

# Information Commissioner's Annual Report 2009/10

Upholding information rights  
in a changing environment

# ico.

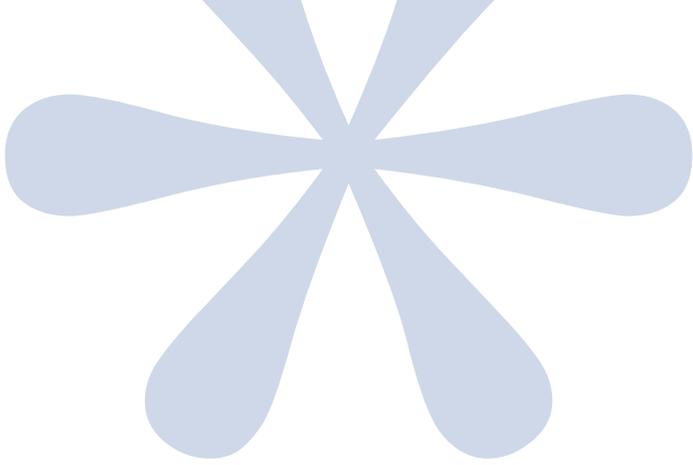
Information Commissioner's Office

# Information Commissioner's Annual Report 2009/10

Presented to Parliament pursuant to Section 52(1) and  
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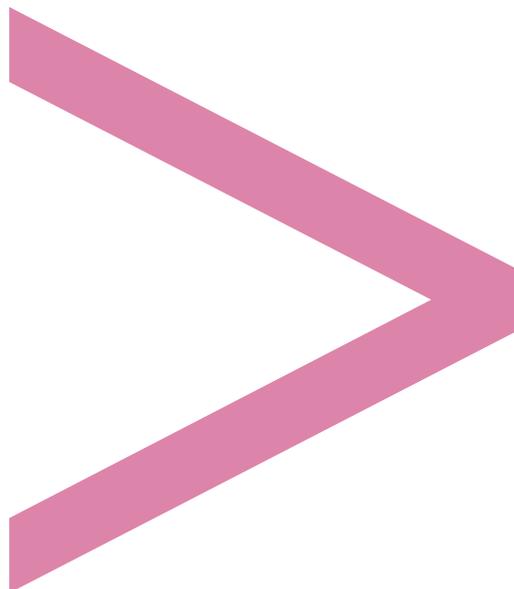
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# Contents

Our mission statement	6
Your information rights	7
Information Commissioner's foreword	8
Our Corporate Plan aims, 2009 to 2012	12
Our year at a glance	14
Educating and influencing	16
Resolving problems	26
Enforcing	36
Developing and improving	44
Governance	48
Information requests to the ICO	50
Accounts	52



## 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

By 2012 we will 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 for people who want environmental information. The Regulations cover more organisations than the Freedom of Information Act, including some private sector bodies, and have fewer exceptions.

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

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

The **Infrastructure for Spatial Information in the European Community Regulations 2009** give the Information Commissioner enforcement powers in relation to the pro-active provision by public authorities of geographical or location based information. (The regulations are subject to a staged implementation, meaning that the ICO won't have any eligible complaints to consider until 2011).

# Information Commissioner's foreword

The information society presents us with great opportunities – but also great challenges. We all benefit from the internet as a communications tool, a source of news and information and a channel for buying and selling goods and accessing and delivering services. We increasingly expect easy availability of official information and transparency and accountability in a modern democracy.

The challenge is to balance the expectation of transparency in official organisations while preserving personal privacy, so citizens and consumers can enjoy the benefits of the information age while retaining their privacy and security. Access to official information is tempered, where necessary, by judgements around the public interest. That is what the Information Commissioner and the ICO are for. And, as more and more issues are brought to the Commissioner for a decision, the challenge to the ICO can only grow.

**The challenge is to balance the expectation of transparency in official organisations while preserving personal privacy...as more and more issues are brought to the Commissioner for a decision, the challenge to the ICO can only grow.**



Over the past year, the ICO has made a real difference. January saw the fifth anniversary of the start of the full Freedom of Information Act regime. Decisions by the Information Commissioner have been followed by the release of information that had previously been withheld – from the NHS consultants contract to MoT pass and failure rates by make of car. The ICO intervened to improve the transparency of public bodies – from the Ministry of Defence to the UK Borders Agency. More and more, public bodies are releasing material without being ordered to do so by the Commissioner and the ICO keeps a watch on public authorities' publication schemes to encourage more proactive disclosure. Enforcing the Data Protection Act, the ICO has been auditing compliance across Whitehall. We also served enforcement notices on 14 construction companies who had been using the unlawful database of blacklisted building workers operated by the former Consulting Association.

At the same time, we at the ICO have been re-thinking our approach and strategy, to enable the organisation to rise to the challenge of upholding information rights in the information age. We have developed and re-stated a clear mission, vision and values for the ICO. We have restructured the organisation to secure greater integration of data protection and freedom of information work – under the banner of information rights. We have established an end-to-end operational process, ensuring that we learn from casework and that our regulatory interventions are appropriately risk-based and proportionate. We have consulted our stakeholders on an approach to regulation that emphasises advice and guidance – backed by effective sanctions for non-compliance.

Armed with our new powers of compulsory compliance assessments and the potential to impose civil monetary penalties on data controllers of up to £0.5 million, we are professionalising our approach to audit and enforcement. As Information Commissioner, I shall continue to press for a more effective deterrent to criminal behaviour by 'rogue' individuals. I continue to believe that the courts should be able to impose a custodial sentence, where appropriate, to tackle the unlawful trade in personal data that is the scourge of the digital world. Data theft is no victimless crime.

The striking achievement on the freedom of information side of the business has been the dramatic reduction in the backlog of outstanding decision notices. This has been achieved through commitment and hard work by colleagues, effective prioritisation and workflow management, and a more realistic approach by public authorities. The latter are increasingly responding to an ICO that is 'on their case' and not afraid to order publication if the arguments for retention have not been promptly and appropriately made. Yet our freedom of information caseload continues to grow each year: a review of our processes and procedures, following restructuring, is designed to help us meet this ongoing challenge.

For the second time in nine months, the Commissioner had to make a formal report to Parliament following the imposition of a Ministerial veto on the publication of minutes of Cabinet proceedings. The material at issue concerned the proceedings of a Cabinet Committee considering devolution in Scotland and Wales. I was concerned that the veto had been imposed before the matter had even been heard by the Information Tribunal. The veto should only arise in exceptional circumstances. I shall continue to apply the Act and its current provisions relating to Cabinet material.

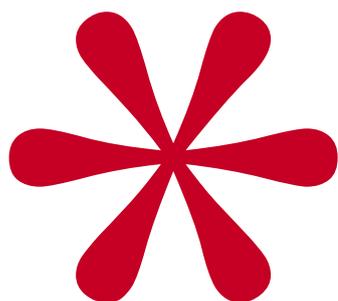
To carry out my duties effectively and with the full confidence of all parties, now is the time to formalise the governance arrangements for the Information Commissioner, suitable for an independent public official whose accountability is fully to Parliament rather than primarily via Departments of State.

I believe my predecessors and I have demonstrated the real independence of the Information Commissioner; but, with five years' experience of operating the Freedom of Information Act, I believe that the ICO has not just to be independent of government, but be seen to be independent in its reporting and financing arrangements. I look forward to discussing with Ministers how this coming of age can be given effect.

**The striking achievement on the freedom of information side of the business has been the dramatic reduction in the backlog of outstanding decision notices.**

I took up my duties as Information Commissioner in June last year, taking over from Richard Thomas CBE. Richard had served as Commissioner for almost seven years and, in that time, raised the profile of the role in Whitehall, in Brussels and in the public consciousness. Richard was a formidable champion of information rights and a fearless defender of the independence of the ICO.

In my first year I have benefited hugely from the solid foundations laid by my predecessor and from the support and co-operation of my ICO colleagues. My fellow Executive Team members have responded with enthusiasm to the challenge of refocusing and restructuring the organisation.



We have been supported in the task by our committed and constructive non-executive Management Board members. David Clark and Sir Alistair Graham retired after some seven years service as non-execs – a period in which the ICO grew in both scope and sophistication. As the new boy, I was particularly grateful to David and Sir Alistair for their wise counsel. I have also come to rely on the sound advice of Bob Chilton and Dame Clare Tickell whose terms of office as non-execs are also drawing to a close. Two new members joined the Management Board – Neil Masom and Enid Rowlands – following a public recruitment process. I look forward to working with our new non-execs in the months to come.

**My biggest thank you must be to all the ICO staff who have delivered a year of great achievement...**

My biggest thank you must be to all the ICO staff who have delivered a year of great achievement at the same time as contributing to a fundamental restructuring of the ICO. The change process has been both exhilarating and disconcerting for all concerned. But I believe we are now well placed to respond effectively to the demands of upholding information rights in a changing and challenging environment.

A handwritten signature in red ink that reads "Chris: + rowlands Graham".

**Christopher Graham**  
Information Commissioner

... we are now well placed to respond effectively to the demands of upholding information rights in a changing and challenging environment.

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Computing

**18 March 2010**

From April, the Information Commissioner's Office will have the power to fine firms up to £500,000 for data mishandling. But it's not just a massive fine that culprits have to worry about. There is also the negative publicity that can be hugely damaging to a company's reputation and further business opportunities.

BBC Online

**12 January 2010**

Information Commissioner Christopher Graham said that he hoped the new penalty would encourage companies to comply more closely with the Data Protection Act.



# Our Corporate Plan aims, 2009 to 2012

This report looks back over the four main focuses of the ICO's work, covering both our data protection and freedom of information responsibilities, as laid out in our Corporate Plan published in March 2009.

## Educating and influencing

**Aim one:** To promote freedom of information and open government, to bring about a culture where public bodies make as much official and environmental information available as possible, proactively and progressively, with individuals widely aware of their right to know. **Aim two:** To promote good data protection practice by organisations when handling personal information, with individuals and organisations widely aware of their rights and obligations.

**Aim three:** To service the differing needs of communities.

## Resolving problems

**Aim one:** To provide an efficient and valued customer service that deals with all information rights complaints and enquiries. **Aim two:** To provide an efficient and valued freedom of information service, making decisions in disputes about access to information held by a public body in a robust, responsible and efficient way. **Aim three:** To provide an efficient and valued data protection casework service. **Aim four:** To run an efficient and helpful notification service. **Aim five:** To increase customer satisfaction.

## Enforcing

**Aim one:** Take purposeful risk-based enforcement action where obligations are ignored, where codes or guidance are not followed and where examples need to be set or issues clarified. **Aim two:** To ensure organisations which handle personal information comply with their obligation to notify with us.

## Developing and improving

**Aim one:** To achieve a clear, articulated and lived culture with a recognisable ICO feel that is positive, forward looking, energetic, practical, responsible and influential. **Aim two:** To achieve recognisable world-class performance through motivated staff who are committed to the ICO's goals and success.

**Aim three:** To protect and promote the good corporate reputation of the ICO. **Aim four:** To work as effectively and efficiently as possible, making best use of our resources and gaining value for money. **Aim five:** To improve our use of information technology to encourage efficiency, to keep pace with developments in society and to meet customer expectations.



Educating and  
influencing



Resolving  
problems



Enforcing



Developing and  
improving

# Our year at a glance

## April 2009

We host the European Privacy and Data Protection Commissioner's Spring conference in Edinburgh.

Following more than 500 complaints about unsolicited faxes we successfully prosecute a debt collecting agency under the Privacy and Electronic Communications Regulations.

We respond to the House of Lords Select Committee inquiry report - Surveillance: Citizens and the State.

## May 2009

We successfully prosecute a Lewisham law firm under the Data Protection Act for failing to notify with the ICO as a data controller.

We speak at a conference in Bogota, Colombia at the invitation of the Foreign Office and provide an overview of the ICO's experience as a freedom of information regulator.

We authorise the transfer of personal information from the UK by the Accenture group of companies and the Atmel group of companies to other entities within their own corporate groups which operate outside the European Economic Area.

We successfully prosecute a Peckham recruitment company for failing to notify with the ICO as a data controller.

We publish a review of the strengths and weaknesses of the EU Data Protection Directive. The study concludes that, in an increasingly global, networked environment, the Directive will not suffice in the long term.

We launch the latest version of our Privacy Impact Assessment handbook which urges organisations to consider the impact on individuals' privacy before developing new IT systems or changing the way they handle personal data.

We respond to an invitation to comment on questions around the data protection implications of suspicious activities reports on the SOCA database.

## June 2009

We lay a report to Parliament about the use of the freedom of information veto by the government in relation to cabinet minutes about the decision to go to war in Iraq.

We remind parents wishing to take photos of their child at the school sports day that they should not be deterred by data protection myths.

We publish new guidance to help freedom of information practitioners understand when a request under the Freedom of Information Act can be refused on the grounds of national security.

We host a delegation from China, whose members were seeking input and advice on implementing and regulating freedom of information legislation.

We launch our new Privacy Notices Code of Practice to help organisations provide more user-friendly privacy and marketing notices.

Richard Thomas retires from the ICO at the end of his second term and Christopher Graham becomes Information Commissioner.

We explain our enforcement role to the Association of Chief Police Officers (ACPO) at their national conference in Southampton.

## July 2009

We successfully prosecute Ian Kerr from the Consulting Association over his illegal use of a database containing personal details over 3,000 construction industry workers.

We serve Enforcement Notices on 14 construction firms following breaches of the Data Protection Act where they paid for illegally held personal information about potential employees.

We launch a campaign to remind doctors working privately to notify with the ICO where they are handling patients' personal information.

We publish guidance for local authorities about how they should respond to property search requests.

## August 2009

We provide written evidence to the All Party Group on Junk Mail investigation into data management.

## September 2009

We launch our Student Ambassador programme to raise awareness of data protection rights.

Work begins on the extension to our Wilmslow office that will bring all staff based in Wilmslow under one roof.

We host a delegation from Chile whose members were seeking input and advice on implementing and regulating freedom of information legislation.

The Daily Telegraph publishes details of individual MPs' expenses.

We provide evidence to the Culture Media and Sport Committee on the illegal trade in personal data in connection with its inquiry into press standards, privacy and libel.

## October 2009

The new tiered notification fee structure is introduced.  
 .....  
 We take enforcement action against a forklift and plant hire company, under the Privacy and Electronic Communications Regulations, following more than 1,700 complaints about unsolicited faxes.  
 .....

We give evidence to the House of Commons Treasury Select Committee during its inquiry into Credit Searches.  
 .....

We mark our 25th Anniversary with a reception which is attended by the four people who have led the ICO since 1984: Eric Howe, Elizabeth France, Richard Thomas and Christopher Graham.  
 .....

We successfully prosecute a firm of chartered management accountants for failing to notify as data controllers under the Data Protection Act.  
 .....

We publish our new mission, vision and values.  
 .....

## November 2009

We launch our new Guide to Data Protection which is welcomed by the Federation of Small Businesses and accredited by the Plain Language Commission.  
 .....

We successfully prosecute two recruitment firms under the Data Protection Act for failing to notify as data controllers with the ICO.  
 .....

We issue security breach figures that reveal burglaries and theft are the single biggest security risks for organisations processing people's personal details.  
 .....

We issue our monitoring report into the Publication Schemes of Central Government departments.  
 .....

## December 2009

We launch a news feed on Twitter.  
 .....

Justice Secretary Jack Straw exercises the Ministerial veto to prevent the disclosure of 1997 Cabinet Committee minutes on devolution, in response to our decision ordering their release.  
 .....

We launch a consultation on a new draft code of practice about collecting personal information online at our Data Protection Policy conference in Manchester.  
 .....

We issue Practice Recommendations to the UK Borders Agency and Cardiff County Council aimed at improving the way internal reviews are conducted.  
 .....

## January 2010

Freedom of Information celebrates its fifth birthday.  
 .....

We mark European Data Protection Day launching the Think Privacy campaign and promoting the 'i in online' project.  
 .....

We publish new guidance to help individuals in Northern Ireland take a claim to court under the Data Protection Act.  
 .....

The Coroners and Justice Bill receives Royal Assent, providing the ICO with the power to audit central government departments without consent.  
 .....

The ICO lays a report before Parliament about the government's use of the freedom of information veto. The veto overturned our decision to order disclosure of minutes of a 1997 cabinet committee on devolution.  
 .....

We host a parliamentary reception at the Scottish Parliament.  
 .....

The Infrastructure for Spatial Information Regulations (Inspire) are passed in Parliament, giving us new enforcement powers related to publication of geospatial datasets.  
 .....

We give evidence to the Justice Committee inquiry into Justice issues in Europe.  
 .....

## February 2010

In preparation for our report to Parliament on the state of surveillance we appoint the Surveillance Studies Network to report on developments in surveillance in the UK since 2006.  
 .....

We serve an enforcement notice on the Labour Party after it breached the Privacy and Electronic Communications Regulations by making unsolicited automated marketing calls.  
 .....

Anne Jones, our Assistant Commissioner in Wales, gives evidence to the Welsh Assembly's freedom of information panel.  
 .....

We order the Cabinet Office to release information about an undertaking given by Michael Ashcroft in March 2000 concerning his intention to take up permanent residence in the UK on taking his seat in the House of Lords.  
 .....

## March 2010

We issue data protection guidance to political parties and candidates.  
 .....

We issue our monitoring report into the Publication Schemes of the UK's police forces and police authorities.  
 .....

We launch our new corporate identity.  
 .....

We give evidence to the Home Affairs Select Committee on surveillance society issues.  
 .....

We host the Data Protection Officer conference in Manchester.  
 .....

We publish 'The Privacy Dividend' report which provides organisations with a financial case for adopting data protection best practice.  
 .....

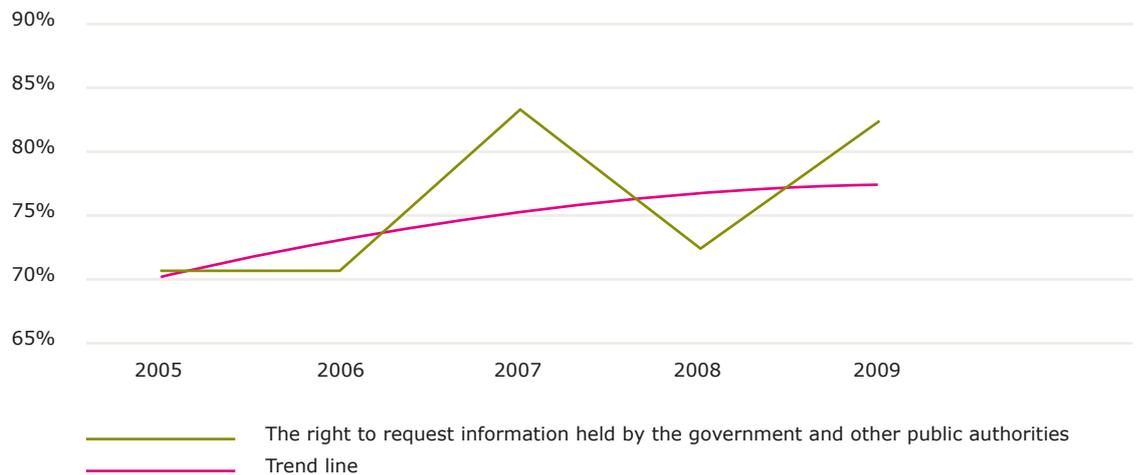
# Educating and influencing

## Awareness of information rights

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

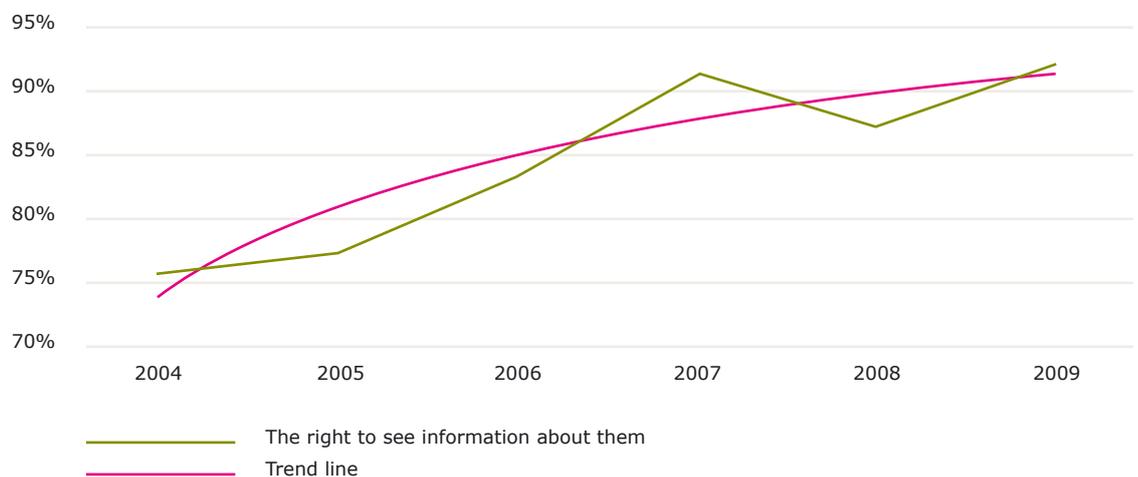
Individuals' awareness of the freedom of information right to request official information has risen from 75% in 2008 to 85% in 2009.

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

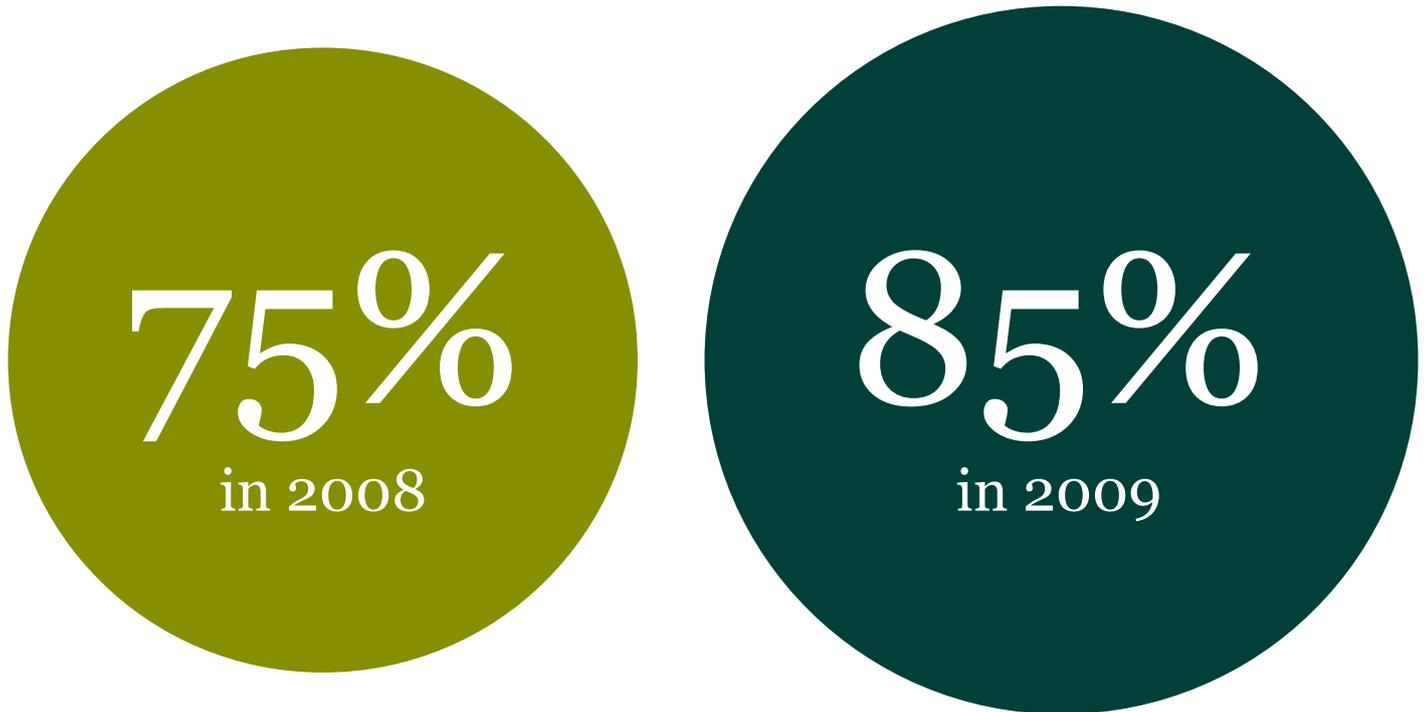


Individuals' awareness of the right to see information held about them is now at its highest ever, with 91% of people aware of this data protection right.

### Prompted awareness of the rights to see information



Individuals' awareness of the freedom of information right to request official information has risen



Individuals' awareness of the right to see information held about them is now at its highest ever

91% of people are aware of this data protection right

## Helping to bring about a culture of openness

At the beginning of the year we announced we would be monitoring public authorities' adoption and compliance with the requirements of the ICO's model publication scheme under the Freedom of Information Act.

Since then we have completed two publication scheme monitoring reports. The first looked into central government departments, including both Houses of Parliament, the Northern Ireland Assembly and the National Assembly for Wales. The second looked into the UK's police forces and police authorities.

Both reports highlighted the public bodies that are making a lot of information available as well as those which are making it harder than necessary for citizens to gain access to information about how public money is spent.

The Guardian

**4 January 2010 - Ben Dowell**

Christopher Graham warns that more than 100,000 public bodies are now covered by the Freedom of Information Act.

'We are now in a freedom of information age. Public organisations are increasingly realising that they have to put out a good case to withhold information, or it will be released.'

## Building awareness of individual rights and organisations' obligations

# 94%

of people are concerned about the protection of their personal information

In September we hosted the first of our regional surgeries for freedom of information practitioners. Aimed at the health sector and local authorities in the North West, the first sessions covered the publication scheme monitoring process, sectoral issues and a question and answer session.

In January and February further surgeries were held in Whitehall for central government, in Mansfield for the health sector and in Haringey for local government.

### The ICO's Guide to Data Protection

People continue to worry about the protection of their personal information, with 94% listing it as a concern. In November, we published a major addition to our range of data protection guidance. Answering many frequently asked questions and giving practical advice to those with day-to-day responsibility for data protection, The Guide to Data Protection provides an authoritative overview of the Data Protection Act and a user-focused guide to handling personal information. The Guide has been awarded the Clear English Standard by the Plain Language Commission.



# 19

pieces of freedom of information guidance published



13 new pieces of guidance

6 updates of existing guidance

## New guidance and advice

We published 19 pieces of freedom of information guidance – 13 new pieces and six updates of existing guidance. We continue to receive positive feedback on our guidance from our sector stakeholders.

A new type of short guidance note was also introduced to complement our more detailed information. The Advice Note will be linked to a specific issue relating to a good practice matter and will take the form of a single sheet of questions and answers.

In anticipation of the general election we issued updated guidance for political parties and candidates on the way in which they can contact members of the public for campaigning purposes. Previous election campaigns have been marred by some parties flouting the rules, resulting in hundreds of thousands of people being targeted unlawfully. The updated guidance covers the use of direct marketing techniques such as direct mail, emails, text messages, phone calls and automated phone calls.

In May we hosted the Private Data, Open Government conference in Westminster to take stock of progress with freedom of information and data protection. The conference, which was attended by over 200 stakeholders, took the form of a discussion on the contribution of open government and privacy protection, looking at underlying policy issues and challenges for the future.

The Daily Mail

**23 June 2009 - James Slack**

Parents who want to take photos of their children in school plays or at sports days can once again snap happily away...Deputy Information Commissioner David Smith said: 'We recognise that parents want to capture significant moments on camera. We want to reassure them and other family members that whatever they might be told, data protection does not prevent them taking photographs of their children and friends at school events.'

**Our 10 most popular publications**

Many people access information about the ICO's work and information rights from our website [www.ico.gov.uk](http://www.ico.gov.uk). Many others request hard copies. The 10 most requested publications are:

Rank	Publication	Total requests
1	Credit explained	31,000
2	Data protection postcards	25,500
3	ICO about us leaflet	15,000
4	Personal information toolkit	15,000
5	Your guide to openness	14,500
6	The lights are on – data protection training DVD	11,000
7	Hints for practitioners handling freedom of information and environmental information requests	10,000
8	Data Protection Act 1998 - When and how to complain	8,500
9	Tick tock – freedom of information training DVD	6,500
10	Brief guide to notification	5,500

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# 193,464

total publication requests

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## Protecting personal information

### European Data Protection Day

We supported the 'i in online' project which delivered a series of privacy awareness raising workshops for schoolchildren and their teachers across the UK and Ireland. Alongside law firm Speechly Bircham and the Irish Data Protection Commissioner's Office, the project organised events in seven locations for over 300 secondary school aged children and their teachers.

We also joined a panel to judge privacy awareness raising videos made by young people, for young people.

### The Personal Information Promise

Launched in January 2009, the Personal Information Promise is a commitment by an organisation's leader to value personal information and put appropriate resources in place to look after it. By the end of the year 1,055 leaders of organisations had signed it.

# 1,055

organisations have signed the Personal Information Promise so far

### Reaching young people

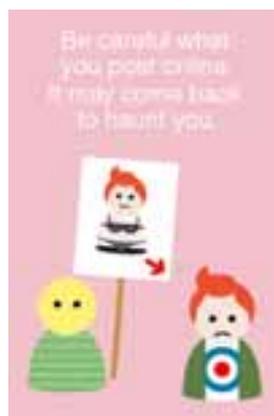
To raise awareness among young people about the importance of looking after their personal information, we ran a campaign on the online virtual world, Habbo Hotel. Over 1.2 million young people in the UK are signed up to the site, aimed at 12 to 16 year olds. Initiatives included an information bus where ICO staff responded to questions, personal information awareness adverts, a quiz, a poll on personal information and a "Way too much information" park. Over 125,000 people viewed the park and over 34,000 took part in the poll. We also added new content to our young people's minisite.

**34,000+**  
took part in the poll

**125,000+**  
people viewed the park



Student ambassador campaign



### Recruiting privacy ambassadors

We ran a student ambassador campaign by recruiting 15 students from different universities across the UK (with an approximate population of 317,000). The campaign focused on making students more aware of their information rights and how to keep their personal information secure. It also highlighted the risks if they didn't, including financial fraud and identity theft.

The students achieved positive coverage in campus media and distributed nearly 5,000 publications, the most popular being 'Your personal little book about protecting your personal information'.

# 94%

of 18-24 year olds are aware of their right under the Data Protection Act to see information held about them

The Independent

**28 April 2009 - Robert Verkaik**

The Information Commissioner welcomed the decision not to go ahead with a giant centralised communications database, but called on the government to publish details about how ministers intended to protect privacy.

### Safely processing personal data outside Europe

Since April 2009, we have issued five Binding Corporate Rules Authorisations. We have continued to work on the development of Binding Corporate Rules because we believe it is an effective method of ensuring that individuals' information is protected when it is processed outside the European Economic Area by multinational groups of companies.



The Privacy Dividend

## Promoting good data protection practice and raising awareness of obligations

### Data Protection Officer Conference

In March, over 300 delegates representing public, private and third sector organisations joined us in Manchester for a day's events including presentations and workshops on topical issues such as new powers and penalties, data sharing, the business case for privacy and international data transfers.

At the conference, we launched 'The Privacy Dividend' – providing organisations with a soundly argued business case for a proactive approach to protecting privacy. Explaining how to put a value on personal information and understand the benefits of protecting privacy, the report also looks at the costs of failing to look after personal information effectively and includes practical tools to help organisations prepare their own business case for investing in privacy protection.

## Good privacy notices should help individuals to understand how their information is used and what the consequences are for them

### Privacy notices code of practice

The privacy notices code of practice was launched in June 2009. The code of practice will help organisations to draft clear privacy notices and make sure that they collect information about people fairly and transparently. Good privacy notices should help individuals to understand how their information is used and what the consequences are for them. The code contains practical examples of good and bad practice which will help organisations in drawing up their own privacy notices.

### Privacy Impact Assessments

The Privacy Impact Assessment Handbook was revised and relaunched in June 2009. We continue to engage with stakeholders across the public, private and third sector in promoting the use of Privacy Impact Assessments and advising on the process. Privacy Impact Assessments are now one of the Cabinet Office's core mandatory minimum measures to protect personal information. To date over 300 Privacy Impact Assessments have been started across central government and their agencies.

# 300+

Privacy Impact Assessments have been started across central government and their agencies

The National School of Government, sponsored by the Cabinet Office, plans to implement a programme of training across government, using the ICO's handbook.

### **Securing shorter retention periods**

The development of the national police automatic number plate recognition (ANPR) data centre has prompted public concerns as the system retains millions of records of vehicle movements over a prolonged period of time. Following a detailed investigation, we accepted the considered view of the police, backed up by evidence, that ANPR data can play a valuable part in crime prevention and detection. However, we were concerned about proposals to retain data over a very long period and about the levels of access to that information. Following constructive discussions with the Association of Chief Police Officers, they have now accepted the need for shorter retention periods; these have been reduced from a potential five years down to two years. Data held for up to two years will be progressively restricted for use only in serious crime investigation and terrorism related matters; there are also improved limitations and robust controls over who can access the data.

### **International liaison**

In April 2009, we hosted the European Privacy and Data Protection Commissioners' Spring conference in Edinburgh, which focused on the future of data protection. In May we published the review of the strengths and weaknesses of the EU Data Protection Directive which we commissioned from RAND Europe, triggering an international debate on the topic. Shortly afterwards, we attended the European Commission's own conference, and provided input into their consultation on the future of the data protection legal framework.

As a member of the Article 29 Working Party we have been particularly influential in promoting a more flexible approach to the assessment of adequacy of data protection measures in the context of transfers of personal information to countries outside the EU.

Out-Law.com

**12 May 2009**

The Data Protection Directive is old-fashioned and out of date, a report published by the UK's privacy regulator, the ICO, has said.

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### **London Olympics 2012**

We established a cross-office project team to provide consistent and timely advice to all those involved in delivering the Olympic and Paralympic Games. We provide advice on data protection compliance, for example in relation to the collection, use and retention of information for the accreditation of athletes and recruitment of staff and volunteers.

Managing Information

**1 May 2009**

The Information Commissioner's Office is concerned that too many companies baffle customers with lengthy and unnecessary legalese and wants organisations to make their privacy notices much clearer.

The Daily Mail

**11 June 2009 - James Slack**

Creating a database of the 11 million adults who work with children could ruin the lives of innocent people, the privacy watchdog warns today.

---

Ken Macdonald, the Assistant Commissioner for Scotland, was invited by the Scottish Government to serve on its Expert Group on Identity Assurance and Privacy Principles. The remit of the Group was to develop a set of principles to raise confidence in the management of personal information by Scottish public bodies. It published its report in August 2009



# Resolving problems

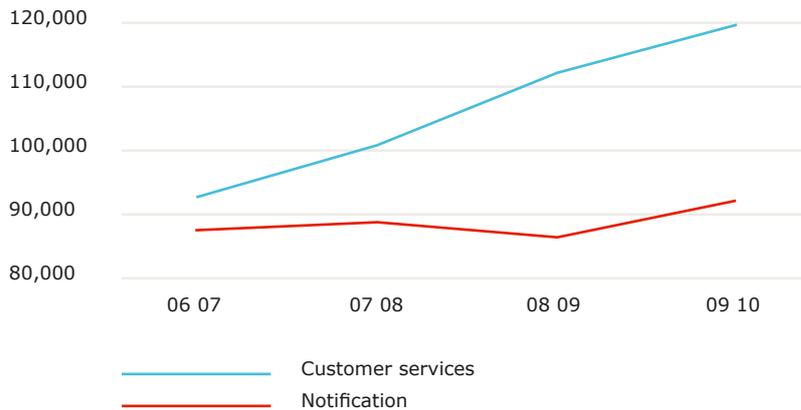
## Meeting customer needs

Calls to our two helplines rose again with over 212,000 calls, an increase of over 6% compared to the previous year.

**6%**  
increase compared  
to 2008/09

# 212,000

calls made to our helplines



The increase in calls was across all the legislation we regulate. We aim to provide the customer with a clear understanding of how we can help and what practical steps they can take to resolve their problem quickly.

We further improved our website navigation, making information easier to find and launching new user journeys; one aimed at organisations about health and another aimed at the public about CCTV. We also added a news section to our microsite for young people, plus sections covering identity theft, unwanted marketing and keeping control of personal details.

Our policy of providing practical helpline advice and an informative website led to a 9% reduction in the number of ineligible complaints we received.

**9%**  
reduction in the  
number of ineligible  
complaints

## Freedom of information complaints

### Caseload

As a result of our increased output, we currently have 1,035 open cases, 439 fewer than at the start of the year.

New staff structures have enabled us to work more efficiently and we have reduced the numbers of our oldest cases significantly. On 1 April 2009 we had 118 open cases that were over two years old. A year later, we had reduced this to 11 (or just 1%) of our open caseload.

This year we cleared all of the cases from 2005. At 31 March 2010, there remained a single case from 2006, a single case from 2007, and 39 cases from 2008 under investigation.

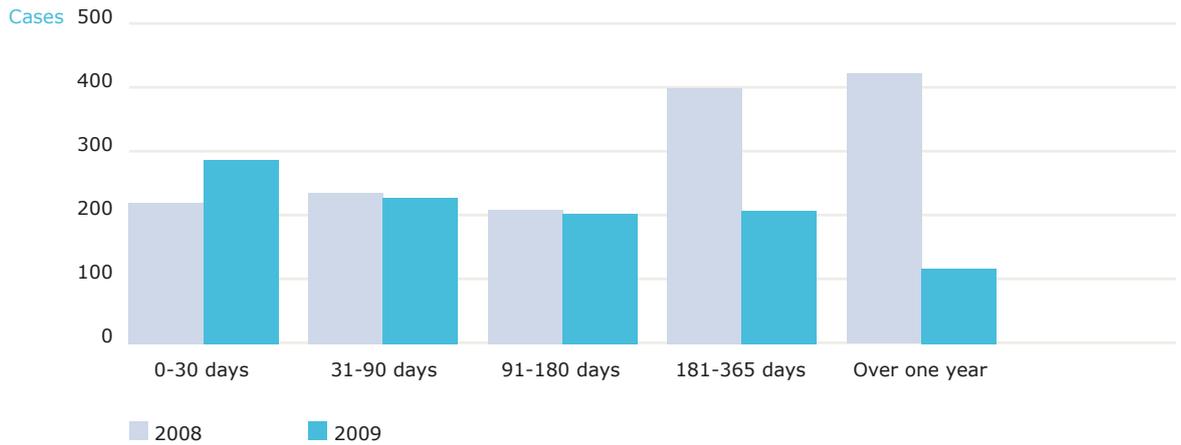
We are improving the service we provide by starting and resolving cases more quickly. This has led to significant improvements in the age profile of open cases.

Time since receipt	Open cases at 1 April 2009	Open cases at 31 March 2010	% of total at 31 March 2010	Change since April 2009
0 – 30 days	218	285	28%	+67
31 – 90 days	234	226	22%	-8
91 - 180 days	208	201	19%	- 7
181 – 365 days	396	206	20%	-190
One year to 18 months	184	83	8%	-101
18 months to two years	116	23	2%	-93
More than two years	118	11	1%	-107

Our new structure now provides more flexibility and more signatories for the most complex cases. This has resulted in an overall increase in productivity.

We have maintained quality control of decision notices by applying a consistent approach to the way we review and assess them. Our internal policy team considers the approaches being applied and any developing lines to follow, before the case is ultimately signed off by one of the senior team.

### Age distribution of our caseload



### Freedom of information complaints continue to rise.

**20%**  
increase compared  
to 2008/09

The number of Freedom of Information complaints that have reached our office



**39%**  
increase compared  
to 2008/09

The number of cases we closed



We received 3,734 complaint cases during 2009/10 compared to 3,100 last year. We did not allow this 20% increase to distract us from reducing the number of older cases and the time taken to make decisions on the more difficult and complex complaints.

Overall we closed 4,196 cases during 2009/10, a 39% increase compared to 2008/09.

We continue to close cases without the need for formal decision notices, many through effective negotiation and discussion with public authorities to ensure that information is released when it is appropriate to do so. We closed more than half our cases by informal resolution - 2,195 cases.

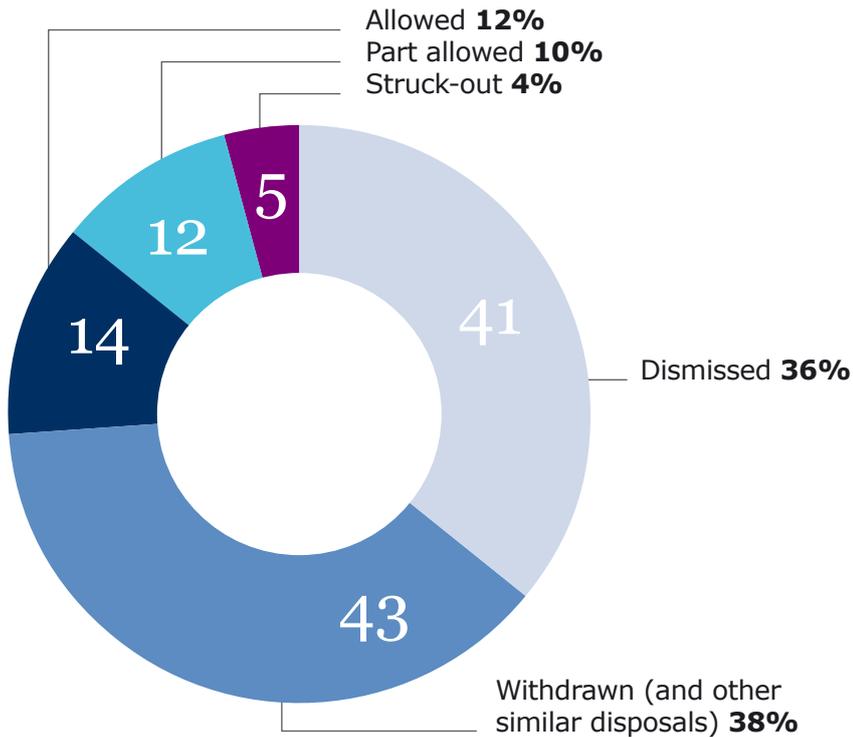
We closed 628 cases with a decision notice in 2009/10, more than double the 295 decision notices we issued in 2008/9.

### Appeals to the Information Tribunal

There were 161 appeals against our decisions in 2009/10 (compared to 87 in 2008/09). This is 26% of the total decision notices issued (compared to 29% of the total in 2008/09).

99 (or 62%) of the appeals were from requesters with 62 (or 38%) from public authorities.

The Information Tribunal determined 115 appeals in 2009/10  
The outcome of those appeals was as follows



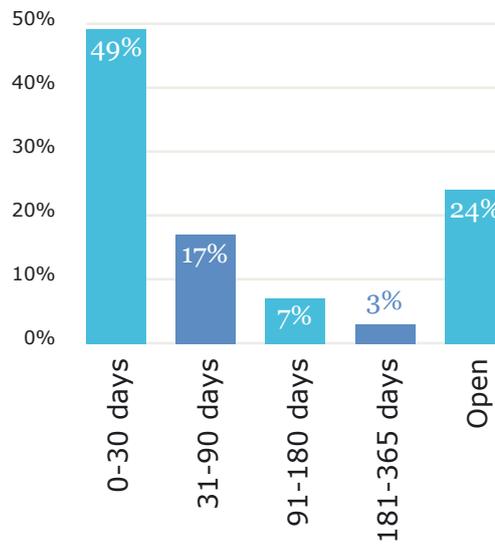
### Policy formulation - freedom of information research

We commissioned the Constitution Unit at University College London to research into the impact of freedom of information on the process of the formulation and development of government policy. The research highlights the various stages and processes currently used in Whitehall for policy development and will help the ICO's approach to casework in this area.

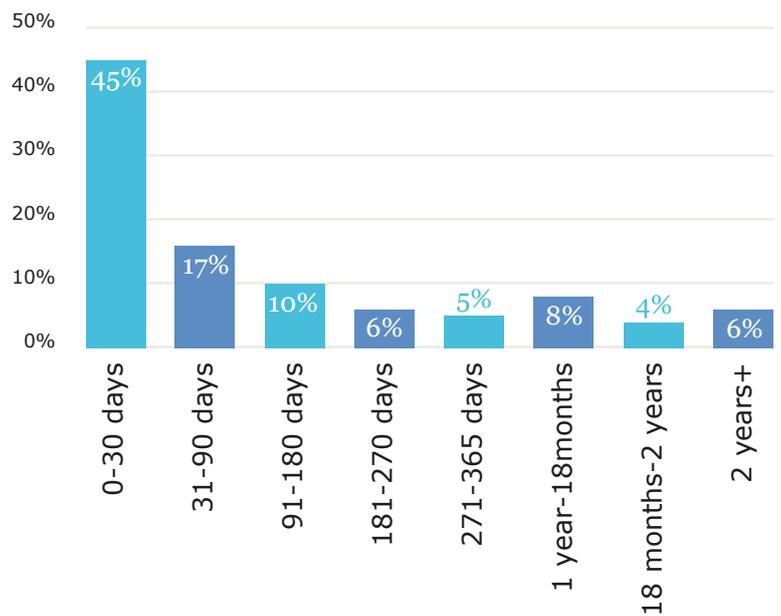
Freedom of information casework



What happened to the casework received	
Closed in 30 days or less	49%
Closed in 90 days or less	66%
Closed in 180 days or less	73%
Closed in 365 days or less	76%
Open on 31 March	24%



Age of casework at closure	
30 days or less	45%
90 days or less	61%
180 days or less	72%
365 days or less	82%



At 1 April 2009



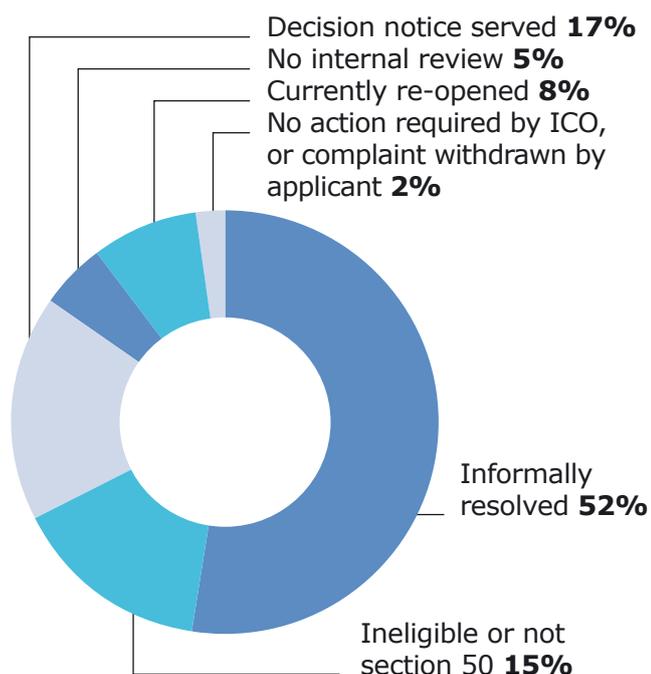
**72%**  
drop in cases over 1 year old compared to 2008/09

At 1 April 2010

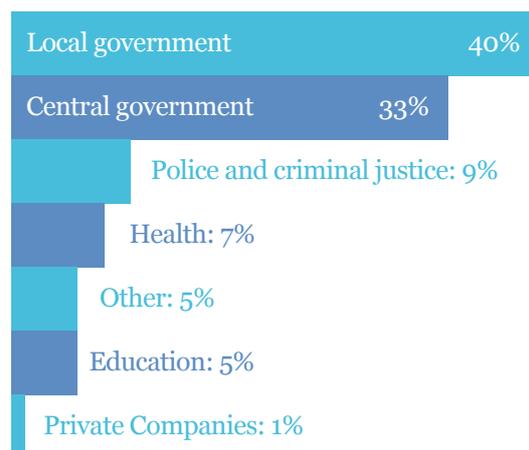


**91%**  
drop in cases over 2 years old compared to 2008/09

Outcomes of cases for casework finished this year



Areas generating most complaints where sector is specified



Outcome of cases where a decision notice has been served

Total served	628	
Complaint upheld	142	23%
Complaint not upheld	288	46%
Partially upheld	198	31%

## **We issued 628 decision notices under the Freedom of Information Act and Environmental Information Regulations:**

### **Public authority: BBC**

The High Court handed down a significant ruling about the way in which freedom of information applied to information connected with journalism. The court found that the words in the Schedule meant that the BBC has no obligation to disclose information which they hold to any significant extent for the purposes of journalism, art or literature, whether or not the information is also held for other purposes. The Commissioner interprets the phrase "to any significant extent", when taken in the context of the judgement as a whole, to mean that where the requested information is held to a more than trivial or insignificant extent for journalistic, artistic or literary purposes, the BBC will not be obliged to comply with Parts I to V of the Act.

As a result of this the Commissioner was able to close 145 BBC complaints between October 2009 and March 2010.

### **Public authority: Cabinet Office**

The ICO ordered the Cabinet Office to release information relating to the award of a working peerage to Michael, now Lord, Ashcroft, in March 2000. The information related to Lord Ashcroft's domicile and tax status and the undertaking given by him to take up residence in the UK prior to the award of his peerage.

### **Public authority: various government departments**

Following a number of requests regarding correspondence between government departments and HRH The Prince of Wales, the Information Commissioner ruled that he would consider such information to be exempt from disclosure on the basis of section 37(1)(a) of the Act and also sections 40(2) – personal data and 41(1) – information provided in confidence.

### **Public authorities: Maldon District Council, Castle Point Borough Council and East Riding of Yorkshire Council**

The ICO ruled under the Environmental Information Regulations that councils should not be allowed to charge a fee based on property search regulations in relation to a request to inspect building control information.

The Independent

**31 March 2010 - Robert Verkaik**

It was less than two years ago that MPs blundered into the expenses scandal by trying to exempt themselves from requests made under the Freedom of Information Act. Their self-destructive actions put them on a collision course with the Information Commissioner and ended in the humbling of Parliament.

The Independent

**23 January 2010 - Robert Verkaik**

Gordon Brown has pledged to remove the Royal Family from any scrutiny under the Freedom of Information Act. This stance has been criticised by the Information Commissioner, Christopher Graham, who told The Independent that it would be 'unfortunate' if the Prime Minister's proposal became law.

## Data Protection and Privacy and Electronic Communications Regulations (PECR) casework

The protection of personal information and individual personal information rights were again high on the public agenda throughout 2009/10. The number of complaints we received in the year was the highest that we have ever had with 33,234 individual requests for advice and complaints, a 30% increase over 2008/09.

30%

increase in individual requests for advice and complaints

40%

more data protection cases closed than last year

32,714

data protection cases were closed

Our open data protection caseload at 31 March 2010 was 7,251, a 9% increase from the 6,680 we had under consideration at the start of the financial year.

We reduced the time we take to conclude our data protection work. We ended the year with 58 cases over one year old, less than 1% of our work in progress. The number of cases over six months old fell from 1,315 to 960, a reduction of 27%.

We also managed to resolve a large number of cases relatively quickly, with just under 75% of all of the data protection cases concluded within 90 days or less.

The increase in complaints to the ICO is a cause for concern. During 2010/11 we will be looking at how we might adapt our case handling processes even further to cope with this rise.

Subject Access Requests are the main reason for complaining to the Information Commissioner, the same as last year. The rights of individuals to access personal data accounted for over 28% of complaints where the reason was specified. People were also concerned about the disclosure of data and the accuracy of information being retained.

Perhaps unsurprisingly given the economic climate during 2009/10 lenders were the most often complained about, with direct marketing again causing concern as the second largest area of complaint.

We were able to deal with just over 12,000 cases by providing advice and guidance. Over 9,000 other cases were considered for assessment against the eight principles of the Data Protection Act. We found that in 62% of these assessments a breach of at least one of the principles was likely. We then shared our concerns with the data controllers with a view to them making improvements to processes and systems where necessary.

Evening Standard

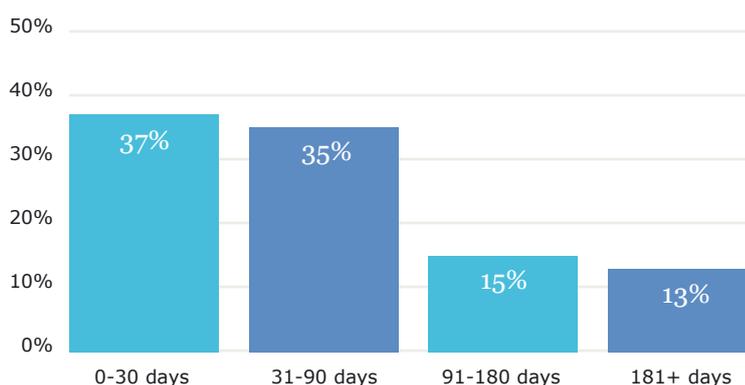
**26 May 2009 - Martin Bentham**

Strict curbs on the use of CCTV and identity scanners in pubs and clubs are to be demanded by the government's privacy watchdog, in a new bid to prevent the growth of a "surveillance society" in Britain.

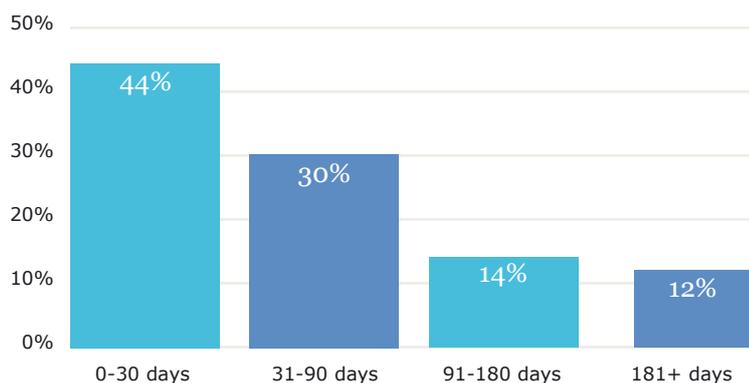
#### Data protection casework

Received in year	33,234
Closed in year	32,714
Work in progress at 31 March this year:	7,251
Work in progress at 1 April last year:	6,680

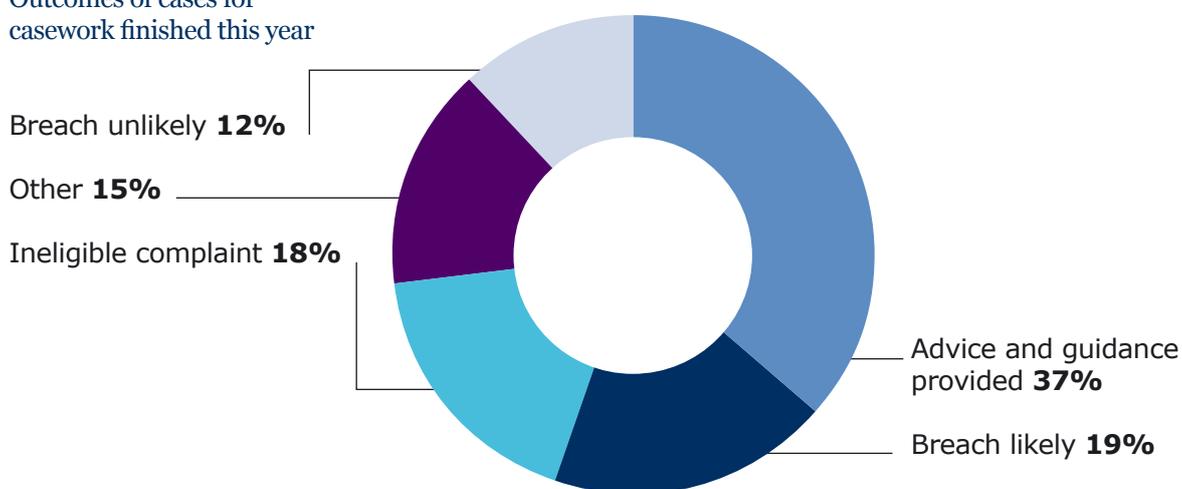
Age of work in progress on 31 March 2010



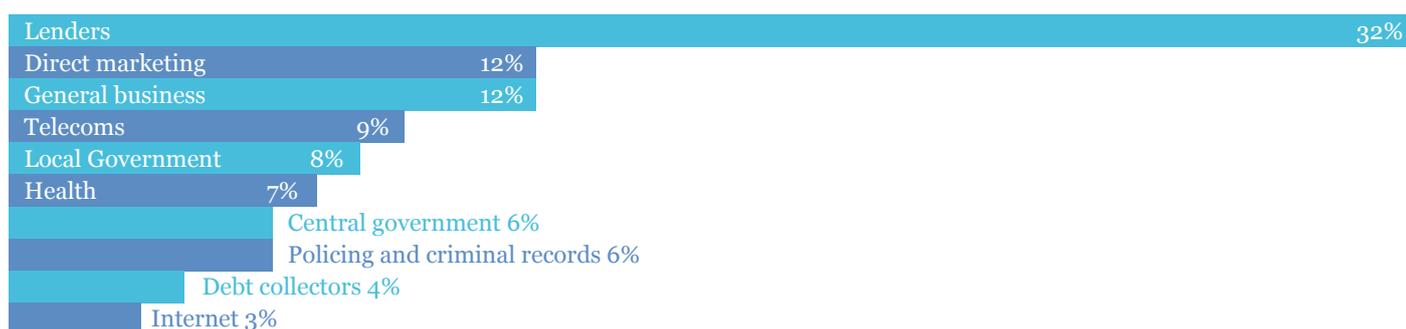
Age of casework at closure	
30 days or less	44%
90 days or less	74%
180 days or less	88%



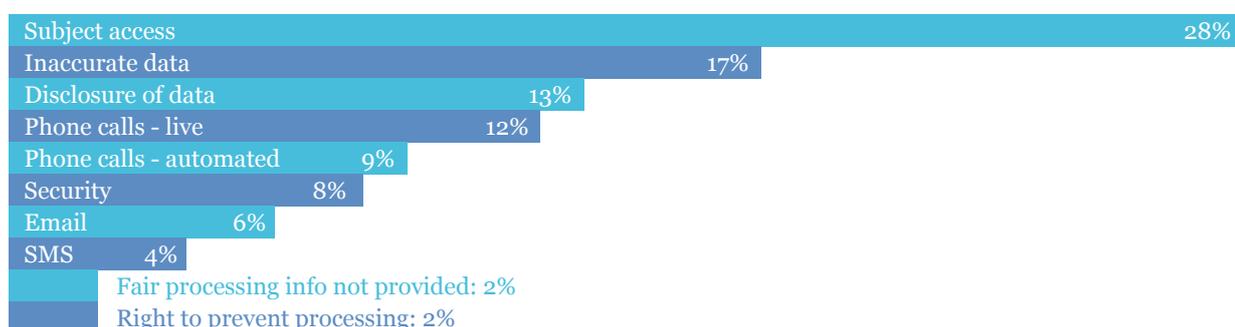
Outcomes of cases for casework finished this year



The top 10 areas generating most complaints where sector is specified



Top 10 reasons for complaining



# Enforcement

## Enforcing data protection

Our new power to impose civil monetary penalties for serious breaches of the data protection principles came into force on 6 April 2010 with a maximum penalty of £500,000. The circumstances in which a penalty will be imposed and how we calculate the level of penalty in a particular case is covered in our statutory guidance that has been approved by the Secretary of State and laid before Parliament.

# £500,000

is the maximum penalty for breaches of data protection principles

---

### Prosecutions

We successfully prosecuted seven bodies (a mix of individuals and organisations) for failing to notify as data controllers with the ICO. Two were prosecuted in the Crown Court and one received a fine of £5,000. In another, a director was also convicted in his individual capacity and received a separate penalty to that of the organisation.

We also successfully prosecuted two organisations for failing to respond to enforcement notices. One of those convictions was of an individual also prosecuted for not notifying and was dealt with in the Crown Court. The other individual was convicted of offences and received fines totalling £5,200.

### Consulting Association

During 2008/09, we investigated suspicions that a covert blacklist was operating in the construction industry. The list apparently held details of people considered unsuitable to work in the industry, for reasons such as trade union activity.

Our investigation revealed that an organisation called The Consulting Association was the custodian of such a database and on 16 July 2009, the case of Ian Kerr (on behalf of The Consulting Association) was committed to Knutsford Crown Court for sentencing because the Magistrates considered that their sentencing powers were insufficient. The defendant was sentenced to a £5,000 fine and ordered to pay £1,187.20 in costs.

Following the prosecution, the story continued to generate media attention with over 100 further articles, including regional ITV news, The Times, The Guardian, Daily Telegraph, Daily Mail, Construction News and legal titles such as Criminal Law and Justice Weekly.

The Guardian online

**19 July 2009 - Pat McFadden**

Earlier this year, an Information Commissioner's Office investigation revealed evidence of trade union blacklisting in the construction industry... The Commissioner has successfully prosecuted The Consulting Association and has in effect closed it down.

## Enforcement notices for data protection breaches

**15** enforcement notices were issued during the year

These were against:

- Glasgow City Council
- Balfour Beatty Civil Engineering Limited
- Balfour Beatty Construction Northern Limited
- Balfour Beatty Construction Scottish & Southern Limited
- Balfour Beatty Engineering Services (HY) Limited
- Balfour Beatty Engineering Services Limited
- Balfour Beatty Infrastructure Services Limited
- CB&I UK Limited
- Emcor Engineering Services Limited
- Emcor Rail Limited
- Kier Limited
- NG Bailey Limited
- Shepherd Engineering Services Limited
- SIAS Building Services Limited
- Whessoe Oil & Gas Limited

The Scotsman

**4 June 2009**

The number of data breaches affecting Scottish organisations remains a serious concern to the ICO as a regulator of the Data Protection Act... No public body can afford to take risks with personal details, least of all sensitive health or social work records.

Western Mail (Cardiff)

**25 July 2009**

Following an inquiry by the Information Commissioner, Neath Port Talbot Council is now taking voluntary action, including the encryption of portable and mobile devices which are used to store and transmit personal data.

The Independent

**25 May 2009 - Michael Savage**

Britain's information watchdog has ordered an urgent overhaul of data security in the health service...Over the last six months, the ICO has been forced to take action against 14 NHS institutions for breaching data regulations.

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During 2009/10 a total of 464 security breach cases were reported to us

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**57** undertakings were obtained during the year

**21** from NHS Trusts

**13** from local authorities

**5** from private sector financial organisations

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A total of 57 undertakings were obtained from organisations which had reported the breaches. An undertaking, as an alternative to enforcement action, is an agreement between the data controller and the ICO that the data controller will take steps to ensure future compliance with the Data Protection Act. Of the 57 undertakings obtained during the year 21 were from NHS Trusts, 13 from local authorities, and five from private sector financial organisations.

Full details of all the undertakings can be found on our website [www.ico.gov.uk](http://www.ico.gov.uk)

# 16

on-site compliance audits were conducted

---

## Audit

We expanded our audit capacity and revised our audit methodology to provide more risk-based audit reporting.

We conducted 16 on-site compliance audits across government departments, local authorities and health authorities as well as some private organisations. The response to these audits has been positive and plans were agreed to address areas of weakness.

The Financial Times

**27 November 2009 - James Boxell**

The protection of customer data must become a "board-level issue" for companies or they could face stiff fines from a tougher Information Commissioner's Office.

British Medical Journal

**6 June 2009 - Anne Gulland**

The Information Commissioner has written to the Department of Health to demand that action be taken over the lax treatment of personal data in the NHS.

Nursing Times

**24 July 2009**

Sally-anne Poole, Head of Enforcement and Investigations at the ICO said: 'These five cases serve as a reminder to all NHS organisations that sensitive patient information is not always being handled with adequate security.'

The Sun

**19 November 2009 - Clodagh Hartley**

Christopher Graham, who is responsible for safeguarding the use of personal information, vowed to close down the "unlawful industry in personal data" and said law breakers should be jailed.

The Daily Express

**10 February 2010**

A Labour Party phone campaign that sent unsolicited messages to almost half a million people breached privacy rules, the information watchdog ruled yesterday.

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New materials for data controllers explaining changes

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## Ensuring organisations notify

### **Changes to the notification fee structure**

Tiered fees were introduced this year meaning larger organisations processing personal data (unless they can rely on the notification exemptions) are now required to pay £500 to the ICO. However, for the majority the fee remains £35.

The two-tiered structure now more closely reflects the likely cost to the ICO of regulating data controllers of different sizes, and it addresses the imbalance in the previous fee arrangement.

We provided new materials for data controllers explaining the changes.

The same order of Parliament exempts judges (including tribunal members) from the obligation to notify.

Organisations that process personal information are legally obliged to notify with us unless they can rely on the notification exemptions. We continue to look out for organisations who should notify with us but haven't. In particular we have targeted private sector medical professionals and Members of Parliament to make them aware of their obligations.

292,200 renewed notifications

42,000+ new notifications

3,907 of these were because of our campaign

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Through 2009/10 the public register of data controllers notifying with us increased by 15% to 328,164.

Over 42,000 new notifications were received of which 3,907 were as a result of our campaign to contact accountants, solicitors, recruitment and employment agencies and private medical consultants. We continue to target other businesses that are not notified.

Around 292,000 notifications were renewed for a further year. Over 75,000 businesses amended their register entry and we received over 21,000 written and 92,251 telephone notification enquiries about notification.

15%

increase in the public register of data controllers

PublicTech

**29 August 2009**

Information Commissioner reminds doctors who treat patients privately of Data Protection obligations.

## Enforcing Privacy and Electronic Communications Regulations

On 11 September 2009 Chichester County Court granted an interim enforcement order against Satellite Direct and associated companies. This is the first enforcement order to be obtained under the Enterprise Act 2002 for breaches of the Privacy and Electronic Communications Regulations.

The order is extremely wide-ranging and covers breaches of consumer protection legislation, including the Privacy and Electronic Communications Regulations, the Consumer Protection from Unfair Trading Regulations, the Consumer Protection Distance Selling Regulations and the Misrepresentation Act. It also requires the managing director of the company to publish a statement about the enforcement order in a national newspaper.

We will continue to monitor complaints received about the company and will liaise with West Sussex County Council to ensure that the order is complied with.

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## Enforcing freedom of information

In August we issued the Ministry of Defence with a practice recommendation to address the excessive time being taken to conduct internal reviews. This is where, after being refused the information, the requester asks for a review of the original decision.

In December we issued two further practice recommendations to Cardiff County Council and the UK Borders Agency (an executive agency of the Home Office). Again these were to address excessive time taken to conduct internal reviews, and in the case of Cardiff a failure to keep accurate records of its performance in this regard.

The Practice Recommendations followed a long period of monitoring, support and advice to the authorities concerned.

### **University of East Anglia**

In December 2009 leaked emails revealed possible attempts by staff at the University of East Anglia to circumvent freedom of information legislation and suggested potential offences under the Freedom of Information Act and Environmental Information Regulations. It is a criminal offence to conceal, erase or destroy information once a request to see it has been made.

We did not pursue an investigation into the University of East Anglia under Section 77 of the Freedom of Information Act, which covers the concealing, erasing or destroying information once a request for it has been made. We have been clear throughout that the legislation requires action within six months of an offence taking place and, as the case came to light outside this time limit, we were not able to take forward a criminal investigation. The Information Commissioner has renewed his call for this anomaly to be addressed.

In response to an enquiry from a journalist, we made a statement indicating that freedom of information requests to the University had not been handled as they should have been. However, we explained that the ICO was prevented from taking action due to the time limit on a prosecution. It was unfortunate that news coverage of these comments often presented our statement as a formal finding, which it was not.

We continue to investigate a number of complaints about the way the university has handled specific information requests, and we will issue decision notices on these cases once our investigations are complete.

We will consider the outcomes of the investigations by Sir Muir Russell, including consideration of the University's handling of freedom of information and environmental information requests. We will then assess whether we need to ask the University further questions about their request handling and record keeping practices. We can, for example, issue practice recommendations to public authorities to ensure they conform with the statutory Codes of Practice issued under the Freedom of Information Act and Environmental Information Regulations.

The Daily Telegraph

**20 December 2009**

Mr Graham said that he would take a 'fierce' approach to overly secretive authorities. He warned that some public bodies were still 'dragging their feet' in complying with the Freedom of Information Act.

Chartered Secretary

**1 May 2009**

The Information Commissioner's Office has warned public authorities that it has started monitoring them to ensure compliance with the model publication scheme.

# Developing and improving

This year we introduced a new mission and vision for the ICO, and identified new values and a new corporate identity for the organisation, setting it on a strong course to meet the challenges of the future.

We are being careful to migrate to the new look over time, being mindful of our resources and environmental impact.



Information Commissioner's Office



Information Commissioner's Office

We continue to survey the views of staff, customers and stakeholders. This year, 82% of organisations say they are aware of the ICO. Our customer satisfaction survey showed that 55% of customers gave a rating of excellent, very good or good for our overall customer service, while 73% rated our website as excellent, very good or good. We issued 85 news releases, and media coverage was 92% positive.

73%

of customers rated our website as excellent

82%

of organisations are aware of the ICO

## Our values - we are...



- **Committed** We care about upholding information rights.
- **Team workers** We work together as one ICO team, sharing information and expertise.
- **Focused** We give priority to activities that make the biggest contribution to achieving our mission.
- **Effective** We work productively and efficiently to produce high quality and timely outcomes, offering best value for customers and citizens.
- **A model of best practice** We do not ask others to do what we are not prepared to do ourselves.
- **Alert** We are alert to the perspectives and needs of all our stakeholders - and to the potential impact of new developments in our business.
- **Fair** We treat everybody we deal with fairly and with integrity and respect. We are inclusive in our approach.
- **Always learning** We are always learning and developing professionally.

The extension and refurbishment of our head office in Wilmslow has been a major area of activity over the last year. Plans for all of our Wilmslow staff to be based at Wycliffe House by Summer 2010 are on track, with several areas of the building already refurbished and housing staff in a much improved working environment. Staff have been involved in the development of plans and protocols for the new agile workspace which uses our space economically.



New careers website [www.ico.jobs](http://www.ico.jobs)

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### Careers website

We completed work on our new dedicated careers website: [www.ico.jobs](http://www.ico.jobs) on which we advertise our vacancies and provide information about the ICO and what it's like to work here. The website includes videos with real case studies and provides potential candidates with the details they need to apply for jobs with us. The website has played an important part in helping us fill posts with high quality applicants who have had the opportunity to gain a realistic insight into the ICO before they come to work with us.

# 30,000+

people have visited the new website since September

---

## Supporting our staff

We celebrated 25 years of the ICO, marked by a party attended by the new Commissioner Christopher Graham and the three previous Commissioners.

Our staff survey showed improvements in key areas such as willingness to recommend the ICO as a place to work. We introduced a new staff engagement index and a talent management strategy

The ICO has experienced a period of low staff turnover in the last year at 4.8% (compared with 10.4% in the previous year), and a low sickness absence rate which is the equivalent of five days per person per year

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## Equality and diversity

We have started drafting our Single Equality Scheme in preparation for the implementation of the Equality Act. It aims to ensure that the ICO is a model of good practice, is a fair employer and provides services which are accessible to all members of the community.

In developing our approach to equality, all areas of the ICO have undertaken Equality Impact Assessments on their policies and procedures, to assess whether the ways we work have a discriminatory or detrimental impact on some sections of the community. This has proved to be useful and has helped to develop our policies to ensure that they are as inclusive as possible, incorporating equality considerations at an early stage of policy development.

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## Electronic documents and records management

We have continued to progress the implementation of our electronic documents record management system to ensure that our corporate records are being managed effectively. We have introduced a revised records management policy to support the pursuit of best practice. We continue to work on an agreement with The National Archives regarding permanent preservation of ICO records.

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## Information technology

We have upgraded our computer servers to run on the latest software and moved them to a more efficient virtual environment. Desktop PCs have also been modernised. This has made our systems more energy efficient, easier to administer and allows our workforce to share equipment.

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## Supporting local charity

ICO staff supported local charity MedEquip4Kids, helping raise money to provide the latest medical equipment and services to poorly and injured children in hospitals around the North West. Over the course of the year we raised a total of £2,048.31. Activities included a charity quiz night, Grand National sweepstake, charitable donations and taking part in the Manchester 10k fun run.

**£2,048.31** was raised for  
MedEquip4Kids

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# 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.

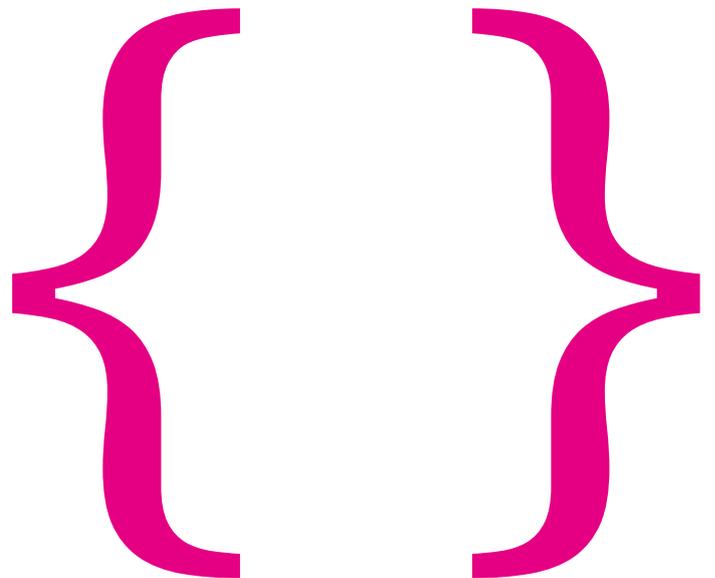
The Commissioner is supported by a Management Board which is responsible for developing strategy, monitoring progress in implementing strategy and providing corporate governance and assurance for the ICO.

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

Dr Robert Chilton and Dame Clare Tickell were non-executive directors for the whole of the financial year. Sir Alistair Graham and David Clarke left the ICO in November 2009 as non-executive directors, and were succeeded by Neil Masom and Enid Rowlands.

The Executive Team provides leadership and oversight of the ICO and has overall responsibility for developing and delivering against the ICO's corporate and business plans. The Executive Team meets formally at least monthly, and often more frequently. In addition to the Commissioner its members are shown on the page opposite.

The Management Board is also supported by the Audit Committee which provides scrutiny, oversight and assurance of risk control and governance procedures. The Committee members are shown on the page opposite.



Christopher Graham  
Information Commissioner and Chief Executive

## Non-executive directors

Dr Robert  
Chilton  
Non-Executive  
Director

David Clarke  
Non-Executive  
Director  
(up to November 2009)

Sir Alistair  
Graham  
Non-Executive  
Director  
(up to November 2009)

Neil Masom  
Non-Executive  
Director  
(from December 2009)

Enid Rowlands  
Non-Executive  
Director  
(from December 2009)

Dame Clare  
Tickell  
Non-Executive  
Director

## The Executive Team

Vicky Best  
Director of  
Organisational  
Development

Simon Entwisle  
Director of  
Operations

Susan Fox  
Director of  
Corporate  
Affairs

David Smith  
Deputy  
Commissioner  
and Director  
Data Protection

Graham Smith  
Deputy  
Commissioner  
and Director  
Freedom of  
Information

## Audit Committee

Dr Robert  
Chilton  
Chair

David Clarke  
(up to November 2009)

Neil Masom  
(from December 2009)

Graham Smith

# Information requests to the ICO

## Requests for information received by the Information Commissioner's Office under the Freedom of Information Act 2000, Data Protection Act 1998 and Environmental Information Regulations 2004

The Information Commissioner's Office is covered by the legislation it regulates and therefore receives a number of information requests each year.

This year there was a 58% increase in the number of information requests received by the ICO.

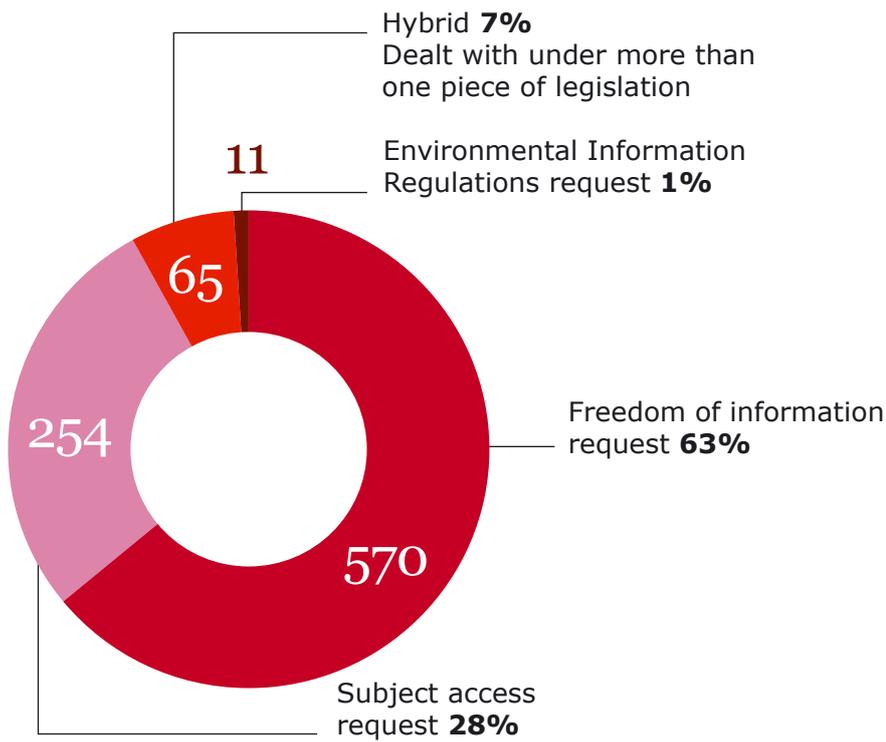
Of the 869 requests closed in the year, 74% resulted in the requested information being provided in full or partially provided. In 14% of the cases the information was not held by the office.

**58%**  
increase in  
information requests

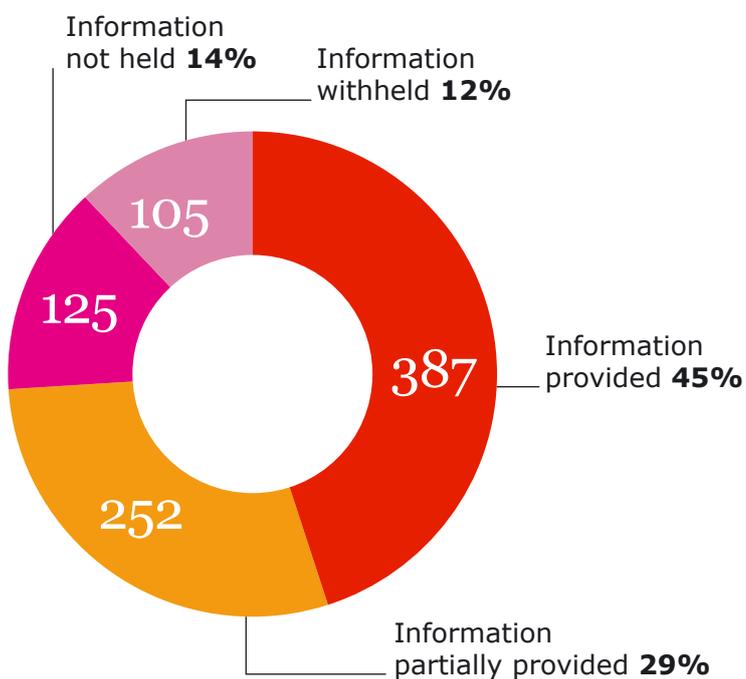
Requests received since 2005



Breakdown of 900 requests received in 2009/10



Outcome for 869 cases closed during 2009/10





# Financial Statements for the year ending 31 March 2010

Foreword	54
Remuneration report	60
Statement of the Information Commissioner's responsibilities	65
Statement on internal control	66
Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament	70
Net expenditure account	72
Statement of financial position	73
Statement of cash flows	74
Statement of changes in taxpayers' equity	75
Notes to the accounts	76

# 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.

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

## 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 and Privacy and Electronic Communications Regulations 2003.

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

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

## Annual accounts and audit

The annual accounts have been prepared in a form directed by the Secretary of State for Justice with the consent of 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 £33.5K (2008-09 £29.5K) which includes fees of £4.5K for the audit of the shadow International Financial Reporting Standard (IFRS) re-stated accounts as at 31 March 2009. 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 and has recently revised the Recognition Agreement.

The Commissioner and Director of Organisational Development meet regularly with the Trade Union side to exchange information on issues of current interest.

Formal negotiations are held on pay awards and a range of other issues are discussed on a more informal basis.

Staff involvement is actively encouraged as part of the day-to-day process of line management and information on current and prospective developments is widely disseminated.

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

### **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.

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

During the year a talent management strategy was adopted by the ICO, and a Talent Manager appointed.

A Disability Equality Scheme, which explains how we meet our statutory duties in relation to disability has been in place throughout the year. Our Disability Equality Scheme was developed through consultation with staff, and was amended substantially from the draft version as a result.

The ICO has put in place an Equality and Diversity Committee chaired by the Director of Organisational Development to develop, implement and measure progress of strategy and Equal Opportunity Policies.

A review undertaken by the Equality and Diversity Committee into bullying, harassment and discrimination, was presented to Executive Team in July 2009.

**The environment and community**

The ICO has assembled a 'Green Group', which is a team of influential, environmentally-minded ICO employees, who meet regularly to discuss new ideas and practices which the ICO could adopt to lower the organisation's impact upon the environment. It reviews suggestions from other members of staff, and has the power to ask departments to implement its policies. It can also refer ideas to the Executive Team for approval or support. During the year the group have been kept informed of progress to reduce the ICO's impact on the environment including plans to refurbish its office accommodation in Wilmslow.

Work was undertaken in the year to understand and measure our use of energy – a 'footprint' year, as the basis to prepare a sustainability plan for the future which will contain measurable targets.

The refurbishment of accommodation space in Wilmslow has been planned to ensure that space is used more efficiently, and is done to high sustainability standards.

During the year a number of re-cycling and energy-saving initiatives continued and stationery products from recycled materials are now routinely sourced. The 'Green Group' also held several campaigns to raise awareness of environmental issues.

Staff support a local charity "Mediquip4Kids" raising money through a variety of fund raising events.

**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 (2008-9: 8 days).

**Pension liabilities**

Details regarding the treatment of pension liabilities are set out in note 4 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 2009-12.

## Principal Risks

The principal risks for the ICO, set out in the corporate risk register and agreed by the Executive Team and Management Board, are in the areas of:

**Funding uncertainty** in respect of both the new higher tier £500 data protection notification fee, and grant in aid for our freedom of information work

**New powers and staffing** where we need to ensure we have the right staff and skills in place to implement new powers in the areas of audit and monetary penalties

**Information Technology** relating to the need to update IT systems to ensure we work as efficiently as possible

**Business planning and reporting** in ensuring that within context of the current national economic challenges we are clear that we can align our aims, outcomes and performance to our stakeholder expectations

**Information Governance** and the need to ensure we comply with the data protection and freedom of information legislation, and with good information governance in general

**Casework** where the ICO is facing ever increasing caseloads against a background of fixed or reducing resources

**ICO Reorganisation** in that we have to ensure that the recent reorganisation has the impact we expect.

The Management Board and Executive team constantly monitor these risks through the Corporate Risk Register, taking action to mitigate these risks where possible. The Audit Committee monitors and discusses the Risk Register and the actions taken at each meeting. The Statement on Internal Control provides a description of the key elements of the risk and control framework

## Financial performance

### Grant-in-aid

Freedom of information expenditure continued to be funded by a grant-in-aid from the MOJ, and for 2009-10 £5,500K (2008-09: £5,500K) was drawn down.

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

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

### Fees

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

The annual notification fee is £35, and remains unchanged from its introduction on 1 March 2000 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 £13,192K (2008-09: £11,310K) representing a 16.6% increase over the previous year of which £1,474K (13%) was from the higher tier fee, and £408K (3.6%) was from an increase in the size of the Data Protection Register.

Under the conditions of the Framework Document agreed between the Information Commissioner and the MOJ, fees 'cleared' through the banking system (in other words available to spend), up to an amount of 3% of the total fees collected, can be carried forward for expenditure in the following financial year. At the end of the year an amount of £169K (1.3%) was carried forward (2008-09: £156K (1.4%)) as was an additional amount of £208K (2008-09: £137K) as cash in transit.

### Accruals outturn

The net expenditure after cost of capital charge and interest was £5,610K.

### Financial instruments

Details of our approach and exposure to financial risk are set out in note 9 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 2010-11, although the Main Estimate has not yet been approved by Parliament, 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 that are required for their immediate needs, grant-in-aid is drawn in quarterly tranches. In order not to benefit from holding surplus funds, all bank interest and sundry receipts received are paid to the Secretary of State for Justice on a quarterly basis.

### **Payment of suppliers**

The Information Commissioner has adopted a policy on prompt payment of invoices which complies with the 'Better Payment Practice Code' as recommended by government. In the year ended 31 March 2010 98.93% (31 March 2009: 98.58%) 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 2010 52.01% of payments were paid within 10 days.

### **Personal data related incidents**

There were no personal data related incidents reportable to the Information Commissioner in 2009-10 or in any previous financial years.

### **Future developments and events after the reporting period**

The refurbishment of the office headquarters will be completed during the summer of 2010, merging the current accommodation in Wilmslow to a single site.

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

21 June 2010

# Remuneration Report

## Remuneration Policy

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

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

The salary of the Information Commissioner is paid directly from the Consolidated Fund in accordance with the Schedule.

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

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

- the need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities;
- Government policies for improving the public services;
- the funds available to the Information Commissioner; and
- the Government's inflation target and 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. For 2009-10 Sir Alistair Graham and Dame Clare Tickell were the members of 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 on on-going contracts that can be terminated with two months' notice.

Details of retiring and newly appointed Non-Executive Board Members are set out elsewhere in the published annual report.

## Salary and pension entitlements

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

### Remuneration (audited)

Salary	2009-10	2008-09
	£'000	£'000
<b>Christopher Graham</b> Information Commissioner and Chief Executive (from 29 June 2009)	105-110	-
<b>Richard Thomas</b> Information Commissioner (to 28 June 2009)	30-35	150-155
<p>In November 2008, the House of Commons resolved to increase the salary of the Information Commissioner to £140,000 per annum with effect from 30 November 2007. Therefore the comparative salary reported for 2008-09 includes back-dated salary arrears from 30 November 2007. The comparative has been restated to reflect the actual salary paid in the year.</p>		
<b>David Smith</b> Deputy Commissioner & Director for Data Protection	70-75	70-75
<b>Graham Smith</b> Deputy Commissioner & Director for Freedom of Information	80-85	75-80
<b>Simon Entwisle</b> Director of Operations	80-85	75-80
<b>Susan Fox</b> Director of Corporate Affairs	55-60	50-55
<b>Victoria Best</b> Director of Organisational Development	50-55	50-55

### 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 2009-2010.

**Pension Benefits (audited)**

	Accrued Pension at pension age as at 31 March 2010 and related lump sum £'000	Real increase in pension and related lump sum at pension age £'000	CETV at 31 March 2010 £'000	CETV at 31 March 2009 £'000	Real increase in CETV £'000
<b>Christopher Graham</b> Information Commissioner (from 29 June 2009)	0-5	0-2.5	37	0	34
<b>Richard Thomas</b> Information Commissioner (to 28 June 2009)	45-50	2.5-5	932	840	59
<b>David Smith</b> Deputy Commissioner and Director for DP	30-35 + lump sum 100-105	2.5-5 + lump sum 7.5-10	755	662	53
<b>Graham Smith</b> Deputy Commissioner and Director for FOI	5-10 + lump sum 25-30	0-2.5 + lump sum 2.5-5	176	141	25
<b>Simon Entwisle</b> Director of Operations	30-35 + lump sum 95-100	0-2.5 + lump sum 5-7.5	667	581	48
<b>Susan Fox</b> Director of Communications and External Relations	5-10	0-2.5	77	57	15
<b>Victoria Best</b> Director of Human Resources	0-5	0-2.5	33	22	7

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.

**Partnership pensions**

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

## Civil Service Pensions

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

Employee contributions are set at the rate of 1.5% of pensionable earnings for classic and 3.5% for premium, classic plus and nuvos. Benefits in classic accrue at the rate of 1/80th of 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 RPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute, but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

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

Further details about the Civil Service pension arrangements can be found at the website [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk)

### **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 calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

### **Real increase in CETV**

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

**Christopher Graham**  
**Information Commissioner**  
21 June 2010

# 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.

# Statement on internal control

## Scope of responsibility

1. As Accounting Officer I have responsibility for maintaining a sound system of internal control that supports the achievement of the Information Commissioner's Office's policies, aims and objectives, whilst safeguarding the public funds and assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Managing Public Money.
2. I work directly with my Executive Team and Management Board. The Executive Team has responsibility for developing and delivering against the ICO's corporate and business plans, and for allocating resource and delegating financial and managerial authority as appropriate. The ICO's Management Board develops strategy, monitors progress in implementing strategy and provides corporate governance and assurance. The Board receives regular reports on financial and operational performance. It is involved in the management of risk at a strategic level by considering the major factors which could prevent the ICO's strategic aims from being met.
3. The ICO is funded from both grant in aid and from data protection fee income, collected and spent under the direction of the Ministry of Justice. I am designated as Accounting Officer by the Ministry's Principal Accounting Officer. As such, I advise the Ministry on the discharge of my responsibilities in connection with income and expenditure in accordance with the terms of an agreed Framework Document, and by way of quarterly liaison meetings with the Ministry of Justice for which financial, performance and risk reports (amongst others) are provided. The Ministry of Justice also receives copies of internal audit reports and the minutes of the Audit Committee.

## The purpose of the system of internal control

4. The system of internal control is designed to manage risk to an appropriate level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to achievement of ICO policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control has been in place in the ICO for the year ending 31 March 2010 and up to the date of approval of the annual report and accounts, and accords with Treasury guidance; except in respect of Audit Committee membership where it is recommended that a member of the executive is not a member of the Audit Committee.

## Capacity to handle risk

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

**6.** The ICO's Risk Management Policy and the register have continually changed in light of experience; for example following an internal audit the format of the register was amended in a way to aid discussion of risk appetite.

**7.** Responsibility for the management and review of corporate risks rests with Executive Team members. The Executive Team reviews the register quarterly and corporate risk owners are identified at Executive Team level. The register is also reviewed by Management Board and Audit Committee. The Corporate Risk Register and the underlying Risk Management Policy and Procedure are available to all staff via the ICO's intranet.

**8.** As part of an overall performance management regime the Audit Committee continuously monitors implementation of agreed audit recommendations.

## The risk and control framework

**9.** The main element of the risk management strategy is the maintenance of the Corporate Risk Register, with risks and mitigating actions reviewed and updated on a quarterly basis by way of discussion with individual risk owners at Executive Team level and with managers responsible for specific mitigating actions. The register is also discussed at Executive Team, Management Board and Audit Committee. Changes to existing risks and identification of new risks arise during discussions at these meetings and also in discussion of other issues.

**10.** Other important elements of the strategy include regular quarterly reports on financial and operational performance to the Executive Team and Management Board, which provide detailed information on performance in these areas, approval of an annual budget by Executive Team and Management Board and a system of delegation and accountability.

**11.** The system of internal control continues to be supported by a Fraud Policy and a Whistle blowing Policy which provides for confidential reporting of staff concerns.

**12.** The ICO acknowledges that its position, as regulator in respect of the Data Protection Act 1998 and the Freedom of Information Act 2000, means that it has to maintain the highest standards in its handling of information. Failure to comply with the legislation the ICO regulates would damage the ICO's reputation and the confidence placed in the ICO by Parliament.

**13.** To manage this risk, a Security Committee, chaired by me, meets quarterly to provide security expertise and strategic direction, as well as advice on the adequacy of the ICO's security policy. It also provides a forum for reviewing any significant security incidents.

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

### **Review of effectiveness**

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

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

- The Management Board which meets quarterly and considers the Corporate Risk Register and reports detailing financial and operational performance across the ICO, including performance in relation to data protection and freedom of information casework and in respect of data protection fee income.
- The Executive Team meets at least monthly, and frequently more often, and is responsible for providing leadership and oversight for the ICO and has overall responsibility for developing and delivering the ICO's corporate and business plans.
- The Audit Committee meets quarterly and is chaired by a non-executive Board member and is attended by internal auditors (Grant Thornton) and external auditors (the National Audit Office). The Committee reports directly to me, as Accounting Officer, on the adequacy of audit arrangements and on the implications of assurances provided in respect of risk and control. It considers all audit reports and recommendations and the formal management response. I am invited to attend Audit Committee meetings and have seen the annual report of the Audit Committee.

**17.** The internal auditors have a direct line of communication to me as the Accounting Officer. In addition the internal auditors regularly report to the Audit Committee in accordance with government internal audit standards. The internal auditors also include their independent opinion on the adequacy and effectiveness of the ICO's risk management, governance and control processes. The internal auditors also provide an annual statement on areas they scrutinise during the year.

**18.** I am pleased that for 2009/10 the internal auditors state that overall, in the areas of risk management and corporate governance the activities and controls examined were suitably designed to achieve the objectives required by management and those activities and controls were operating with sufficient effectiveness to provide reasonable, but not absolute assurance, that the related risk management objectives were achieved during the period under review.

**19.** The internal auditors did raise some concerns however, in two areas of internal control. As regards the following of our internal procurement rules they found one case where a contract had not been in place when it should have been, and another case where although a contract was in place it could not be found. They also found that our retention procedures had not been followed in respect of some documents relating to tenders.

**20.** In all other areas of internal control they stated that the activities and controls examined were suitably designed to achieve the objectives required by management and those activities and controls were operating with sufficiently effectiveness to provide reasonable, but not absolute, assurance that the related risk management objectives were achieved during the period under review.

**21.** There were also concerns during the year that the corporate risks needed updating to reflect the changing environment in which the ICO is operating; the ICO has a new commissioner; is coming to the end of a major internal reorganisation; and has new data protection powers and penalties and a new two tier fee structure to provide increased funding. The Executive Team has now identified new risk areas for the ICO and these have been discussed by Management Board.

**22.** There have also been delays in clearing internal audit recommendations. The number of recommendations outstanding has increased as has the proportion overdue. Delays have arisen for various reasons, for example many are dependant on a delayed review of corporate governance and in other cases the delays are due to pressure of work. The delays are disappointing but as the ICO embeds its new structure we will focus on reviewing and clearing outstanding audit recommendations, especially as many of the recommendations were identified as medium priority.

**23.** External auditors also identified areas for the ICO to consider. Firstly the need for assurance that payments of the new higher tier £500 notification fee are made correctly. This assurance was provided and procedures are being developed for the future. Secondly, given the ICO's size, it is dependent on the Head of Finance for the provision of its finance function and a separation of duties and responsibilities is difficult to achieve. Procedures are in place to mitigate against this. Thirdly the Finance Department IT system is dated and only provides cash accounting functionality. A project is on-going to replace the system.

**Christopher Graham**  
**Information Commissioner**  
21 June 2010

# 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 2010 under the Data Protection Act 1998. These comprise the Net Expenditure Account, the Statement of Financial Position, the Statement of Cash Flows, the Statement of 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 the financial statements in accordance with applicable law and 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 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 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 2010 and of its net expenditure, changes in taxpayers' equity and cash flows for the year then ended; and
- the financial statements have been properly prepared in accordance with the Data Protection Act 1998 and directions made thereunder by the Secretary of State for Justice with the approval of HM Treasury.

### Opinion on other matters

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with the Data Protection Act 1998 and directions made thereunder by the Secretary of State for Justice with the approval of HM Treasury; and
- the information given in the Financial Statements: Foreword and Governance sections of the Annual Report 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
- the financial statements 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 Statement on Internal Control 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

23 June 2010

# Net expenditure account

## for the year ended 31 March 2010

		2009-10		2008-09 RESTATED	
	Note	£'000	£'000	£'000	£'000
<b>Expenditure</b>					
Staff costs	4		10,693		9,297
Depreciation	5	921		540	
Other expenditure	5	7,206		7,316	
			8,127		7,856
			18,820		17,153
<b>Income</b>					
Income from activities	6		(13,192)		(11,310)
Other income	6		(17)		(50)
			(13,209)		(11,360)
<b>Net expenditure</b>					
			5,611		5,793
Interest receivable	6		(1)		(43)
<b>Net expenditure after cost of capital charge and interest</b>					
			5,610		5,750

The notes on pages 76 to 90 form part of these accounts

# Statement of financial position

## as at 31 March 2010

	Note	31 March 2010		31 March 2009 RESTATED		1 April 2008 RESTATED	
		£'000	£'000	£'000	£'000	£'000	£'000
<b>Non-current assets</b>							
Property, plant and equipment	7	3,282		2,548		2,105	
Intangible assets	8	76		36		-	
<b>Total non-current assets</b>			3,358		2,584		2,105
<b>Current assets</b>							
Trade and other receivables	10	530		737		655	
Cash and cash equivalents	11	377		305		391	
<b>Total current assets</b>			907		1,042		1,046
<b>Total assets</b>			4,265		3,626		3,151
<b>Current liabilities</b>							
Trade and other payables	12		(831)		(854)		(458)
<b>Total current liabilities</b>			(831)		(854)		(458)
<b>Non-current assets plus net current assets</b>			3,434		2,772		2,693
<b>Non-current liabilities</b>							
Provisions	13		-		(8)		(32)
<b>Assets less liabilities</b>			3,434		2,764		2,661
<b>Reserves</b>							
Revaluation reserve			231		-		73
General reserve			3,203		2,764		2,588
			3,434		2,764		2,661

**Christopher Graham**  
**Information Commissioner**  
 21 June 2010

The notes on pages 76 to 90 form part of these accounts

# Statement of cash flows

## for the year ended 31 March 2010

	Note	2009-10 £'000	2008-09 RESTATED £'000
<b>Cash flows from operating activities</b>			
Net expenditure after cost of capital charge and interest		(5,610)	(5,750)
Adjustment for non-cash items	4&5	1,423	966
Decrease/(Increase) in trade and other receivables	10	207	(82)
(Decrease)/Increase in trade payables	12	(23)	396
Use of provisions	13	(8)	(24)
<b>Net cash outflow from operating activities</b>		<b>(4,011)</b>	<b>(4,494)</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	7	(136)	(10)
Purchase of intangible assets	8	(69)	(48)
Proceeds of disposal of property, plant and equipment		-	-
<b>Net cash outflow from investing activities</b>		<b>(205)</b>	<b>(58)</b>
<b>Cash flows from financing activities</b>			
Capital element of payments in respect of on-balance sheet PFI contracts	7	(1,212)	(1,034)
Grant-in-aid received from the Ministry of Justice		5,500	5,500
<b>Net financing</b>		<b>4,288</b>	<b>4,466</b>
<b>Net increase/(decrease) in cash and cash equivalents during the period</b>		<b>72</b>	<b>(86)</b>
<b>Cash and cash equivalents at the beginning of the period</b>	11	<b>305</b>	<b>391</b>
<b>Cash and cash equivalents at the end of the period</b>	11	<b>377</b>	<b>305</b>

The notes on pages 76 to 90 form part of these accounts

# Statement of changes in taxpayers' equity

## for the year ended 31 March 2010

	Note	Revaluation reserve £'000	General reserve £'000	Total reserves £'000
<b>Balance at 31 March 2008</b>		73	(3,033)	(2,960)
Changes in accounting policy		-	5,621	5,621
Restated balance at 1 April 2008		73	2,588	2,661
<b>Changes in reserves 2008-09</b>				
Net (loss) on revaluation of property, plant and equipment		(73)	-	(73)
Non-cash charges - cost of capital	5	-	95	95
Non-cash charges - Information Commissioners salary costs	5	-	212	212
Non-cash charges - Secondment salary costs	5	-	119	119
Net expenditure after cost of capital charge and interest		-	(5,750)	(5,750)
<b>Total recognised income and expense for 2008-09</b>		(73)	(5,324)	(5,397)
Grant-in-aid from the Ministry of Justice		-	5,500	5,500
<b>Balance at 31 March 2009</b>		-	2,764	2,764
<b>Changes in taxpayers' equity for 2009-10</b>				
Net gain on revaluation of property, plant and equipment		278	-	278
Transfers between reserves		(47)	47	-
Non-cash charges - cost of capital	5	-	109	109
Non-cash charges - Information Commissioners salary costs	5	-	190	190
Non-cash charges - Secondment salary costs	5	-	203	203
Net expenditure after cost of capital charge and interest		-	(5,610)	(5,610)
<b>Total recognised income and expense for 2009-10</b>		231	(5,061)	(4,830)
Grant-in-aid from the Ministry of Justice		-	5,500	5,500
<b>Balance at 31 March 2010</b>		231	3,203	3,434

The notes on pages 76 to 90 form part of these accounts

# Notes to the accounts

## 1 Statement of accounting policies

These financial statements have been prepared in accordance with the 2009/10 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 Notional cost

#### Capital charge

A charge, reflecting the cost of capital utilised by the Information Commissioner, is included in the Net Expenditure account. The charge is calculated at the real rate set by HM Treasury (currently 3.5%) on the average carrying amount of all assets less liabilities.

#### 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.

### **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 Operating 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.

### **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 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.

**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.

**2 First time adoption of IFRS**

	£'000
<b>Taxpayers' equity at 31 March 2009 under UK GAAP</b>	(2,948)
Adjustments for:	
IAS 18 Revenue recognition	5,950
IAS 19 Employee benefits	(238)
<b>Taxpayers' equity at 1 April 2009 under IFRS</b>	<b>2,764</b>

	£'000
<b>Net expenditure for 2008-09 under UK GAAP</b>	(5,785)
Adjustments for:	
IAS 18 Revenue recognition	209
IAS 19 Employee benefits	(118)
Cost of capital	(95)
<b>Net expenditure for 2008-09 under IFRS</b>	<b>(5,789)</b>

**Revenue recognition**

The previous accounting policy recognised that the data protection notification fee was paid in advance and an entry on the public Register lasts for up to one year, whereupon a renewal notification fee is required in order for an entry to remain on the Register. Consequently a proportion of the fee income was deferred and released back to the Income and Expenditure Account over the fee period.

International Accounting Standard IAS18: Revenue defines revenue as the gross inflow of economic benefits during the period, arising in the ordinary activities of an entity when those inflows result in increases in equity.

Under the Framework Document agreed between the Information Commissioner and the Ministry of Justice, fee income collected in any financial year is expected to be spent on data protection work in that financial year, and only 3% of fees can, if required, be carried forward for spending in the next financial year. Thus the economic benefit of the fee income is derived upon receipt and should not be apportioned to future financial years.

The Data Protection Act 1998 requires any notification to be accompanied by such fee as prescribed by the fees regulations. The Information Commissioner is required to undertake the task of registration and make a Register entry for each notification received. A refund cannot be made for any unexpired period of the fee.

### Employee benefits

In accordance with IAS19: Employee Benefits, holiday pay accrued but not yet taken at the year end is accrued where material on the basis that such leave could be paid at some point in the coming year.

The effect of these changes in accounting treatment on other figures within these accounts are:

Net expenditure account	£'000
<b>Income from activities</b>	
As previously reported	11,101
Prior year adjustment in respect of revenue recognition	209
As re-stated for 2008-09	11,310

### Staff costs

As previously reported	9,218
Prior year adjustment in respect of employee benefits	118
As re-stated for 2008-09	9,336

Statement of financial position	£'000
<b>Current liabilities</b>	
As previously reported	(6,566)
Prior year adjustment in respect of revenue recognition	5,950
Prior year adjustment in respect of employee benefits	(238)
As re-stated for 31 March 2009	(854)

### 3 Analysis of net expenditure by segment

	Data protection	Freedom of information	2009-10 Total
	£'000	£'000	£'000
Gross expenditure	13,243	5,577	18,820
Income	13,209	-	13,209
Net expenditure	34	5,577	5,611
Total assets	2,862	572	3,434

	Data protection	Freedom of information	2008-09 Total RESTATED
	£'000	£'000	£'000
Gross expenditure	11,518	5,635	17,153
Income	11,360	-	11,360
Net expenditure	158	5,635	5,793
Total assets	2,475	289	2,764

The analysis above is provided for fees and charges purposes and for the purpose of IFRS 8: Segment Reporting.

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.

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.

## 4 Staff numbers and related costs

### Staff costs comprise:

	2009-10 Total	Permanently employed staff	Others	2008-09 Total RESTATE
	£'000	£'000	£'000	£'000
Wages and salaries	8,650	8,082	568	7,469
Social security costs	544	516	28	498
Other pension costs	1,512	1,447	65	1,354
<b>Sub-total</b>	<b>10,706</b>	<b>10,045</b>	<b>661</b>	<b>9,321</b>
Less recoveries in respect of outward secondments	(13)	(13)	-	(24)
<b>Total net costs</b>	<b>10,693</b>	<b>10,032</b>	<b>661</b>	<b>9,297</b>

### The above costs include:

The salary and pension entitlements of the Information Commissioner are paid directly from the Consolidated Fund. Included in staff costs above are notional costs of £190K (2008-09: £212K, (comparative has been restated and comprises salary and backdated arrears of pay from 2007-08 plus associated pension contributions and national insurance).

Also included in staff costs above are notional costs of £203K (2008-09: £119K) 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 £268K (2008-09: £243K) for temporary agency staff.

### Average number of persons employed

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

	2009-10 Total	Permanently employed staff	Others	2008-09 Total
Directly employed	311	311	0	268
Other	16	0	16	14
<b>Total net costs</b>	<b>327</b>	<b>311</b>	<b>16</b>	<b>282</b>

### 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-pensions.gov.uk](http://www.civilservice-pensions.gov.uk)).

For 2009-10, employer contributions of £1,434K (2008-09: £1,256K) 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 2009-10 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 £13K (2008-09: £16K), 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 £108 (2008-09: £815), 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 (2008-09: £2K).

Other pension costs include notional employers' contributions of £34K (2008-09: £46K) in respect of the Information Commissioner and £31K (2008-09: £18K) in respect of staff seconded to the Information Commissioner.

No individuals retired early on health grounds during the year.

## 5 Other expenditure

	2009-10		2008-09 RESTATED	
	£'000	£'000	£'000	£'000
Accommodation (business rates and services)	658		608	
Rentals under operating leases	612		609	
Office supplies and stationery	332		318	
Carriage and telecommunications	127		119	
Travel, subsistence and hospitality	384		484	
Staff recruitment	104		203	
Specialist assistance, consultancy and policy research	512		537	
Communications and external relations	1,346		1,415	
Legal costs	375		425	
Staff learning and development, health and safety	343		301	
PFI IS contract service charges	1,609		1,693	
IS development costs	645		409	
Audit fees	34		30	
Sundry receipts surrendered to the Ministry of Justice	16		70	
		7,097		7,221
Cost of capital charges		109		95
		7,207		7,316
<b>Non cash items</b>				
Depreciation	663		456	
Loss on disposal of assets	209		-	
Loss on revaluation of fixed assets	20		72	
Amortisation	29		12	
		921		540
<b>Total</b>		8,127		7,856

Included in audit fees above are fees of £4,500 for the audit of the shadow International Financial Reporting Standards (IFRS) accounts for 2008-09.

## 6 Income

	2009-10		2008-09 RESTATED	
	£'000	£'000	£'000	£'000
<b>Income from activities</b>				
Fees collected under the Data Protection Act 1998		13,192		11,310
<b>Other income</b>				
Legal fees recovered	7		32	
Travel expenses reimbursed	10		18	
		17		50
		13,209		11,360
<b>Interest receivable</b>				
Bank interest		1		43
<b>Total</b>		13,210		11,403

## 7 Property, plant and equipment

	Information technology	Plant and machinery	Furniture and fittings	Payments on account and assets under construction	Total
	£'000	£'000	£'000	£'000	£'000
<b>Cost or valuation</b>					
At 1 April 2009	7,316	482	562	879	9,239
Transferred	879	-	-	(879)	-
Additions	1,193	11	-	144	1,348
Disposals	(1,811)	-	-	-	(1,811)
Revaluations	838	6	6	-	850
<b>At 31 March 2010</b>	8,415	499	568	144	9,626
<b>Depreciation</b>					
At 1 April 2009	6,025	358	308	-	6,691
Charged in year	531	38	94	-	663
Disposals	(1,602)	-	-	-	(1,602)
Revaluations	565	3	24	-	592
<b>At 31 March 2010</b>	5,519	399	426	-	6,344
<b>Net book value at 31 March 2010</b>	2,896	100	142	144	3,282
<b>Asset financing:</b>					
Owned	-	100	142	144	386
On-balance sheet PFI contracts	2,896	-	-	-	2,896
<b>Net book value at 31 March 2010</b>	2,896	100	142	144	3,282

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 £805K (2008-09 £1,890K)

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

	Information technology	Plant and machinery	Furniture and fittings	Payments on account and assets under construction	Total
	£'000	£'000	£'000	£'000	£'000
<b>Cost or valuation</b>					
At 1 April 2008	7,310	461	602	-	8,373
Additions	155	10	-	879	1,044
Disposals	-	-	-	-	-
Revaluations	(149)	11	(40)	-	(178)
<b>At 31 March 2009</b>	<b>7,316</b>	<b>482</b>	<b>562</b>	<b>879</b>	<b>9,239</b>
<b>Depreciation</b>					
At 1 April 2008	5,685	325	258	-	6,268
Charged in year	363	26	67	-	456
Disposals	-	-	-	-	-
Revaluations	(23)	7	(17)	-	(33)
<b>At 31 March 2009</b>	<b>6,025</b>	<b>358</b>	<b>308</b>	<b>-</b>	<b>6,691</b>
<b>Net book value at 31 March 2009</b>	<b>1,291</b>	<b>124</b>	<b>254</b>	<b>879</b>	<b>2,548</b>
<b>Net book value at 31 March 2008</b>	<b>1,625</b>	<b>136</b>	<b>344</b>	<b>-</b>	<b>2,105</b>
<b>Asset financing:</b>					
Owned	-	124	254	-	378
On-balance sheet PFI contracts	1,291	-	-	879	2,170
<b>Net book value at 31 March 2008</b>	<b>1,291</b>	<b>124</b>	<b>254</b>	<b>879</b>	<b>2,548</b>

## 8 Intangible assets

Intangible assets comprise software licenses

	Total £'000
<b>Cost or valuation</b>	
At 1 April 2009	48
Additions	69
<b>At 31 March 2010</b>	<b>117</b>
<b>Amortisation</b>	
At 1 April 2009	12
Charged in year	29
<b>At 31 March 2010</b>	<b>41</b>
<b>Net book value at 31 March 2010</b>	
Cost or valuation	
At 1 April 2008	-
Additions	48
<b>At 31 March 2009</b>	<b>48</b>
<b>Amortisation</b>	
At 1 April 2008	-
Charged in year	12
<b>At 31 March 2009</b>	<b>12</b>
<b>Net book value at 31 March 2009</b>	<b>36</b>

## 9 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.

## 10 Trade receivables and other current assets

	31 March 2010	31 March 2009	1 April 2008
	£'000	£'000	£'000
<b>Amounts falling due within one year</b>			
Deposits and advances	26	13	57
Prepayments and accrued income	504	724	598
	530	737	655
<b>Split:</b>			
Other central government bodies	-	-	42
Local authorities	176	223	205
Bodies external to government	354	514	408
	530	737	655

## 11 Cash and cash equivalents

	31 March 2010	31 March 2009
	£'000	£'000
Balance at 1 April	305	391
Net change in cash and cash equivalent balances	72	(86)
Balance at 31 March	377	305
<b>The following balances at 31 March were held at:</b>		
Commercial banks and cash in hand	377	305

## 12 Trade payables and other current liabilities

	31 March 2010	31 March 2009 RESTATED	1 April 2008 RESTATED
	£'000	£'000	£'000
<b>Amounts falling due within one year</b>			
Taxation and social security	204	180	2
Trade payables	110	164	172
Other payables			
Payroll deductions	159	154	26
Fees held under direction from the Ministry of Justice	-	11	11
Accruals and deferred income	358	345	247
	831	854	458
<b>Split:</b>			
Other central government bodies	461	374	11
Local authorities	-	-	14
Bodies external to government	370	480	433
	831	854	458

## 13 Provisions for liabilities and charges

Early departure costs	2009-10	2008-09
	£'000	£'000
Balance at 1 April	8	32
Provision utilised in the year	(8)	(24)
Balance at 31 March	-	8

## 14 Capital commitments

	31 March 2010	31 March 2009	1 April 2008
	£'000	£'000	£'000
Contracted capital commitments at 31 March 2010 not otherwise included in these financial statements			
Property, plant and equipment	-	32	57
Intangible assets	-	-	-
	-	32	57

In April 2010 the Information Commissioner formally entered into contracts in connection with the refurbishment of office space in Wilmslow, up to a value of £2,300K.

## 15 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.

	2009-10	2008-09
	£'000	£'000
<b>Obligations under operating leases comprise:</b>		
Buildings		
Not later than one year	573	563
Later than one year and not later than five years	1,996	2,065
Later than five years	794	849
	3,363	3,477

A break clause has been exercised for one of the property leases, to end the lease on 19 August 2010, rather than the current lease term of 20 February 2012, which if met will reduce the obligations above by £312K.

## 16 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 five years ending in July 2012, with a potential extension of one year. 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. 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 Balance Sheet in accordance with IFRIC 12.

### Charges to the Income and Expenditure

The total amount charged in the in the Income and Expenditure in respect of the service element of on balance sheet PFI transactions was

	2009-10	2008-09
	£'000	£'000
	1,609	1,693

## 17 Other financial commitments

The Information Commissioner has entered into an agreement to lease an extension to Wycliffe House, the main office building occupied in Wilmslow. An operating lease will be signed once the new building has been handed over for occupation.

As mentioned in Note 14, in conjunction with the extension to Wycliffe House, a project is underway to refurbish the existing accommodation and fit out the extension, to be completed by the end of this summer, funded by a commercial finance lease arrangement. A finance lease will be signed on completion of these works.

## 18 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, and the appropriation-in-aid of sundry receipts to the Ministry of Justice.

In addition the Information Commissioner has had various material transactions with other central government bodies, most of these transactions have been with the Central Office of Information (COI) and Principal Civil Service Pension Scheme (PCSPS).

None of the key managerial staff or other related parties has undertaken any material transaction with the Information Commissioner during the year.

## 19 Contingent liabilities disclosed under IAS 37

The Information Commissioner has the following unquantifiable contingent liability which is not a contingent liability within the meaning of IAS 37 since the possibility of a transfer of economic benefit in settlement is too remote.

The Information Commissioner is defending an action brought by an employee. It is not practicable to quantify the likely financial effect of losing the action at this time due to the range of possible outcomes. In order not to prejudice the Information Commissioner's position in this dispute, no provision for costs or compensation has been included in these accounts.

## 20 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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