Team, Heads of Department and Group Managers have been through a process of 360 degree feedback, building on an exercise that took place in 2010. This will help them to create and implement personal development plans to improve their effectiveness and ability to delivery business objectives. These managers have also been supported with business coaching to further develop them as leaders.

## Talent

A total of 50 staff achieved promotion during the year, with several staff making lateral moves into other roles to help develop their career. Our staff turnover for the year was 8.3%.

We have trained teams of auditors to achieve qualifications from the Chartered Institute of Internal Auditors and have continued our record of staff completing Information Systems Examination Board qualifications.

## Equality and diversity

We have continued to progress our equality and diversity action plan, including the publication of equality information in compliance with our specific duty under the Equality Act.

We have appointed a new equality adviser, introduced new helpline facilities for the hearing impaired and people who need translation services. Our next steps will be to develop equality objectives and review our action plan.

## Accommodation

A review has taken place of the accommodation in Wilmslow which will provide space for more staff. This will be implemented in 2012/13.

We have relocated our offices in Cardiff and Edinburgh to be more cost effective, and the same has been achieved with our London office though with a move within the same building.

Agile working has been implemented and home working has been extended to allow more staff to work at home on a regular or ad hoc basis.

## Corporate social responsibility

We have re-procured our waste contractor which will help us to measure the amount of waste we produce and how much of that is recycled.

Our confidential shredding and recycling processes resulted in the equivalent of 372 trees being 'saved' in 2011. We are improving our records on paper usage and will be in a position to report on energy consumption as part of our aim to reduce our carbon footprint.

Our staff have continued to support local charities by making donations to the Time Out Group and MedEquip4Kids.

## Technology

Our IT managed service contract comes to an end in July 2013. Although still some way off we have been making preparations. We have undertaken an Options Study and agreed the scope of services and mechanisms we intend to use to provide IT to the organisation, taking into account: the need to obtain value for money, our ability to undertake more work ourselves, the need to provide flexibility and the direction set by government through its' ICT strategy.

We have upgraded our software to the latest versions, with the intention of being able to provide a period of stability in our systems, free from change in which any transition to new IT suppliers can take place. To our staff, the most visible piece of work has been a move to Windows 7 and Office 2010. We have also undertaken work to bring our video conferencing on to our wide area networks and to extend our telephone system to home workers and regional offices.

We have started the redevelopment of our Notification system. At the heart of our design is the data controller with a system based on the latest customer relationship management (CRM) software. Our aim is to make it easier for people to register and pay online. This new system will be available during 2012/13. Longer term we will be looking to move our case management system to CRM.

# Information governance

## Our compliance and information requests to the ICO as a public authority or data controller

<p><b>Total number of information requests received</b></p> <p>Of those:            Freedom of Information Act – 707            Data Protection Act - 419            Hybrid – 183            Environmental Information Regulations – 1</p>	<b>1,310</b>
<p><b>Total number of information requests responded to</b></p> <p>Outcomes            Information provided in full – 541            Information partially provided – 405            Information not held – 146            Information withheld – 136            Further clarification needed – 45            Misguided request – 22            Request withdrawn – 7</p>	<b>1,302</b>
<p><b>Time for compliance</b></p> <p>99% of information requests were responded to within the statutory timescales</p> <p>Data Protection Act – average time for response was 18 days            Freedom of Information Act – average time for response was 13 days            Hybrid – average time for response was 13 days            Environmental Information Regulations – time for response was 18 days</p>	<b>99%</b>
<p><b>Internal reviews</b></p> <p>61 internal reviews were completed. Of those 56 were dealt with within 20 working days. The average time to complete an internal review was 15 days.</p> <p>Outcomes            Challenge not upheld – 43            Challenge partially upheld – 12            Challenge upheld – 6</p>	<b>61</b>

This year has seen a record number of information requests to the ICO - an 18% increase compared with the number received last year.

There has been considerable interest in the information held relating to Operation Motorman. Following an investigation in 2005 Steve Whittamore pleaded guilty to breaching the Data Protection Act. A number of notebooks were recovered during the investigation. These notebooks contained personal details relating to some 4,000 people. A fast track service was introduced to allow people to find out whether anything is recorded about them in these notebooks. 98 individuals have used this service.

Last year we reported that we had completed our first privacy impact assessment. The subject of the assessment was whether the Data Protection Register should be made available in machine readable and reusable format. We have responded to 103 requests for a copy of the register in this format.

# Governance

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

The Commissioner is supported by his Management Board which provides high-level oversight and support for the Commissioner and the ICO. It develops long term strategy, monitors progress against strategy and provides assurance to the Commissioner that the ICO is properly managed.

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

The Management Board is supported by the Audit Committee which provides scrutiny, oversight and assurance on risk control and government procedures.

There is also a Remuneration Committee. The Committee considers and advises the Commissioner and his Management Board on the ICO's remuneration policies and practices.

The Executive Team provides day-to-day leadership and management of the ICO and has overall responsibilities for delivering against the ICO's Plan.

Details of membership of the Board and other committees can be found in the Governance Statement which comes later in the report.

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# 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 (MOJ), 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, Privacy and Electronic Communications Regulations 2003, and Inspire Regulations 2009.

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 the 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 £30K (2010-11: £31K). 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.

## Employee involvement and well being

The ICO has a policy of co-operation and consultation with recognised Trade Unions over matters affecting staff.

The Commissioner and other senior managers meet regularly with the Trade Union side to exchange information on issues of current interest.

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.

The health and safety committee continued throughout the year, as did the availability to staff of a range of benefits to enhance their health, wellbeing and quality of life.

More detail on the actions undertaken during the year can be found elsewhere in the published annual report.

### **Equal opportunities and diversity**

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

More detail on the actions undertaken during the year can be found elsewhere in the published annual report.

### **The environment and community**

The ICO remains committed to sustainability through how it manages its business.

The ICO undertakes a variety of re-cycling and energy-saving initiatives, and routinely sources stationery products made from recycled materials.

Staff have engaged in fund raising activities for local charities "Time Out Group" and "Mediquip4Kids" during the year.

### **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](http://www.ico.gov.uk)

### **Sickness absence**

The average number of sick days taken per person was 5 days (2010-11: 5 days).

### **Pension liabilities**

Details regarding the treatment of pension liabilities are set out in note 3 to the financial statements.

### **Management commentary**

The objectives for the year were the continuance of the Information Commissioner's statutory duties:

- the promotion of freedom of information and data protection, through publications and debate;
- to resolve freedom of information and data protection problems with responsible and efficient casework;
- to take purposeful risk-based enforcement action when necessary; and
- to maintain a public register of data controllers.

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 2012-15.

## Financial performance

### Grant-in-aid

Freedom of information expenditure continued to be funded by a grant-in-aid from the MOJ, and for 2011-12 £4,500K (2010-11: £7,200K) was drawn down.

No grant-in-aid was carried forward to 2011-12 (2010-11: £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 for charities and smaller entities with fewer than 250 employees, and from 1 October 2009 a higher tier fee of £500 was implemented for data controllers with an annual turnover of £25.9 million or more employing more than 250 people, or £500 for Public Authorities employing more than 250 people.

Fees collected in the year totalled £15,484K (2010-11: £14,965K) representing a 3.5% increase over the previous year.

At the end of the year an amount of £919K (2010-11: £464K) was carried forward for payment of year end creditors, as was an additional amount of £429K (2010-11: £364K) as 'uncleared' cash in transit which was not available for spend.

At the end of the year £446K (2010-11: £505K) was forwarded to the Ministry of Justice, being un-spent data protection fees above the carry forward limits above, for payment to the Consolidated Fund.

### Other income

During the year civil monetary penalties for serious breaches of the Data Protection Act 1998 were levied. Monetary penalties of £688K (2010-11: £248K) were collected and forwarded to the Ministry of Justice.

### Accruals outturn

The total comprehensive expenditure for the year was £3,994K (2010-11: £4,822K).

### Financial instruments

Details of our approach and exposure to financial risk are set out in note 8 to the financial statements.

### Going concern

The accounts continue to be prepared on a going concern basis as a non-trading entity continuing to provide statutory public sector services. Grant-in-aid has already been included in the MOJ's estimate for 2012-13, and there is no reason to believe that future sponsorship and parliamentary approval will not be forthcoming.

## Treasury management

Under the terms of the agreed Framework Document between the Information Commissioner and the MOJ, 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 Treasury guidance on the issue of grant-in-aid that precludes Non Departmental Public Bodies from retaining more funds than 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, unless directed otherwise.

## 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 2012 98.81% (2010-11: 98.41%) 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, and the Information Commissioner has started monitoring payments against a 10 day target from 1 April 2009. For the year ended 31 March 2011 51.11% of payments were paid within 10 days (2010-11 43.03%).

## Future developments and events after the reporting period

The Protection of Freedoms Act has received Royal Assent. The Act covers a wide range of issues in which the ICO has a long standing interest. These include the oversight and use of CCTV, DNA, biometrics in schools, car clamping on private land, safeguarding vulnerable groups, criminal records and the disregarding of certain convictions. The Act also seeks to enhance the independence of the Information Commissioner and introduce changes to the Freedom of Information Act to establish the legal "right to data".

The European Commission have published proposals to update the legal framework for data protection in Europe. The proposals include a Regulation, which will replace the existing Directive but have direct effect, and new Directive applying to the law enforcement and criminal justice sector. The Commission's proposals are now under consideration by the European Council and the European Parliament leading to a co-decision process. It is expected that this process will take up to two years to complete with a further two years for implementation of any new legal framework. It is likely that a new framework will have a significant impact on the work of the ICO as well as on data controllers and the rights of individuals.

An information technology project to replace the aged data protection notification system is expected to go live in 2012, which will improve the customer experience and enable payment of the notification fee by debit and credit card.

**Christopher Graham**  
**Information Commissioner**  
26 June 2012

# Commentary on sustainability performance

The ICO is reporting on sustainability in its Annual Report for the first time as a requirement of Treasury guidance. The report does not fully comply with the FReM guidance as the information is not available to allow it to do so. Information is now being collected for 2012/13 which will allow compliance in the future.

## Performance

The ICO employs the equivalent of 330 full time staff; the majority located in one building in Wilmslow, Cheshire. There are four small offices in Wales, Northern Ireland, Scotland and London.

During 2011/12 the ICO generated at least 353 tonnes of Carbon Dioxide. Electricity usage in Wilmslow created 263 tonnes, 43 tonnes arose from gas consumption and 47 tonnes from business travel. In total this represents just over 1 tonne per employee per year.

In terms of cost, fuel costs totalled £70k and travel costs £374k.

The Wilmslow building was refurbished and extended in 2010 to enable all Wilmslow based staff to be located in one building. During the refurbishment the ICO introduced low energy lighting, automatic light switches, made changes to its IT infrastructure and installed smaller toilet cisterns. These changes have resulted in an increase in the energy efficiency of the Wilmslow building as evidenced by the improvement in the building's comparative energy rating from 147 to 62.

Over the last few years the ICO has also sought to reduce business travel with greater use made of video conferencing facilities. This has reduced costs but mileage has increased as a result of a greater emphasis on enforcement and audit work.

## Strategy

The step change the ICO made, moving to one site in Wilmslow, cannot be repeated. However, this does not mean that the ICO cannot further reduce its per head green house gas emissions. The ICO will continue to look at reducing business travel by greater use of the video and telephone conferencing facilities, bunching meetings around one journey, and minimising car use.

In addition from 2012/13 onwards the ICO will monitor waste, energy use and travel on a quarterly basis with the aim of fine-tuning estate management to ensure that energy use and waste are minimised.

## Governance

The Director of Corporate Services has overall responsibility for the ICO's facilities function and, as such, for sustainability monitoring and reporting to Executive Team. Information is provided from meter readings, utility bills and finance systems.

# 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 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 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.

There is no formal performance pay or bonus scheme for Management Board Members. Performance is one of a number of factors reflected in the overall level of remuneration determined by the Remuneration 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 for an initial term of three years, renewable by mutual agreement for one further term of a maximum of three years.

## 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)

	2011-12 £'000	2010-11 £'000
<b>Salary</b>		
Christopher Graham, Information Commissioner and Chief Executive	140-145	140-145
David Smith, Deputy Commissioner & Director for Data Protection	75-80	75-80
Graham Smith, Deputy Commissioner & Director for Freedom of Information	80-85	80-85
Simon Entwisle, Director of Operations	80-85	80-85
Daniel Benjamin, Director of Corporate Services (from 20 February 2012)	5-10 (Full year equivalent 70-75)	n/a
Susan Fox, Director of Corporate Affairs (to 24 July 2011)	15-20 (Full year equivalent 55-60)	55-60
Robert Parker, Acting Director of Corporate Affairs (from 11 July 2011 to 29 February 2012)	30-35 (Full year equivalent 50-55)	n/a
Victoria Blainey, Director of Organisational Development (to 31 December 2011) <i>This includes a total payment of £94,250 as compensation for loss of office.</i>	135-140 (Full year equivalent 55-60)	50-55
Michael Collins, Acting Director of Organisational Development (from 1 November 2011 to 29 February 2012)	15-20 (Full year equivalent 50-55)	n/a
Andrew Hind, Non-Executive Board Member	10-15	10-15
Neil Masom, Non-Executive Board Member	10-15	10-15
Jane May, Non-Executive Board Member	10-15	10-15
Enid Rowlands, Non-Executive Board Member	10-15	10-15
<b>Band of highest paid Director's total remuneration (£'000)</b>	<b>140-145</b>	<b>140-145</b>
<b>Median total remuneration</b>	<b>£23,690</b>	<b>£23,000</b>
<b>Ratio</b>	<b>5.9</b>	<b>6.1</b>

Reporting bodies are required to disclose the relationship between the remuneration of the highest-paid director in their organisation and the median remuneration of the organisation's workforce.

The Information Commissioner is deemed to be the highest paid Director and no member of staff receives remuneration higher than the highest paid Director.

The banded remuneration of the highest-paid director of the Information Commissioner in the financial year 2011-12 was £140K to £145K (2010-11: £140K to £145K). This was 5.9 times (2010-11: 6.1 times) the median remuneration of the workforce, which was £23,690 (2010-11 £23,000). The median total remuneration is produced by ranking the annual full time equivalent salary as at 31 March 2012, for each member of the staff complement which includes posts covered by agency or temporary staff.

In 2011-12 no (2010-11: none) employees received remuneration in excess of the highest paid director. Remuneration ranged from £13,412 to £140,000 (2010-11: £11,939 to £140,000).

Total remuneration includes salary, non consolidated performance-related pay, benefits-in-kind as well as severance payments. It does not include employer pension contributions and the cash equivalent transfer value of pensions.

There have been no significant changes to the number or composition of the general workforce (e.g. through restructuring, downsizing and outsourcing).

A pay freeze has been in place since 1 July 2009 and pay scales have not been revalorised since then. The only increase to pay has been the payment of contractually entitled increments within the pay scales for staff within their first three years of service.

## **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 2011-2012.

# Pension benefits (audited)

	Accrued pension at pension age as at 31 March 2012 and related lump sum £'000	Real increase in pension and related lump sum at pension age £'000	CETV at 31 March 2012 £'000	CETV at 31 March 2011 <sup>1</sup> £'000	Real increase in CETV £'000
<b>Christopher Graham</b> Information Commissioner	5-10	0-2.5	88	80	(1) <sup>2</sup>
<b>David Smith</b> Deputy Commissioner and Director for DP	35-40 +lump sum 105-110	(0-2.5) +lump sum (0-2.5)	812	764	(20) <sup>2</sup>
<b>Graham Smith</b> Deputy Commissioner and Director for FOI	10-15 +lump sum 30-35	0-2.5 +lump sum 2.5-5	216	191	9
<b>Simon Entwisle</b> Director of Operations	35-40 +lump sum 100-105	(0-2.5) +lump sum (0-2.5)	713	671	(16) <sup>2</sup>
<b>Daniel Benjamin</b> Director of Corporate Services (from 20 February 2012)	0-5	0-2.5	2	0 as at 20 February 2012	0
<b>Susan Fox</b> Director of Corporate Affairs (to 24 July 2011)	5-10	0-2.5	98	92	1
<b>Robert Parker</b> Director of Corporate Affairs (from 11 July 2011 to 29 February 2012)	0-5	0-2.5	65	48 As at 11 July 2011	11
<b>Victoria Blainey</b> Director of Organisational Development (to 31 December 2011)	5-10	0-2.5	51	44	3
<b>Michael Collins</b> Director of Organisational Development (from 1 November 2011 to 29 February 2012)	10-15	0-2.5	129	112 As at 1 November 2011	10

The CETV 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.

<sup>1</sup> The actuarial factors used to calculate CETVs were changed in 2011-12. The CETVs at 31 March 2011 and 31 March 2012 have both been calculated using the new factors, for consistency. The CETV at 31 March 2011 therefore differs from the corresponding figure in last year's report which was calculated using the previous factors.

<sup>2</sup> Taking account of inflation. The CETV funded by the employer has decreased in real terms

## 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 Pensions Increase legislation. 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. Increases to employee contributions will apply from 1 April 2012. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years' initial 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 worked out 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 Pensions Increase legislation. 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.gov.uk/pensions](http://www.civilservice.gov.uk/pensions)

## Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) 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 CETV 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. CETV's are worked out in accordance with The Occupational Pensions Schemes (Transfer Values) (Amendment) Regulations 2008 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 taken.

### Real increase in CETV

This reflects the increase in CETV that is 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.

**Christopher Graham**  
**Information Commissioner**  
26 June 2012

# 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 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 the Treasury and published in Managing Public Money.

## Governance statement

### The governance framework

I am, as Information Commissioner, a corporation sole (as set out in the Data Protection Act) and, under the terms of the EU Data Protection Directive, must be completely independent of Government. I am accountable to Parliament for the exercise of my statutory functions and the independence of my office is encapsulated in legislation.

The Ministry of Justice is the sponsoring department for my office. The relationship with the Department is governed by a Framework Agreement which was revised as of the 15 September 2011. The Agreement sets out the Ministry of Justice's and my responsibilities to support the work of both organisations and to help ensure my independence. The Framework Agreement also ensures that appropriate reporting arrangements are in place to enable the Ministry of Justice to monitor the proper expenditure of public money allocated to my office.

I have appointed a Management Board to support me in meeting my responsibilities as Accounting Officer. The Board is responsible for developing strategy, monitoring progress in implementing strategy, providing corporate governance and assurance and for managing corporate risks. It comprises five members of my Executive Team and four non-executive directors. The non-executive directors were recruited by an open exercise on three year contracts which are extendable for a further three years. The balance between executive and non-executive membership reflects the size of the organisation, its role and its status as a corporation sole.

Annually all Board members are asked to complete a register of interests which is published on the ICO's website. There is also a standing agenda item at Board meetings where declarations of interest

are asked for. If there are any changes to the member's interests this is reflected immediately in the register.

Non-executive membership of the Board has not changed during 2011/12. However, membership of the Executive Team has changed. A new position of Director of Corporate Services has been created to replace the posts of Director of Corporate Affairs and Director of Organisational Development. The new Director took up his post on 20 February 2012.

Attendance at Management Board is detailed in the table below. Michael Collins, Senior Human Resources Manager, attended the Board as a substitute for the Organisational Development Director at the May and July meetings. He formally acted up as Director of Organisational Development for the January 2012 meeting.

Role	Name	09/05/2011	18/07/2011	07/11/2011	23/01/2012
Commissioner	Christopher Graham	1	1	1	1
Deputy Commissioner (DP)	David Smith	1	1	1	1
Deputy Commissioner (FOI)	Graham Smith	1	1	1	1
Director of Operations	Simon Entwisle	1	1	1	1
Director of Corporate Affairs	Susan Fox	1			
Acting Director of Corporate Affairs	Robert Parker		1	1	1
Director of Organisational Development	Vicky Best	0	0	0	
Acting Director of Organisational Development	Michael Collins				1
Non-executive Director	Andrew Hind	1	1	0	1
Non-executive Director	Jane May	1	1	1	1
Non-executive Director	Neil Masom	1	0	1	1
Non-executive Director	Enid Rowlands	1	1	1	1

The Board meets quarterly and considers risk management and reports on operational, financial, organisational and corporate issues. It also receives reports from its Audit Committee.

The Audit Committee consists of two non-executive board members and a third independent member with recent and relevant financial experience. It provides scrutiny, oversight and assurance in respect of risk control and governance. Attendance at the Audit Committee is detailed in the table below.

Role	Name	06/06/2011	12/09/2011	05/12/2011	05/03/2012
Chair of the Audit Committee	Neil Masom	1	1	1	1
Non-executive Member	Jane May	1	1	1	1
Independent Member	Michael Thomas	1	1	1	1

The Board is also supported by a Remuneration Committee consisting of two non-executive board members appointed by me. The Remuneration Committee advises me and my Board on the ICO's remuneration policies and practices for all staff. Attendance at the Remuneration Committee is detailed in the table below.

Role	Name	10/06/2011	01/12/2011
Chair of the Remuneration Committee	Enid Rowlands	1	1
Non-executive Member	Andrew Hind	1	1

The Executive Team meets approximately twice a month and provides day to day leadership and management of the ICO and has overall responsibility for developing, and delivering against, the ICO's corporate and business plans.

### Board effectiveness

The Board formally evaluated its performance during the year. Members considered that the Board was working well but that improvements were needed in several areas. These included a greater focus on strategy and on financial and performance reporting.

In response to these issues the following action was taken:

- a balanced scorecard was introduced to improve high level operational reporting; and
- members were surveyed to provide a better understanding of the financial reporting needs of the Board.

### Highlights

In terms of corporate governance during the year the Management Board, Audit Committee and Remuneration Committee all reviewed their effectiveness and individual terms of reference with outcomes reported to the Board. The Audit Committee will also be publishing its own Annual Report for 2011/12.

My office is subject to external audit by the National Audit Office and has an internal audit function provided by Grant Thornton on a five year contract. The external and internal auditors attend the Audit Committee and have pre-meetings with Committee members. The internal auditors also attend Executive Team and Management Board meetings annually to discuss the internal audit plan with executive and non-executive directors.

In addition:

- The Information Governance Team reports quarterly on security issues and on compliance with legislative requirements.
- The salaries (in £5k bands) and expenses of Board members are published.
- The Board, Audit Committee and Executive Team are supported by a dedicated secretariat function provided from within the Corporate Services Directorate.
- There are quarterly meetings with officials from the Ministry of Justice who have sight of operational, organisational, financial and policy reports and the risk register.

The Management Board has formally considered its compliance with the "Corporate governance in central government departments: Code of good practice 2011".

- The ICO's Remuneration Committee, combined with the Management Board's focus on governance, provides the necessary coverage required of a Nominations and Governance Committee.
- In respect of an operating framework the Board has terms of reference supported by an annual work plan.

## A risk assessment

The main element of the risk management strategy is the maintenance of the corporate risk register. Risks are routinely refreshed by the Executive Team with a major review in the Spring. Risks are assessed against the probability of the risk arising and its impact if it did arise.

The register is also discussed at Management Board, Audit Committee and at quarterly liaison meetings with the Ministry of Justice. Discussion includes consideration of the ICO's risk appetite. To involve all staff in the identification of risk the risk register is available on the ICO's intranet and a Risk Management Group was set up during 2011/12 to involve staff directly in the identification of risk. Risk is also included in the induction process for new starters.

Main risk areas identified during the year were:

- the possible loss of public confidence in my office as a regulator for information rights legislation;
- increasing casework work at a time of reducing resources especially for Freedom of Information work;
- the impact of possible changes to the information rights regulatory regime;
- implementation of the ICO's IT strategy; and
- the need for more formal risk assessment in respect of business planning.

Much work has been done during the year to improve the efficiency of my office in dealing with complaints and to improve internal policies and procedures to mitigate against our reputation suffering because of internal errors. In addition my office is fully engaged with others on changes to the regulatory regime and is taking forward the IT strategy via a series of projects.

The Audit Committee has assessed whether the ICO's risk management and internal control systems are effective, using their experience of reviewing the risk register and other internal control systems and the annual reports of the internal auditors and external auditors. The Audit Committee has reported on this assessment in their annual report.

There has been one non-trivial data security incident. This was treated as a self reported breach. There was no resulting adverse impact on, or damage to, individuals, and the ICO is treating the matter no differently from similar incidents reported by others. A full investigation has been carried out with recommendations made and accepted.

**Christopher Graham**  
**Information Commissioner**  
26 June 2012

# The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the Information Commissioner for the year ended 31 March 2012 under the Data Protection Act 1998. The financial statements comprise the Statement of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; 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

As explained more fully in the Statement of the Information Commissioner's Responsibilities, the Information Commissioner, as Accounting Officer, is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Data Protection Act 1998. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

## Scope of the audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Information Commissioner's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Information Commissioner; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

## Opinion on regularity

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

## Opinion on Financial Statements

### In my opinion:

- the Financial Statements give a true and fair view of the state of the Information Commissioner's affairs as at 31 March 2012 and of the net expenditure, for the year then ended; and
- the Financial Statements have been properly prepared in accordance with the Data Protection Act 1998 and Secretary of State for Justice with the approval of HM Treasury directions issued thereunder.

## Opinion on other matters

### In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with the Secretary of State for Justice with the approval of HM Treasury directions made under the Data Protection Act 1998; and
- the information given in the Information Commissioner's Foreword, Educating and Influencing, Developing and Improving, Governance and Foreword to the Financial Statements for the financial year for which the financial statements are prepared is consistent with the financial statements.

## Matters on which I report by exception

I have nothing to report in respect of the following matters, which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the Financial Statements and the part of the Remuneration Report to be audited are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

## Report

I have no observations to make on these Financial Statements.

**Amyas C E Morse**  
**Comptroller and Auditor General**  
National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP  
28 June 2012

# Statement of comprehensive net expenditure for the year ended 31 March 2012

	Note	2011-12		2010-110	
		£'000	£'000	£'000	£'000
<b>Expenditure</b>					
Staff costs	3		11,392		11,219
Depreciation	4	1,107		1,221	
Other expenditures	4	7,722		7,622	
			8,829		8,843
			20,221		20,062
<b>Income</b>					
Income from activities	5		(15,484)		(14,965)
Other income	5		(708)		(258)
			(16,192)		(15,223)
<b>Net expenditure</b>					
			4,029		4,839
Interest payable (receivable)/payable	5		(1)		14
<b>Net expenditure after interest</b>					
			4,028		4,853
<b>Other comprehensive expenditure</b>					
Net loss on revaluation of property, plant and equipment			(34)		(31)
<b>Total comprehensive expenditure for the year ended 31 March 2012</b>					
			3,994		4,822

All income and expenditure relates to continuing operations.  
The notes on pages 69 to 83 form part of these accounts.

# Statement of financial position as at 31 March 2012

	Note	31 March 2012		31 March 2011	
		£'000	£'000	£'000	£'000
<b>Non-current assets</b>					
Property, plant and equipment	6	5,361		4,921	
Intangible assets	7	295		363	
<b>Total non-current assets</b>			5,656		5,284
<b>Current assets:</b>					
Trade and other receivables	9	750		660	
Cash and cash equivalents	10	1,794		828	
<b>Total current assets</b>			2,544		1,488
<b>Total assets</b>			8,200		6,772
<b>Current liabilities</b>					
Trade and other payables	11		(1,365)		(624)
<b>Total current liabilities</b>			(1,365)		(624)
<b>Non-current assets plus net current assets</b>			6,835		6,148
<b>Non-current liabilities</b>					
Provisions	12		(84)		(93)
<b>Assets less liabilities</b>			6,751		6,055
<b>Reserves</b>					
Revaluation reserve			207		223
General reserve			6,544		5,832
			6,751		6,055

**Christopher Graham**  
Information Commissioner  
26 June 2012

The notes on pages 69 to 83 form part of these accounts.

# Statement of cash flows

## for the year ended 31 March 2012

	Note	2011-12 £'000	2010-11 £'000
<b>Cash flows from operating activities</b>			
Net expenditure after interest		(4,028)	(4,853)
Adjustment for non-cash items	3,4	1,297	1,464
(Increase)in trade and other receivables	9	(90)	(130)
Increase/(Decrease) in trade payables	11	741	(207)
Use of provisions	12	(9)	93
<b>Net cash outflow from operating activities</b>		<b>(2,089)</b>	<b>(3,633)</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	6	(12)	(1,777)
Purchase of intangible assets	7	(18)	(422)
Proceeds of disposal of property, plant and equipment		-	-
<b>Net cash outflow from investing activities</b>		<b>(30)</b>	<b>(2,199)</b>
<b>Cash flows from financing activities</b>			
Capital element of payments in respect of on-balance sheet PFI contracts	6	(1,415)	(917)
Grant-in-aid received from the Ministry of Justice		4,500	7,200
<b>Net financing</b>		<b>3,085</b>	<b>6,283</b>
<b>Net increase in cash and cash equivalents during the period</b>		<b>966</b>	<b>451</b>
<b>Cash and cash equivalents at the beginning of the period</b>	10	<b>828</b>	<b>377</b>
<b>Cash and cash equivalents at the end of the period</b>	10	<b>1,794</b>	<b>828</b>

The notes on pages 69 to 83 form part of these accounts.

# Statement of changes in taxpayers' equity for the year ended 31 March 2012

	Note	Revaluation reserve £'000	General reserve £'000	Total reserves £'000
<b>Balance at 31 March 2010</b>		231	3,203	3,434
<b>Changes in reserves 2010-11</b>				
Grant-in-aid from the Ministry of Justice		-	7,200	7,250
Transfers between reserves		(44)	44	-
Comprehensive expenditure for the year	2	36	(4,858)	(4,822)
Non-cash charges - Information Commissioner's salary costs	3	-	190	190
Non-cash charges - Secondment salary costs	3	-	53	53
<b>Balance at 31 March 2011</b>		223	5,832	6,055
<b>Changes in reserves for 2011-12</b>				
Grant-in-aid from the Ministry of Justice		-	4,500	4,500
Transfers between reserves		(50)	50	-
Comprehensive expenditure for the year		34	(4,028)	(3,994)
Non-cash charges - Information Commissioner's salary costs	3	-	190	190
Non-cash charges - Secondment salary costs	3	-	-	0
<b>Balance at 31 March 2012</b>		207	6,544	6,751

The notes on pages 69 to 83 form part of these accounts.

# Notes to the accounts

## **1 Statement of accounting policies**

These financial statements have been prepared in accordance with the 2011/12 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged most appropriate to the particular circumstances of the Information Commissioner's Office for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Information Commissioner are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

### **1.1 Accounting convention**

These accounts have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment and intangible assets at their value to the business by reference to current costs.

### **1.2 Disclosure of IFRSs in issue but not yet effective**

The Information Commissioner has reviewed the IFRSs in issue but not yet effective, and has determined that there are no new IFRSs relevant or likely to have a significant impact on future Financial Statements.

### **1.3 Notional costs**

#### **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, are included in staff costs at the rate the Information Commissioner's Office would have paid such staff had they been employed directly by him, together with a corresponding credit to the income and expenditure reserve.

### **1.4 Pensions**

Past and present employees are covered by the provisions of the Principal Civil Service Pension Scheme.

**1.5 Property, plant and equipment**

Assets are classified as property, plant and equipment if they are intended for use on a continuing 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.

Property, plant and equipment (excluding assets under construction) are carried at fair value. Depreciated modified cost is used as a proxy for fair value by using appropriate indices published by the Office for National Statistics, due to the short length of the useful life of information technology and furniture and fittings, and the low values of items of plant and machinery.

At each balance sheet date the carrying amounts of property, plant and equipment and intangible assets are reviewed to determine whether there is any indication that those assets have suffered an impairment loss. If any such indication exists, the fair value of the asset is estimated in order to determine the impairment loss. Any impairment charge is recognised in the net expenditure account in the year in which it occurs.

**1.6 Depreciation**

Depreciation is provided on property, plant and equipment 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 service. 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

**1.7 Intangible assets**

Intangible assets are stated at the lower of replacement cost and recoverable amount. Computer software licences and their associated costs are capitalised as intangible 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.

**1.8 Inventories**

Stocks of stationery and other consumable stores are not considered material and are written off to the Net Expenditure Account as they are purchased.

**1.9 Income**

Fee income is received from notifications made under the Data Protection Act 1998, and is recognised as operating income in the year in which it is received.

Other income, including monetary penalties collected, is recognised as income in the year in which it is received and is surrendered to the Ministry of Justice in accordance with the provisions of paragraph 9 of Schedule 5 to the Data Protection Act 1998, unless the Ministry of Justice has directed otherwise.

**1.10 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 on receipt.

**1.11 Operating leases**

Amounts payable under operating leases are charged to the Net Expenditure Account on a straight-line basis over the lease term, even if the payments are not made on such a basis.

**1.12 Service concessions**

Information Services are procured through a Managed Services Agreement which exhibits many of the characteristics which typify a Private Finance Initiative arrangement, and is therefore accounted for under International Financial Reporting Interpretations Committee (IFRIC) 12: Service Concession Arrangements.

**1.13 Provisions - early departure costs**

The additional cost of benefits, beyond the normal PCSPS benefits in respect of employees who retire early, are provided for in full when the early departure decision is approved by establishing a provision for the estimated payments discounted by the Treasury discount rate of 2.8% (2010-11: 2.9%). The estimated payments are provided by Capita Hartshead.

**1.14 Value added tax**

The Information Commissioner is not registered for VAT as most activities of the Information Commissioner's Office are outside of 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 non-current assets.

**1.15 Segmental reporting**

The policy for segmental reporting is set out in note 2 to the Financial Statements.

## 2 Analysis of net expenditure by segment

	Data protection £'000	Freedom of information £'000	2011-12 Total £'000
Gross expenditure	15,673	4,547	20,220
Income	16,192	-	16,192
Net expenditure	(519)	4,547	4,028

	Data protection £'000	Freedom of information £'000	2010-11 Total £'000
Gross expenditure	14,825	5,251	20,076
Income	15,223	-	15,223
Net expenditure	(398)	5,251	4,853

All expenditure is classed as administrative expenditure.

The analysis above is provided for fees and charges purposes and for the purpose of IFRS 8: Operating Segments

The ICO organises itself as an arbiter of information rights, rather than having a segregated structure for data protection and freedom of information.

The factors used to identify the reportable segments of data protection and freedom of information were that the Information Commissioner's main responsibilities are contained within the Data Protection Act 1998 and Freedom of Information Act 2000, and funding is provided for data protection work by collecting an annual notification fee from data controllers under the Data Protection Act 1998, whilst funding for freedom of information is provided by a grant-in-aid from the Ministry of Justice, as set out in the Framework Agreement agreed between the Information Commissioner and Ministry of Justice.

The data protection notification fee is set by the Secretary of State for Justice, 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 Secretary of State in respect of the Information Commissioner, and therefore cannot be used to demonstrate that the data protection fees offset expenditure on data protection functions, as set out in the Data Protection Act 1998.

Expenditure is 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 expenditure is shared. This model is monitored by the Ministry of Justice.

### 3 Staff numbers and related costs

#### Staff costs comprise:

	2011-12 Total	Permanently employed staff	Others	2010-11 Total
<b>Wages and salaries</b>	9,214	8,810	404	9,118
Social security costs	608	592	16	572
Other pension costs	1,600	1,566	34	1,583
<b>Sub-total</b>	11,422	10,968	454	11,273
Less recoveries in respect of outward secondments	(30)	(30)	-	(54)
<b>Total net costs</b>	11,392	10,938	454	11,219

#### The above costs include:

The salary and pension entitlements of the Information Commissioner and the associated employers national insurance contributions are paid directly from the Consolidated Fund. Included in other staff costs above are notional costs of £190K (2010-11: £190K).

Also included in staff costs above are notional costs of £nil (2010-11: £53K) 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 £264K (2010-11: £156K) for temporary agency staff.

The amounts disclosed in the Remuneration Report are included in the staff costs above.

#### Average number of persons employed

The average number of whole-time equivalent persons employed during the year was as follows.

	2011-12 Total	Permanently employed staff	Others	2010-11 Total
Directly employed	322	322	0	324
Other	8	0	8	7
<b>Total</b>	330	322	8	331

#### Pension arrangements

The Principal Civil Service Pension Scheme (PCSPS) 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.gov.uk/pensions](http://www.civilservice.gov.uk/pensions)).

For 2011-12, employer contributions of £1,550K (2010-11: £1,534K) were payable to the PCSPS at one of four rates in the range 16.7% to 24.3% of pensionable pay, based on salary bands. The Scheme's

Actuary reviews employer contributions every four years following a full scheme valuation. The contribution rates are set to meet the cost of benefits accruing during 2011-12 to be paid when the member retires, and not the benefits paid during this period to existing pensioners.

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employers' contributions of £15K (2010-11: £15K), 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 the employee contributions up to 3% of pensionable pay. In addition, employers' contributions of £104 (2010-11: £101), 0.8% of pensionable pay, were payable to the Principal Civil Service Pension Scheme to cover the cost of 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 £1K (2010-11: £nil). Contributions prepaid at the date were £nil (2010-11: £nil).

Other pension costs include notional employers' contributions of £34K (2010-11: £34K) in respect of the Information Commissioner and £nil (2010-11: £8K) in respect of staff seconded to the Information Commissioner.

No individuals retired early on health grounds during the year.

### Reporting of Civil Service and other compensation schemes - exit packages

Exit package cost band	Number of compulsory redundancies		Number of other departures agreed		Total number of exit packages by cost band (total cost)	
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
<£10,000	-	-	-	1	-	1
£10,000 - £25,000	-	-	1	2	1	2
£25,000 - £50,000	-	-	-	2	-	2
£50,000 - £100,000	-	-	1	-	1	-
£100,000 - £150,000	-	-	-	1	-	1
<b>Total number of exit packages (total cost)</b>	-	-	2	6	2	6
<b>Total resource cost £000</b>	-	-	124	240	124	240

Redundancy and other departure costs have been paid in accordance with the provisions of the Civil Service Compensation Scheme, a statutory scheme made under the Superannuation Act 1972. Exit costs are accounted for in full in the year of departure. Where the Information Commissioner has agreed early retirements, the additional costs are met by the Information Commissioner and not by the Civil Service pension scheme. Ill health retirement costs are met by the pension scheme and not included in the table above.

Ex-gratia payments made outside of the provisions of the Civil Service Compensation Scheme are agreed directly with the Treasury.

## 4 Other expenditure

	2011-12		2010-11	
	£'000	£'000	£'000	£'000
Accommodation (business rates and services)	611		673	
Rentals under operating leases	804		799	
Office supplies and stationery	283		241	
Carriage and telecommunications	135		141	
Travel, subsistence and hospitality	347		315	
Staff recruitment	54		67	
Specialist assistance, consultancy and policy research	200		304	
Communications and external relations	869		997	
Legal costs	304		307	
Staff learning and development, health and safety	224		250	
PFI IS contract service charges	2,329		2,379	
IS development costs	377		354	
Audit fees	30		31	
Surplus fee income surrendered to the Ministry of Justice	466		505	
Monetary penalties surrendered to the Ministry of Justice	688		248	
Sundry receipts surrendered to the Ministry of Justice	21		11	
		7,722		7,622
Interest charges		-		15
<b>Non-cash items</b>				
Depreciation	955		952	
Loss on disposal of assets	17		134	
Amortisation	135		135	
		1,107		1,221
<b>Total</b>		<b>8,829</b>		<b>8,858</b>

## 5 Income

	2011-12		2010-11	
	£'000	£'000	£'000	£'000
<b>Income from activities</b>				
Fees collected under the Data Protection Act 1998		15,484		14,965
<b>Other income</b>				
Monetary penalties collected	688		248	
Legal fees recovered	6		1	
Travel expenses reimbursed	14		6	
Sundry receipts	-		3	
		708		258
		16,192		15,223
<b>Interest receivable</b>				
Bank interest		1		1
<b>Total</b>		16,193		15,224

## 6 Property, plant and equipment

	Information technology £'000	Plant and machinery £'000	Furniture and fittings £'000	Payments on account and under construction £'000	Total £'000
<b>Cost or valuation</b>					
At 1 April 2011	8,693	144	2,535	-	11,372
Transferred	-	-	-	-	-
Additions	-	-	-	1,378	1,378
Disposals	-	-	(50)	-	(50)
Revaluations	19	1	33	-	53
<b>At 31 March 2012</b>	<b>8,712</b>	<b>145</b>	<b>2,518</b>	<b>1,378</b>	<b>12,753</b>
<b>Depreciation</b>					
At 1 April 2011	5,939	97	415	-	6,451
Charged in year	589	11	355	-	955
Disposals	-	-	(33)	-	(33)
Revaluations	13	1	5	-	19
<b>At 31 March 2012</b>	<b>6,541</b>	<b>109</b>	<b>742</b>	<b>-</b>	<b>7,392</b>
<b>Net book value at 31 March 2012</b>	<b>2,171</b>	<b>36</b>	<b>1,776</b>	<b>1,378</b>	<b>5,361</b>
<b>Asset financing</b>					
Owned	-	36	1,776	-	1,812
On-balance sheet PFI contracts	2,171	-	-	1,378	3,549
<b>Net book value at 31 March 2012</b>	<b>2,171</b>	<b>36</b>	<b>1,776</b>	<b>1,378</b>	<b>5,361</b>

Property, plant and equipment (excluding assets under construction) are revalued annually using appropriate current cost price indices published by the Office for National Statistics.

Included above are fully depreciated assets, in use with a gross carrying amount of £1,098K (2010-11: £18K) of which £1,080K is in respect of the current notification system which is due to be replaced in 2012-13.

Information services are outsourced through a managed services agreement which is accounted for as a PFI contract under IFRIC 12: Service Concession Arrangements.

## Property, plant and equipment (continued)

	Information technology £'000	Plant and machinery £'000	Furniture and fittings £'000	Payments on account and under construction £'000	Total £'000
<b>Cost or valuation</b>					
At 1 April 2010	8,415	499	568	144	9,626
Transferred	-	-	144	(144)	-
Additions	534	-	2,160	-	2,694
Disposals	-	(366)	(454)	-	(820)
Revaluations	(256)	11	117	-	(128)
<b>At 31 March 2011</b>	<b>8,693</b>	<b>144</b>	<b>2,535</b>	<b>-</b>	<b>11,372</b>
<b>Depreciation</b>					
At 1 April 2010	5,519	399	426	-	6,344
Charged in year	588	10	354	-	952
Disposals	-	(317)	(369)	-	(686)
Revaluations	(168)	5	4	-	(159)
<b>At 31 March 2011</b>	<b>5,939</b>	<b>97</b>	<b>415</b>	<b>-</b>	<b>6,451</b>
<b>Net book value at 31 March 2011</b>	<b>2,754</b>	<b>47</b>	<b>2,120</b>	<b>-</b>	<b>4,921</b>
<b>Net book value at 31 March 2010</b>	<b>2,896</b>	<b>100</b>	<b>142</b>	<b>144</b>	<b>3,282</b>
<b>Asset financing</b>					
Owned	-	47	2,120	-	2,167
On-balance sheet PFI contracts	2,754	-	-	-	2,754
<b>Net book value at 31 March 2011</b>	<b>2,754</b>	<b>47</b>	<b>2,120</b>	<b>-</b>	<b>4,921</b>

## 7 Intangible assets

	Software licences	Assets under construction	Total £'000
<b>Cost or valuation</b>			
At 1 April 2011	539	-	539
Additions	-	67	67
<b>At 31 March 2012</b>	<b>539</b>	<b>67</b>	<b>606</b>

<b>Amortisation</b>			
At 1 April 2011	176	-	176
Charged in year	135	-	135
<b>At 31 March 2012</b>	<b>311</b>	<b>-</b>	<b>311</b>
<b>Net book value at 31 March 2012</b>	<b>228</b>	<b>67</b>	<b>295</b>

<b>Cost or valuation</b>			
At 1 April 2010	117	-	117
Additions	422	-	422
<b>At 31 March 2011</b>	<b>539</b>	<b>-</b>	<b>539</b>

<b>Amortisation</b>			
At 1 April 2010	41	-	41
Charged in year	135	-	135
<b>At 31 March 2011</b>	<b>176</b>	<b>-</b>	<b>176</b>
<b>Net book value at 31 March 2011</b>	<b>363</b>	<b>-</b>	<b>363</b>

## 8 Financial instruments

As the cash requirements of the Information Commissioner are met through fees collected under the Data Protection Act 1998 and grant-in-aid provided by the Ministry of Justice, financial instruments play a more limited role in creating and managing risk than would apply to a non-public sector body.

The majority of financial instruments relate to contracts 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.

## 9 Trade receivables and other current assets

	31 March 2012	31 March 2011
	£'000	£'000
<b>Amounts falling due within one year</b>		
Deposits and advances	5	27
Prepayments and accrued income	745	633
	750	660
<b>Split:</b>		
Other central government bodies	52	14
Local authorities	247	249
Bodies external to government	451	297
	750	660

## 10 Cash and cash equivalents

	31 March 2012	31 March 2011
	£'000	£'000
Balance at 1 April	828	377
Net change in cash and cash equivalent balances	966	451
Balance at 31 March	1,794	828
<b>The following balances at 31 March were held at:</b>		
Commercial banks and cash in hand	1,794	828

## 11 Trade payables and other current liabilities

	31 March 2012	31 March 2011
	£'000	£'000
<b>Amounts falling due within one year</b>		
Taxation and social security	221	248
Trade payables	202	69
Other payables	634	16
Accruals and deferred income	308	291
	1,365	624
<b>Split:</b>		
Other central government bodies	930	297
Bodies external to government	435	327
	1,365	624

## 12 Provisions for liabilities and charges

<b>Early departure costs</b>	2011-12	2010-11
	£'000	£'000
Balance at 1 April	93	-
Provided in year	-	93
Provision utilised in the year	(9)	-
Balance at 31 March	84	93
<b>Analysis of expected timing of discounted flows</b>		
Not later than one year	8	9
Later than one year and not later than five years	28	29
Later than five years	48	55
	84	93

## 13 Capital commitments

There were contracted capital commitments of £165K at 31 March 2012 (31 March 2011: £nil) not otherwise included in these financial statements. The commitments were in respect of the replacement notification software project.

## 14 Commitments under leases

### Operating leases

Total future minimum lease payments under operating leases are given in the table below for each of the following periods.

	2011-12	2010-11
	£'000	£'000
<b>Obligations under operating leases comprise:</b>		
<b>Buildings</b>		
Not later than one year	742	771
Later than one year and not later than five years	2,968	3,083
Later than five years	589	601
	4,299	4,455

It is intended to exercise a break clause in one of the property leases in December 2012, rather than the full lease term to December 2017, which if met will reduce the obligations above by £223K.

## 15 Commitments under PFI contracts

### IS Managed Services Agreement

Information services are outsourced through an IS Managed Services Agreement between the Information Commissioner and Capita IT Services Limited.

The current contract is for a period of six years ending in July 2013.

Terms and conditions of service, standards of performance, payments, adjustments and arrangements for settling payment disputes are set out within the contract.

Under the contract the title of non current assets used in delivering the information services is held by Capita IT Services Limited, who have contractual obligations to hand back those assets in a specified condition upon termination of the contract for nominal consideration.

Agreed service charges are paid monthly to Capita IT Services Limited for the IS services delivered to agreed performance standards each month. The amount expected to be paid, subject to deductions and service changes, is £2.1M.

Service charges are changed annually by the average increases in the RPI and CEL indices, less deduction of a service improvement target.

Improvements to the IS infrastructure do not form part of the service charge; improvements to the infrastructure are paid separately, and the service charges adjusted by agreement.

The IT assets provided under this PFI contract have been capitalised on the Statement of Financial Position in accordance with IFRIC 12.

	2011-12	2010-11
	£'000	£'000
<b>Changes to the Statement of comprehensive net expenditure</b>		
The total amount charged to the Statement of comprehensive net expenditure in respect of the service element of On Statement of Financial Position PFI transactions was	2,329	2,379

## 16 Related party transactions

The Information Commissioner confirms that he had no personal 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, other funding and the appropriation-in-aid of other income 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 transaction with the Information Commissioner during the year.

## 17 Contingent liabilities disclosed under IAS 37

There are no contingent liabilities to disclose under IAS37 as at 31 March 2012.

## 18 Losses and special payments

There were no losses or special payments in the year to be disclosed.

## 19 Events after the reporting period

There were no events between the balance sheet date and the date the accounts were authorised for issue, which is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General.



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