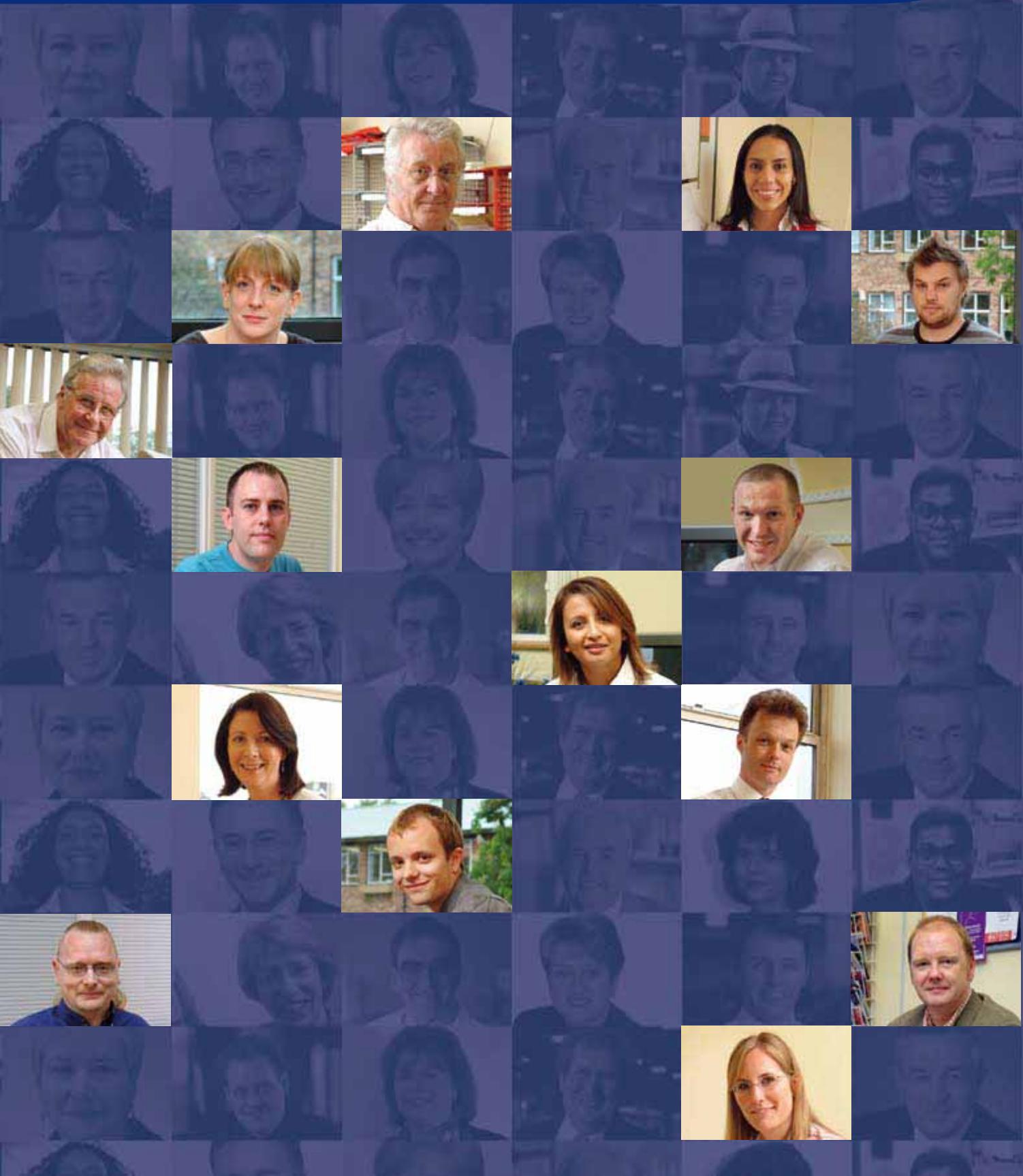


# Annual Report 2005 - 2006



July  
2006

Promoting public access to official information  
and protecting your personal information



Information Commissioner's Office

## The Information Commissioner's Office

# Annual Report 2005 – 2006

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

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# 1 Information Commissioner's foreword



Simultaneously protecting privacy and promoting openness – an apparent challenge for a regulator – is one I can reconcile without difficulty. My role is to protect the personal information which provides the window into everyone's private life. At the same time I am charged with helping to open up the official information about the activities of those elected to govern us.

Never before has the threat of intrusion to people's privacy been such a risk. It is no wonder that the public now ranks protecting personal information as the third most important social concern.<sup>1</sup> As technology develops in a globalised

24/7 culture, power increases to build comprehensive insights into daily lives. As internet shopping, smart card technology and joined-up e-government initiatives reduce costs, respond to customers' demands and improve public services, more and more information is accumulated about us. According to one estimate, information about the average working adult is stored on some 700 databases.<sup>2</sup> New information is added every day. Much of this will be confidential material which we do not want others to see or use unless we say so. There are obvious risks that information is matched with the wrong person or security is breached. The risks increase substantially as information is shared from one database to another, or access granted to another group of users. Real damage can arise when things go wrong – careers and personal relationships can be jeopardised by inaccurate information. Identity theft can involve substantial financial loss and loss of personal autonomy.

The vast majority of information that is held on adults, and increasingly on children, serves a useful purpose and is well intentioned. But everyone recognises that there must be limits. Data protection provides the framework. It raises questions about where lines should be drawn. What is acceptable and what is unacceptable? What safeguards are needed? What is the right balance between public protection and private life? How long, for example, should phone and internet traffic records be retained for access by police and intelligence services fighting terrorism? Whose DNA should be held, and for how long, to help solve crime? What safeguards are needed for commercial internet-based tracking services which leave no hiding place?

Trust and confidence are key. Put simply, mishandling personal information will lead to an erosion of confidence and businesses and government will suffer. Information is a valuable asset and poor data quality or controls can cost millions. The cost of getting it wrong is not just financial. The 2005 report from the government's Council on Science and Technology on "Better use of personal information – opportunities and risks" put the point well in relation to the benefits of increased public sector data-sharing:

*"Without an open dialogue....there is a risk that the public will be mistrustful.....At the same time, there is a great risk that technology will drive these developments forward in an uncontrolled way...Without [regulatory] intervention, the risks will not be controlled, but nor will the benefits be realised".*

<sup>1</sup> ICO annual tracking survey spring 2005.

<sup>2</sup> See Lisa Kelly, 'Data protection – who's watching you?' Accountancy Age, 20 August 2004, online edition.

As with human rights and health and safety, there are confused perceptions about data protection which we work hard to correct. It is too often a scapegoat. But its fundamental principles are simple, necessary and uncontroversial. They shield citizens from excessive intrusion and the improper use of their personal information.

Security breaches are an example where the damage to organisations can be as great as that suffered by the targeted victims. My office has exposed an alarming trade in illegally obtained personal information. Impersonation and bribery are used to get inside information ranging from car registration details to bank records.<sup>3</sup> To deter this unlawful activity, I have called for a prison term of up to two years for those convicted under section 55 of the Data Protection Act.

Data protection puts the individual centre stage. It encourages people to do more to protect their own information. It ensures they are told, or can find out, how their information is being used. It gives them choices and control. It allows them to access information about themselves and empowers them to make corrections where it is wrong. Active involvement must be the best way to build trust and confidence.

Freedom of information rests on similar foundations – citizen empowerment and genuine access. It presents the public sector with real opportunities to improve trust and confidence in the functions of the state by explaining what the state does. If citizens are to be expected to exercise their democratic rights responsibly at the ballot box, there must be a presumption that they have knowledge about what is done in their name and with their money. As more information is made public, it must help address the current malaise and apathy about the role of politics and government.

The first year of freedom of information – and the companion Environmental Information Regulations – has been simultaneously successful and difficult. The new law signals major constitutional, cultural and practical change. Its big bang approach – giving anyone the right to request any information from some 115,000 public bodies – was hugely ambitious. This was certainly recognised in May 2006 when my office hosted the fourth International Conference of Information Commissioners, attended by delegates from over 40 countries. The UK law is also complicated, with a presumption of disclosure but numerous inter-acting exemptions which need to be applied, case by case, to decide what must be made public and what should remain secret.

Despite the challenges it has presented, the Freedom of Information Act is working and is making a significant impact. It is not easy for politicians or officials to move from the comfort of official secrecy to the glare of public scrutiny. But I pay tribute to the serious approach adopted by so many public authorities. Most have recognised – even where their own enthusiasm was limited – that legal obligations must be honoured and they have wanted to make the law work sensibly and constructively. The enlightened – and they are growing in number – have woken up to the benefits of adopting a positive attitude to informing their public.

It is very welcome that the general public has been the largest single category of user of freedom of information. There is no doubt that the pendulum continues to swing towards much greater public disclosure. There is still a long way to go, but I am encouraged by the range and

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<sup>3</sup> What price privacy?, ICO, May 2006.

significant number of disclosures we have seen so far. A great deal of information has been released, which would not otherwise have been in the public domain.

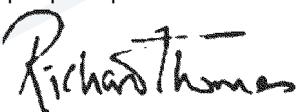
The challenge for my own office has been substantial. During the first year we sought to help public bodies as much as possible, rather than threaten them with legal sanctions. Our pre-2005 guidance has stood the test of time well and we handled numerous requests from officials struggling to do the right thing with a request. The flow of complaints about non-compliance was the major preoccupation throughout the year. The volume was demanding but even greater challenges came from our unfamiliarity with the subject matter, uncertainty about what the requester was really seeking, and our need to get a full understanding of the public body's position. We had to learn fast as almost every case of any substance involved novelty and originality with the application of the law. And new skills, with mature judgement, have had to be developed to articulate and balance competing public interest considerations.

Although we have been able to resolve many cases through informal dialogue with both sides, more and more cases are resulting in a formal decision. Some uphold the position of the public body. Others have found non-compliance. Cases where we have ruled that more information should be made public have included a report into examination marking at a university and details of the government's anti-drug strategy. The 15 pages and six annexes of the Enforcement Notice relating to the Attorney General's advice on the Iraq invasion provide just one example of the sensitivities and the complexities which can arise within each case.

It became clear as the year progressed that we needed to improve our own procedures and internal structures significantly. I am confident that with the changes we have made, along with our growing experience, we can further accelerate case handling procedures and improve productivity. The limited extra funding we secured from the Department for Constitutional Affairs for 2006-07 is not as much as we believe we need, but it is helping us to reduce the number of outstanding cases more quickly.

We are also making some changes to the way we handle freedom of information complaints in line with responsible regulatory practice. Whilst the vast majority of organisations are taking the Act seriously, regrettably not all are. Mirroring our effective regulatory approach in data protection, we will take a more robust approach toward the small number of public authorities that repeatedly fail to meet acceptable timescales. There are particular problems where time is taken to consider public interest considerations or carry out an internal review. A maximum of two months for each stage should be quite long enough in most cases. Where my office finds systemic non-compliance with the Act, I will be more ready to use my powers to serve Enforcement Notices and Practice Recommendations to ensure public authorities fulfil their obligations. We will be tougher with authorities who unnecessarily delay people's requests.

My office stands well placed as the repository of expert knowledge on both data protection and freedom of information. My excellent and committed staff across the UK are making a major contribution to society: drawing the right balance between ensuring more official information comes into the public domain unless there are good reasons for non-disclosure and safeguarding people's personal information.



Richard Thomas  
Information Commissioner

## 2 What we do

### Promoting public access to official information and protecting your personal information

The Information Commissioner's Office (ICO) is the UK's independent public body set up to promote access to official information and to protect personal information. We enforce the Data Protection Act, the Freedom of Information Act, the Privacy and Electronic Communications Regulations and the Environmental Information Regulations, regulating the organisations that come within their remits.

We provide guidance to organisations and individuals to promote awareness of information rights and obligations, ensure compliance with the law and encourage good practice.

We rule on eligible complaints and can take action when the law is broken. The Commissioner, who reports directly to Parliament, has the power to order compliance, using Enforcement and Decision Notices and prosecution.

## 3 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 (EC Directive) Regulations 2003** support the Data Protection Act by regulating the use of electronic communications for the purpose of unsolicited marketing to individuals and organisations.

## 4 2005 – 2006 at a glance

This year has seen both the twenty-first year of the operation of the Data Protection Act and the first year of operation of the Freedom of Information Act. As one law has come of age and established its importance in assuring personal information is properly protected, the other has started to grow and to change the culture of the public sector.

It has been both a challenging and rewarding year for us as we dealt with an increasing number of data protection cases and got to grips with the important and complex issues the new freedom of information legislation has presented.

### Planning and performance

In February 2005, we published our three year strategy in our Corporate Plan 2005 – 2008. Our top priorities remain:

- to focus on the successful implementation of freedom of information, deciding cases in a way that commands public and organisational confidence and getting well down the road towards a genuine “open government” culture;
- taking a practical, down-to-earth approach to data protection, simplifying and making it easier for the majority of organisations who seek to handle personal information well and tougher for the minority who don’t; and
- to ensure we are well led and well managed; an effective, efficient and influential organisation, of which we are all proud, outward looking and delivering a real service to society.

A detailed Business Plan with specific targets and milestones for each team was adopted for the one year period April 2005 – March 2006 and was published on our website. The Corporate Plan 2006 – 2009 and Business Plan 2006-2007 are due to be published before this Annual Report. The Business Plan is monitored on a regular basis. Highlights of performance and other aspects of note are covered in the body of this Annual Report.

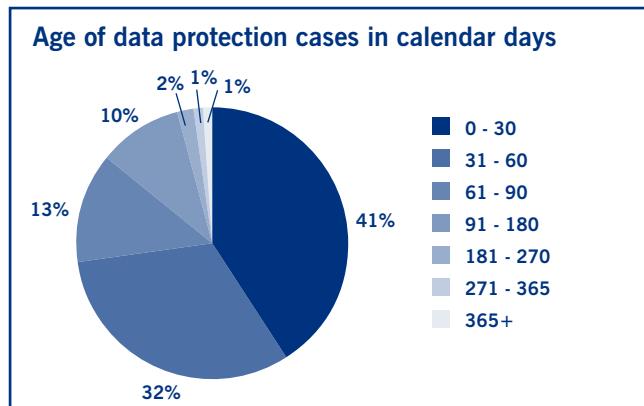
[Open up for facts and figures at a glance > >](#)

## Data protection facts and figures at a glance

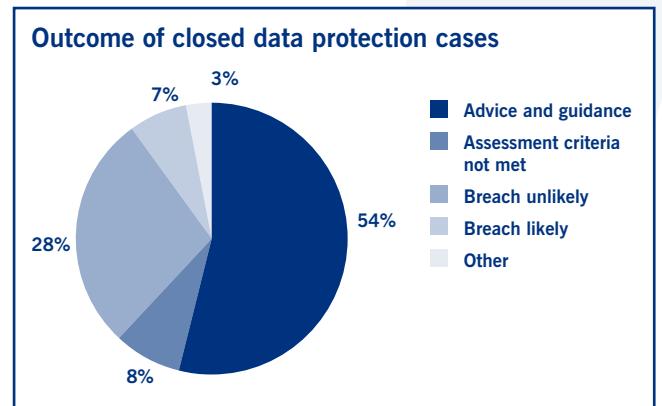
### Casework

Year	2004 - 2005	2005 - 2006
New cases received	19460	22059
Cases closed	20138	21887
Work in progress	1902	2074

Our data protection compliance teams received more than 22,000 new cases in 2005-2006, up 13 per cent on 2004-2005.



Three-quarters of all data protection cases in 2005-2006 were closed within 60 days.



More than half of data protection cases required us to simply provide advice and guidance. In some cases this advice was relatively straightforward, in others extremely complex.

### Data protection prosecutions by the Information Commissioner

April 2005 – June 2005	3
July 2005 – September 2005	2
October 2005 – December 2005	5
January 2006 – March 2006	6

We prosecuted 16 cases involving offences under the Data Protection Act, up from 12 in 2004-2005.

In the remainder of cases, we considered whether a breach of the Data Protection Act or Privacy and Electronic Communications Regulations was likely to have occurred. In half of these cases we decided a breach was likely to have occurred and took remedial action in two-thirds of these cases. Such remedial actions may include a data controller correcting an individual's record, implementing a data protection policy or training staff.

### Customer satisfaction (data protection)

How do data controllers rate the quality of service overall?

20% excellent    27% very good    30% good    11% fair    13% poor

How do individuals rate the quality of service overall?

11% excellent    15% very good    26% good    17% fair    29% poor    3% don't know

Source: ICO data protection customer satisfaction surveys – data controllers and individuals (2005)

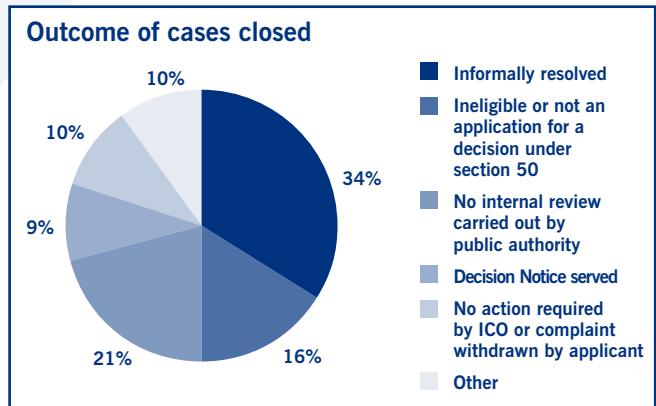
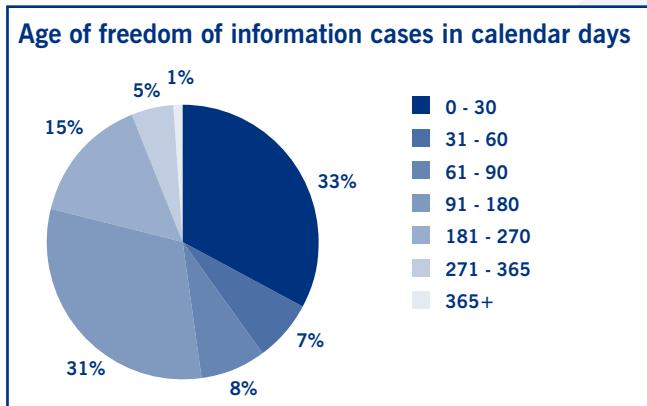
An action plan was developed following this research to address the issues raised and feed into our continuous improvement programme.

## Freedom of information and environmental information facts and figures at a glance

### Casework

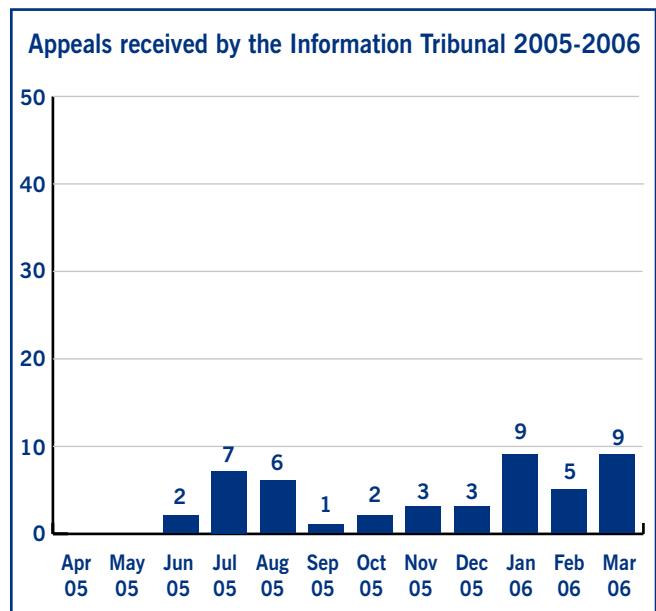
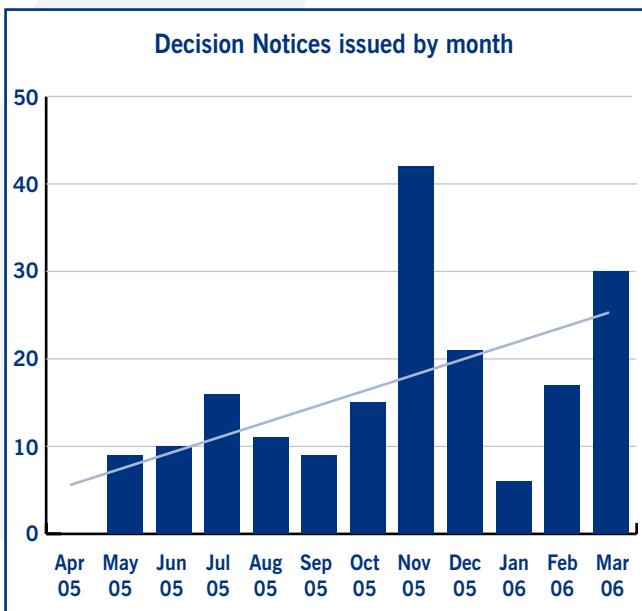
<b>Received</b>	<b>2713</b>
<b>Closed</b>	<b>1666</b>
<b>Work in progress</b>	<b>1290</b>

We closed 48 per cent of all freedom of information cases within 60 working days in 2005-2006. Our target, set out in our Corporate Plan 2005-2008 was to close 50 per cent in this time.



During 2005-2006 we issued 187 decision notices.

Public authorities and complainants both have the opportunity to appeal our Decision Notices to the Information Tribunal and 47 appeals were made in 2005-2006, of which 38 were lodged by complainants and six by public authorities. In one case, where we had ordered a partial disclosure, both parties appealed to the Tribunal.



## Information requests of the ICO

The Information Commissioner is a public authority for the purposes of the Freedom of Information Act 2000. He receives requests for information held by us. An Information Requests Team was set up this year to administer our response to these. Request handlers are advised by the Information Requests Board, chaired by the Legal Director.

<b>Total Requests Received</b>	232	Plans are in place to introduce an online request form on our website, to help people to make more focused information requests. A disclosure log will be available on our website in the forthcoming year, publishing information the Commissioner has provided in response to requests.
<b>Number of internal reviews requested</b>	11	
<b>Average number of days taken to deal with a request (working days)</b>	17	

## Awareness of information rights

We provide guidance to individuals and organisations about their rights and obligations under the law. We track awareness of information rights among individuals, data controllers and public authorities through an annual survey.

Individuals' awareness of rights (prompted)	2004-2005	2005-2006
<b>How aware are individuals of their data protection rights?</b> ("The right to see information held about you by organisations")	76%	74%
<b>How aware are individuals of their FOI rights?</b> ("The right to request information held by the Government and other public authorities")	56%	73%

Source: ICO annual tracking surveys (fieldwork spring 2005 and spring 2006.)

Organisations' awareness of rights (prompted)	2004-2005	2005-2006
<b>How aware are data controllers of data protection rights?</b> ("The right to see information held about you by organisations")	91%	94%
<b>How aware are FOI practitioners of FOI rights?</b> ("The right to request information held by the Government and other public authorities")	81%	97%

Source: ICO annual tracking surveys (fieldwork spring 2005 and spring 2006.)

## Visits to the ICO website April 2005 – March 2006



We saw a 23 per cent increase in visitors to [www.ico.gov.uk](http://www.ico.gov.uk) between April 2005 and March 2006.

Work began to significantly update and improve the content and accessibility of our current site and a contractor was appointed to build our new website, which will be launched in autumn 2006.

< < Open up for facts and figures  
at a glance

## 5 Your right to know: freedom of information and environmental information

The Information Commissioner's responsibilities under the Freedom of Information Act and Environmental Information Regulations include:

- promoting good practice by public authorities;
- informing the public about the law;
- considering complaints about any alleged breach of the law;
- issuing Decision Notices and exercising enforcement powers to ensure compliance with the law; and
- approving publication schemes.

The implementation of freedom of information has presented enormous challenges for virtually every part of the public sector and for us. The law is wide ranging, with very few exceptions or restrictions. It allows any person to make a request for any information held by any public body. The law does not – as in some countries – only affect central government: some 115,000 bodies fall within the Freedom of Information Act. No fee is normally payable for making a request. It can be retrospective in the sense that it is not restricted to information created or collected after implementation. The subject matter can be sensitive – politically, commercially or personally. The law is complicated, with many potential exemptions, dependencies on other legal provisions and difficult public interest judgements. The duties on public authorities can be demanding, with tight time limits and legally binding obligations to help requesters and to disclose information.

The Freedom of Information Act has been heavily used. In 2005 – the first calendar year of operation – over 38,000 requests were made to 42 central government bodies alone. The majority of complaints we have received relate to local government. Although we do not hold figures for the number of freedom of information requests made across the public sector as a whole, we believe well over 100,000 to be a conservative estimate. Government figures indicate that of some 29,000 resolvable requests to the 42 central government bodies, 66 per cent were granted in full, 13 per cent were granted in part and 18 per cent were withheld in full.

A great deal of important information has been released which would not otherwise have been in the public domain. High profile examples include European Union farm subsidies, outsourced hospital operations and post office closures.

Almost every day, the phrase “released under the Freedom of Information Act” now appears in the national media. In a single weekend for example, national press reported a wide range of information disclosed:

- government thinking on plans for freight railway from Liverpool to Channel Tunnel;
- emails about Tate Gallery decision to buy art from one of its trustees for £700,000;

- vaccinations in first Gulf War;
- increases in knife crime;
- declining school standards;
- HM Treasury's mooting of inflation target in 1990;
- £800,000 spent on investigation into death of Princess Diana in first year; and
- £50,000 per year for armoured car and driver for the Prime Minister's wife.

Use of the Act is just as active and wide ranging at local level, where it is clearly having an impact on issues important to people in their daily lives. In just one week, local newspaper stories included:

- restaurant inspections made public in Muswell Hill and in Bath;
- driving tests appearing to be harder in Lewisham;
- health & safety report published for Kentish Town swimming baths;
- details of crimes committed by postal workers in Norfolk;
- over-subscribed schools in Grantham; and
- Sussex youths breaking ASBOs.

### Case study

The Information Commissioner ordered MPs' travel expenses to be released by the House of Commons after two complaints were determined by him under the Freedom of Information Act.

The complainants requested a breakdown of travel claims by MPs, showing the amounts claimed by mode of transport.

The House of Commons refused to release the information on the basis that it was exempt under section 40(2) of the Act, which relates to personal information, where disclosure would contravene the principles of the Data Protection Act.

The Commissioner did not accept that the requested information would contravene the Data Protection Act if disclosed. He is of the view that the information relates to individuals acting in an official, rather than a private capacity, and that its disclosure would not impinge on the personal privacy to which individual MPs are entitled in their private lives. He therefore ordered that the information be released within 30 days of the issue of his Decision Notice. These cases have been appealed to the Information Tribunal.



## **Freedom of Information: one year on**

We prepared for the implementation of freedom of information by publishing a substantial amount of guidance, including guidance on each of the exemptions, which has clearly helped large and small public authorities and has stood the test of time. We put considerable effort into meeting, reassuring and educating public bodies. These efforts, combined with those of the Department for Constitutional Affairs and others, have contributed to the legislation's success.

Our research provides evidence that, a year after the Freedom of Information Act came into force, it has entered into the mainstream of public administration.

Our survey of 500 public authorities examined freedom of information after one year. It revealed that the majority of public authorities believe the new law is beneficial and is helping to create a culture of greater openness in the public sector. Ninety-eight per cent claimed to be clear about the implications of the law; 66 per cent very clear. Increased transparency, better records management, improved accountability and improved relationships with the public were all highlighted by public authorities as benefits of the Freedom of Information Act.

Three out of five organisations say they release more information to the public as a result of the Freedom of Information Act.

### **Freedom of Information: One Year On research, ICO January 2006**

In our annual tracking survey carried out in spring 2006, 73 per cent of individuals said that they were aware of their right to request information held by the government and other public authorities under the Freedom of Information Act, an increase of almost one third since spring 2005.

## Complaints to the Commissioner

Complaints from dissatisfied requesters have dominated our first full year of freedom of information activity. We received 2,713 complaints in 2005-2006 and closed 1,666 of these. We closed 48 per cent of all cases within 60 working days. Our target, as set out in our Corporate Plan 2005-2008, was to close 50 per cent within that time.

Our role with complaints is to act as the independent referee, deciding whether a public authority has fulfilled its obligations under the law. The Freedom of Information Act imposes various procedural requirements and a duty, unless an exemption applies or the case otherwise falls outside the Act, to disclose requested information. In the case of most exemptions, there is still a presumption in favour of disclosure. Public authorities must be able to demonstrate the public interest in maintaining the exemption is greater than the public interest in disclosure if they are going to withhold the information requested. Every case has to be considered in detail on its own merits.

The first year of complaint handling has been difficult. Complaints have been factually complex and not as well expressed or presented as we would have liked. Many cases have inevitably raised new issues where our approach has had to be elaborated, not just in terms of the immediate case, but also the implications for others.

The majority of the cases have raised procedural issues, for example deciding whether time limits have been met, valid Refusal Notices issued or proper internal reviews undertaken. Difficulties can arise, for example where a complainant is adamant that a public body must hold information which it equally insists it has never held or which it cannot locate.

Cases raising exemptions have required our staff to develop new skills and expertise. Finding the right answers to complaints has required rapid learning for case workers about such diverse issues as Whitehall policy development procedures, law enforcement and regulation, foreign policy and national security, commercial procurement and data protection principles. Balancing competing public interest considerations can be equally demanding.

The Commissioner's approach is to be independent, responsible and robust, recognising that increased transparency and accountability will encourage more effective government. In the first year, where possible, we have adopted a tolerant approach towards public authorities, helping them to understand and fulfil their new responsibilities.

Many cases have been resolved by informal resolution, where processes of discussion, persuasion and negotiation have produced satisfactory results. Examples include the minutes of sensitive meetings in Northern Ireland about secondary education, information about alleged neglect in a care home, the price obtained for land sold by a local authority and the minutes of Ofcom's Content Board.

Where we have been unable to secure a satisfactory outcome informally, we issue a Decision Notice.

During 2005-2006 we served 187 formal Decision Notices.

Many of these have brought about the disclosure of important information; others have upheld the position of the public authority. A few examples indicate the variety of subject matter.

<b>Disclosure ordered by ICO</b>	<b>Disclosure not required by ICO</b>
Minutes of Department for Education and skills (DfES) meetings about school budgets	Minutes of BBC Governors meeting involving the departure of Chairman and Director General
Reasons for a Department of Trade and Industry (DTI) Companies Act investigation	Location of live speed cameras
Contract between Derry Airport and Ryanair	Offences committed by staff of foreign embassies

Some cases have been considered by the Information Tribunal. Others – including some of the examples given above – are under appeal.

### **Case study**

Many similar, though not identical, requests sought disclosure of information relating to the Attorney General's advice on the legality of the military intervention in Iraq in 2003. The complaints demanded substantial time and careful consideration throughout the year. This led to an Enforcement Notice, served in May 2006, requiring publication of some, but not all, of the requested information.

### **Case study**

#### **Making a difference – how we've helped**

The guidance we issued before freedom of information was implemented indicated that the Commissioner would be swift to stand behind public authorities who are entitled to ignore genuinely vexatious requests.

An important decision, upholding the approach taken by Birmingham City Council which had received more than 100 requests from the same person, demonstrated our determination to ensure that vexatious requests do not discredit the law. We believe that it is better to adopt a tough approach than to introduce fees to put off vexatious requests. A fees regime which is complicated or too high risk may deter members of the public with genuine information requests.



## Making a difference: promoting openness

Decision Notices, which are all published on the ICO website, set out our reasoning. They resolve the dispute, but they also serve a wider educational role. In some cases, Decision Notices have served to encourage other public authorities to be more open and voluntarily disclose information which they would have otherwise kept secret.

### Case study

#### Making a difference – how we've helped

The disclosure of details about restaurant hygiene inspections in Bridgend was ordered by formal Decision Notice.

'In a landmark verdict...the Information Commissioner, Richard Thomas, ordered a local council to make public its reports on the health and safety of restaurants it had inspected.

His ruling sets a precedent, making it difficult for other councils to keep secret their inspection reports.' Rob Evans

The Guardian 14 December 2005.

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Informal talks with us and enquiries from consumer magazine, Which?, led Hammersmith and Fulham Council to go much further. Not only are inspection reports released, they are made generally available through the council's website and a star rating system has been established.

### Case study

#### Making a difference – how we've helped

The Commissioner ordered disclosure of documents relating to the maintenance of standards on De Montfort University's pharmacy courses, including information about pass rates, passing grades and the maintenance of graduate numbers. The Commissioner decided that the withheld documents should be released, as there is a very strong public interest in academic standards being maintained, particularly in relation to the education of pharmacists who, on completion of their courses, will dispense medicines to the public. The documents were duly released.



## **Challenges and changes: getting complaints in check**

It has taken us longer than we would have liked to resolve complaints and, in common with other freedom of information jurisdictions, we have seen some early backlogs of work. Case officers' increased familiarity with the issues raised by complainants is reducing the time spent on individual cases. In the light of experience, we are changing case handling procedures and putting other measures in place to improve performance. These are outlined below. The rate at which we are closing cases has already increased.

### **Internal operational changes**

The way we deal with complaints has been overhauled. Case handling has been streamlined so that procedural and relatively straightforward cases are now resolved more quickly. Support for the resolution of complex cases has been improved.

Towards the end of 2005-2006, with the help of consultants, we redesigned the way we deal with complaints and the initial changes have already brought improvements in productivity. For the year 2006-2007 we have received some extra funding from the Department for Constitutional Affairs. These new resources combined with a complete reorganisation of freedom of information complaint handling should bring further improvements to our performance in 2006-2007.

People deserve a timely response and we can help provide that by making sure that straightforward cases are dealt with quickly and by the right team.

A new Case Reception Unit has been established to handle freedom of information cases as they arrive, as our experience is that many arrive incomplete. A key function of this unit is to help people to complete their complaint by explaining what information and documentation we require (Refusal Notices, for example) before we can consider the case.

### **Making it simpler for members of the public to complain**

Some of the complaints that we have received have not been accepted because the complaint has not been through the public authority's internal review. Other complaints have been delayed through the need for further information or clarification.

We have introduced a new complaints form to help complainants provide the correct information at the beginning of the process. Where we receive the right information we will be able to resolve cases more quickly.

## **Issuing Decision Notices**

We have been careful to take time to aim for Decision Notices that achieve the right quality.

Experience gained over the first year of freedom of information has enabled us to develop the expertise of our staff. More information is provided within Decision Notices, making them more useful to those who wish to know more about how we approached the case. We are keen to provide information that illustrates trends in the nature of freedom of information requests, which may prove useful to public authorities and others.

**'There are signs in 2006 that the nature and quality of decisions are improving and delivering real advances for FOI.' Steve Wood FOI Blog, foia.blogspot.com**

A new robust approach to issuing Decision Notices means that we will only issue a Decision Notice where it serves a useful purpose, normally specifying steps to be taken, or where it is in the public interest to do so.

For example, more than a quarter of closed eligible cases relate to a public authority's failure to meet the 20 working day deadline. In future, for cases where requested information has been provided, albeit late, we will normally issue a Decision Notice only where that delay was deliberate, repeated or has an adverse effect on the complainant. Other steps will be taken where the public authority is repeatedly failing to meet its obligations.

## **Information Tribunal**

We recognise the important role the Information Tribunal plays in the ultimate resolution of difficult or contentious complaints. We have participated fully and openly in the appeals process and have learnt from the Tribunal's rulings and observations. It is important that the views of the parties to the original dispute are heard by the Tribunal. In our view this is usually best achieved by involving the public authority in the Tribunal proceedings where we have upheld their refusal to grant access to the information requested.

## **Ensuring individuals and public authorities get it right**

In January 2006, we published a guide for individuals on how to exercise their rights under the Freedom of Information Act, called "Your Guide to Openness". In the first three months 10,000 copies were distributed to Citizens Advice Bureaux and libraries or despatched directly to individuals on request.

Most public authorities are handling the Freedom of Information Act well and are taking it seriously. However, some have needed education and some still find it hard to accept the requirements of freedom of information.

In July 2005 we published some top tips – essentially good practice guidelines – to help the minority of public bodies that are struggling with the Freedom of Information Act. These top tips are on our website. Refusal Notices are of particular concern. These should be clear and explain reasons fully, to enable a proper understanding of the application of any exemption or consideration of the public interest. Good quality Refusal Notices result in fewer requests for review, increase customer satisfaction and reduce bureaucracy.

We issued new guidance for public authorities on the content of Refusal Notices in January 2006.

We will be taking an increasingly tough line with public authorities where necessary. For example, we are now more ready to use Information Notices. We will not allow public authorities to engage in unnecessarily lengthy correspondence or to raise irrelevant or peripheral issues which (if at all) should have been addressed at the Refusal Notice or internal review stages.

It is clear from statistics collected by the Department for Constitutional Affairs that, although performance improved during the course of the first year, some central government bodies are taking longer than others to deal with complaints. Delays are especially likely where public interest issues are being considered and with the conduct of internal reviews. The Freedom of Information Act does not have time limits in these situations, but there are still obligations. As part of our tougher approach, we will soon be publishing a new Enforcement Strategy, indicating how our new enforcement team will be working to improve the performance of public authorities. We will be identifying patterns of non-compliance to enable us to be more proactive in our promotion and enforcement activities.

### **Overall impressions from 2005-2006**

Freedom of information is working. It has been taken seriously by public bodies and is clearly making an impact. Most requests are being granted and the processes are becoming easier as familiarity and confidence increase. Many significant disclosures have been achieved and the vast majority of requesters have not lodged a formal complaint where there has been a refusal. The boundaries are being tested on all sides and the law has demanded considerable resources and high-level engagement for the first year. There remain many challenges and uncertainties, but this is not surprising given the scale of the initiative.

At the ICO, we have had to climb a very steep learning curve. We are not yet satisfied with our own performance, but we are proud of what has been achieved.

At the time of writing, we are looking forward to the report of the Constitutional Affairs Select Committee into the first year of freedom of information, which will undoubtedly point to lessons that can be learned. Across the public sector as a whole, the language of culture change is often used in the context of moving from the official secrecy of a 'Need to Know' tradition to the openness of a 'Right to Know' environment. Our overall verdict is that the culture is changing, but has not yet changed.

## 6 Protecting your personal information: data protection, privacy and electronic communications

In an age where more and more of our personal information is being collected and traded using increasingly sophisticated and easily accessible technology, the Data Protection Act is more important than ever before during its 21 years of operation. Personal information held by the public, private and not for profit sectors ranges from our contact details to financial records, and from what we buy at the supermarket to sensitive health records. The Data Protection Act provides important safeguards to make sure our personal information is well protected.

In our annual survey on information rights, protecting people's personal information was highlighted as one of the top three issues of social importance, with 80 per cent of individuals saying that they were concerned about the use, transfer and security of their personal information. Organisations do recognise that good information handling makes good business sense, with the vast majority telling us it improves customer trust, information management and risk management.

In line with our key priorities set out in our Corporate Plan 2005-2008, we focused on encouraging compliance by providing practical, clear and targeted advice for organisations and individuals alike, and sharing and encouraging good practice. We also continue to influence privacy and personal information debates in the UK and internationally to ensure data protection is given proper consideration in an increasingly information-rich, globalised society.

### Case study

#### Making a difference – how we've helped

Ms X made a subject access request to a hospital trust in Northern Ireland and a fee of over £500 was requested for copies of her medical records. Ms X was anxious to receive copies of her records so she paid the fee.

The maximum fee that may be requested for copies of manual medical records is £50.

We met with the trust to discuss this matter and they agreed to review their procedures with a view to making appropriate changes. Ms X received a refund.



## Information, advice and guidance

Throughout the year, we have published a series of practical user friendly guides designed to make data protection simpler. The guides, called good practice notes, address frequently asked questions and tackle common misunderstandings about data protection in everyday situations.

This year, we published good practice notes on:

- charities and marketing;
- advice for landlords on disclosing information about tenants;
- pension trustees and their use of administrators;
- email marketing;
- recording professional opinions;
- individual right of access to exam records;
- subject access requests and employment references; and
- buying and selling customer databases.

In December 2005, we also re issued our good practice note on taking photos in schools, to reassure schools and parents about taking photos of their children at school plays and events.

In June 2005, we published the final version of our Employment Practices Code, consisting of the code itself, supplementary guidance and a quick guide for small businesses.

### **"How not to annoy your supporters!"**

Guidance to help Charities understand how to comply with the law and not irritate prospective supporters has been published by the Information Commissioner's Office."

Third Sector 23 November 2005

### **"New guidance clarifies students' rights to exam information"**

Managing Information 1 October 2005

### **"Smile! And give three cheers for common sense"**

It's official! Parents CAN take pictures at school events."

Aberdeen Evening Express,  
9 December 2005

In the coming year, we will continue publishing and updating guidance. Current and future topics include:

- outsourcing;
- international transfers;
- corporate registration on the Telephone Preference Service; and
- access to education records.

**“Straightforward guidance from the Information Commissioner is to be welcomed”.**

Louise Townsend, Pinsent Masons' information law team. outlaw.com April 2006

### Case study

#### Making a difference – how we've helped

We received a number of complaints about unsolicited marketing calls made by a timeshare company to telephone numbers which were registered with the Telephone Preference Service. The calls appeared to have been made in contravention of the Privacy and Electronic Communications Regulations. Following correspondence from us, the company agreed to suspend all marketing activities until they reviewed their procedures and the problem was resolved. We received no further complaints.



## Our views

Protecting personal information and promoting access to public information are often at the heart of public debate. We are frequently asked to give views on current topics, to comment on developing policy and to respond to public consultations. Our views on the latest national and international issues that have implications for protecting personal information, privacy and openness are outlined here.

### ID cards

Our priority is to ensure that the Identity Cards Act 2006 is implemented in a manner consistent with the Data Protection Act 1998 and achieves good practice in information management.

The creation of a National Identity Register means that the scheme amounts to much more than issuing a simple identity card. Of particular concern is the extent of information to be held by government and how this will be used in practice. The data trail created by everyday use of the card has the potential to create a detailed picture of how individuals live their lives.

There is a danger of function creep, whereby information is used for purposes far beyond that for which it was collected. The government has already signalled its intention to develop the National Identity Register as an adult population database.

Our concerns were echoed by parliamentarians, and others, over the course of the legislative process and we welcome the limited changes that were made. However, we will be working to make sure that the ID card scheme takes account of data protection concerns as it is implemented.

### Case study

#### Making a difference – how we've helped

A man was in dispute with his bank regarding his mortgage. After exhausting the bank's complaints procedure, he submitted a subject access request to obtain the personal data held about him, as he believed this information would help him resolve the matter. Mr X submitted his request in writing on more than one occasion but the bank did not respond.

Having made reasonable attempts to resolve the matter himself, the man complained to us. After taking the matter up with the bank we found that their staff had failed to recognise his subject access request. The bank made the necessary arrangements to handle the subject access request in its entirety. As a result of our assessment, the bank identified an internal training need and promised to offer data protection refresher training to their staff.



## Children's databases

Plans for implementing the Child Index, a database of all children in England, have continued throughout the last year. We have been in close contact with the Department for Education and Skills (DfES) officials responsible for the system.

One of the drivers for the Child Index was Lord Laming's inquiry into the death of Victoria Climbié. The Laming Inquiry found that information about Victoria had not been properly recorded and communication between professionals from different agencies had been poor. Lord Laming recommended that government explore the benefits of developing a national database containing basic information on children and young people.

We believe that a database including only those children considered to be at risk would be a more proportionate response to the recommendations made and we have made our views clear.

Nevertheless, we are working with DfES on areas of ensuring good practice in information management, including the need for appropriate security, retention periods for the information held and access controls. We have also reviewed information sharing guidance produced by DfES aimed at helping practitioners to make informed decisions as to when, and when not, to share information about children and vulnerable adults.

We have also commissioned our own research into children's databases to better understand the range of databases in existence and what they are used for.

## Indebtedness

We are working with the financial services industry, and others with an interest in debt reduction, to ensure an appropriate balance is struck between attempts to reduce debt and the rights of individuals to a private life.

The industry is responding to the increasing number of people judged to be over indebted by increasing the amount of information it shares, particularly through credit reference agencies. In the future, shared data may include information about current accounts, student loans, utility bills and council tax arrears. The government is considering plans for the mandatory sharing of historic account data.

To remain consistent with the principles of the Data Protection Act and best practice in information management, individuals must be properly informed about the information held about them. We are also concerned that the rules governing the collection and use of such a large amount of personal information be sufficiently robust to provide adequate safeguards for individuals' privacy. Clarity with regard to exactly what classes of information will be made available, and to whom, has yet to be achieved.

It is unclear that increased data sharing will reduce the number of people getting into too much debt. Care should be taken to avoid the unnecessary collection of massive amounts of information relating to millions of citizens, many of whom will never be in any danger of getting into financial difficulties.

## Privacy and Electronic Communications Regulations

We do not believe the powers provided by the Privacy and Electronic Communications Regulations are sufficient for us to tackle the nature of the problems created by irresponsible electronic marketing.

The Privacy and Electronic Communications Regulations have been in force since December 2003. This year complaints relating to these Regulations, which incorporated the previous rules on fax and telephone marketing and added rules for text messaging and email, made up more than a quarter of our data protection casework.

Despite advances in technology the majority of the complaints we receive under the Regulations are still about faxes and phone calls and we have actually seen a decrease in the number of complaints about text messaging and emails.

The world wide problem of spam still continues and it is clear that this cannot be tackled by regulation alone. The majority of bulk emails come from outside the EU and our website contains practical advice for those who receive spam from other countries.

We are continuing to discuss measures to strengthen our powers with the Department of Trade and Industry. From October 2005 a new form of regulatory action became available to us under Part 8 of the Enterprise Act 2002. This enables us to apply to the courts for an enforcement order in cases where breaches of the Regulations are considered to be harmful to individual consumers.

### Case study

#### Making a difference – how we've helped

The Scottish National Party (SNP) used a recorded message of support from Sir Sean Connery during its 2005 General Election campaign. The message was distributed by means of a number of automated calls to Scottish households without consent.

The Privacy and Electronic Communications Regulations 2003 forbid the making of wholly automated unsolicited marketing calls without consent. They also forbid unsolicited live voice marketing calls to numbers registered with the Telephone Preference Service.

We served an Enforcement Notice on the SNP but they argued that political parties were exempt from these provisions and appealed. The Information Tribunal rejected their appeal, agreeing with us that telephone canvassing is a marketing activity for the purposes of the law.

This decision means that political parties may only make unsolicited live voice calls to numbers not registered with the Telephone Preference Service. Automated calls may only be made with the consent of the telephone subscriber.



## Transformational Government

We expect to play an active role in the implementation of the government's Transformational Government programme. Designed by the Cabinet Office's e-Government Unit, the Transformational Government strategy was published at the end of 2005.

This document outlined the overall strategy for using information technology to improve the way government provides frontline services, changing and improving the way individuals interact with government.

We believe that technological advances can not only help transform government but also enhance personal privacy. The widespread use of privacy enhancing technologies and identity management tools, alongside the adoption of good practice standards of information management, will not only ensure compliance with the law but also help foster public confidence.

This may be achieved in part by placing the use of privacy impact assessments at the heart of the project's implementation. We also believe more effective penalties for the misuse of information are required if data protection objectives are to be achieved.

## Coordinated Online Record of Electors (CORE)

One of the purposes of the Coordinated Online Record of Electors (CORE) is to make improvements to the integrity of electoral registers. Part of this would involve the collection of 'personal identifiers' from registered voters to combat fraud, for example, a signature and a date of birth. In order to achieve this aim we feel that the introduction of personal identifiers should coincide with the use of an individual, rather than household registration form. Careful consideration should also be given as to which personal identifiers would be adequate to fulfil the stated purpose.

The Department for Constitutional Affairs began its consultation at the end of 2005 into the implications of CORE, which will mark the introduction of arrangements to provide national access to locally collected electoral registration data.

We are concerned that in further developing CORE, the Department for Constitutional Affairs takes steps to ensure that any increased access to personal data is consistent with the principles of the Data Protection Act. It is vital that the CORE system incorporates adequate security measures to safeguard the information held within it.

## **Release of Vehicle Keeper Data from the UK Vehicle Registers**

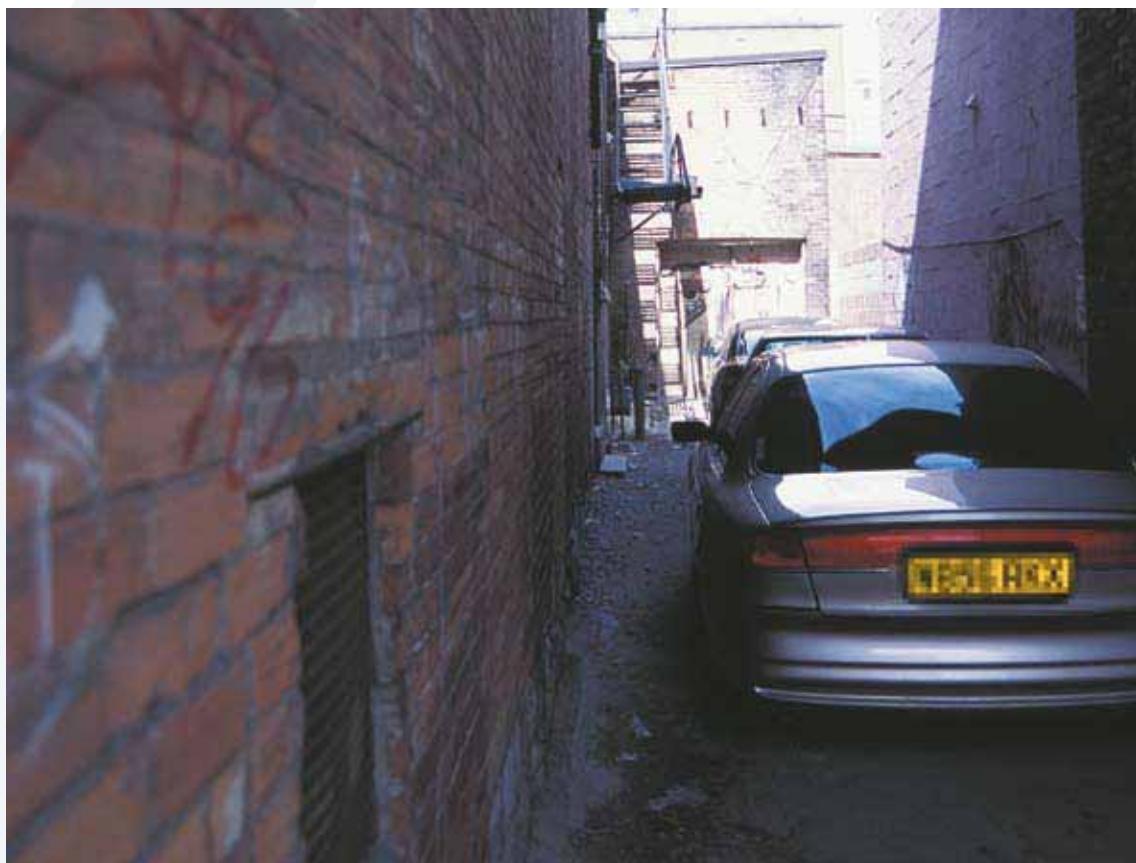
We have urged the Department for Transport to consider specifying the organisations authorised to receive information in the Driver & Vehicle Licensing Agency (DVLA) and Driver & Vehicle Licensing Northern Ireland (DVLNI) registers of vehicle keepers. Going further than the current provisions, we also believe the specific circumstances where such organisations may have information disclosed to them should be specified.

We have suggested that any organisation requesting information on a case by case basis should be subject to a higher test than the current 'reasonable cause' standard. The proportionality test required under human rights law could provide a model for this.

The Department for Transport published its consultation on the use of these registers earlier this year, at a time when disclosures of information from the register had a high profile. Many media reports questioned the need to pass any information to third parties.

With the increasing black market in personal information and the increasing use of surveillance technology such as automatic number plate recognition systems, we feel that access to vehicle keeper details should be restricted to where there is a justifiable and pressing need and where alternative arrangements are not possible.

Our full consultation responses can be found on our website [www.ico.gov.uk](http://www.ico.gov.uk)



### **What price privacy? Special report to Parliament**

Much work was done in 2005-2006 to prepare a special report to Parliament calling for prison sentences of up to two years for the illegal buying and selling of personal information. The report reflects our deep concern that confidential information can too easily be obtained improperly from public and private organisations, causing significant harm and distress to individuals.

The report highlights the existence of a pervasive and widespread industry devoted to illegally buying and selling of people's personal information such as current addresses, details of car ownership, ex-directory telephone numbers or records of calls made, criminal records and bank account details.

Private investigators, tracing agents and their operatives – often working loosely through several intermediaries – are the main suppliers. Information is usually obtained by making payments to staff or impersonating the target individual or an official. Some victims are in the public eye; others are entirely private citizens.

Using special powers under the Data Protection Act, the Commissioner laid his report on this issue before Parliament in May of 2006. We will publish a follow up report in the winter of 2006 to highlight the progress towards implementing the report's proposals.



### **Case study**

#### **Making a difference – how we've helped**

Ms X contacted a health trust to make a subject access request for a copy of her medical notes. She was very concerned to receive a response stating that the information would be provided on confirmation that no legal action was contemplated against the trust.

The Data Protection Act 1998 gives individuals the right to see what information is held about them. There is no provision in law for conditions to be placed on the release of information.

We arranged a meeting with the trust and they agreed to amend the wording of their forms so that they no longer included any reference to proposed legal action.



## **International developments**

### **Whistleblowing**

We were involved in discussions at European level about whistleblowing hotlines. This initiative responds to changes in US law (Sarbanes Oxley Act of 2002) that cover financial aspects of corporate governance, affecting European Union based subsidiaries of US firms as well as EU firms working in the US market.

We were called on to contribute as the UK has specific whistleblowing legislation (the Public Interest Disclosure Act 1998) and experience of successful hotlines in practice (such as the Benefit Fraud Hotline).

As a result of these discussions, an official opinion was issued by the article 29 Working Party, made up of EU data protection commissioners. This opinion will help firms who need to implement whistleblowing hotlines comply with both Sarbanes Oxley and EU data protection legislation.

### **Binding Corporate Rules**

In December 2005, we approved the binding corporate rules of General Electric – a global first. Binding corporate rules are to be used by multinational organisations to transfer personal information outside of the European Economic Area, but within their own group of companies, in a way that complies with data protection legislation.

They usually consist of a package of measures including contracts, data protection policies, training manuals and so on. Such organisations must receive approval from all the data protection authorities in the countries where they are processing personal information. A cooperation procedure is in place so that multinational companies initially go through one authority. Other countries will then give their opinions to the lead authority on these binding corporate rules in the context of the co-operation procedure.

### **European Union (EU) third pillar activities**

We have been active in the development of a framework to provide data protection across third pillar activities of the EU, which include police and judicial cooperation. The proposed framework would offer a level of protection equivalent to that provided by the Data Protection Directive, which does not cover this area of work.

The draft framework takes into account the views of data protection commissioners and their equivalents from throughout the EU. The commissioners' collective opinion on the draft framework decision has been circulated to the European Council, Commission and Parliament and, in the UK, to the Department for Constitutional Affairs.

As Information Commissioner, Richard Thomas was the president of the Eurojust Joint Supervisory Body, as part of the UK's presidency of the EU. This saw the UK lead the first data protection inspection of Eurojust, which is a judicial cooperation organisation based in The Hague. Eurojust's aims are to improve coordination and cooperation between investigators and prosecutors dealing with serious international crimes.

## Setting priorities for data protection enforcement

In 2005 – 2006 we revised our priorities for enforcing the Data Protection Act by setting out a new regulatory action strategy. This new approach means we will devote less attention to minor or technical breaches where the consequences are less serious.

We recognise that the majority of organisations understand that keeping relevant, accurate and up to date records makes good business sense and we want to make it as easy as possible for them to follow the law.

This new approach will enable us to concentrate on abuses of significant public concern, especially where those responsible have been warned, or must know, that they are breaking the law. We will be targeting the minority who cause real harm when they flout their data protection obligations. Any action we take will always be proportionate to the mischief it seeks to address.

## Prosecutions

During the year we brought 16 successful prosecutions under the Data Protection Act 1998.

### Prosecutions snapshot

**October 2005:** A private detective was fined £5,750 and ordered to pay £600 costs by Brent Magistrates for four offences under section 55, along with three further charges of attempting to obtain information unlawfully. He had obtained, or attempted to obtain, information about vulnerable women from two medical centres. He also pleaded guilty to an offence under section 17.

His fellow director and their company both pleaded guilty to non-notification offences under section 17. Between them they were fined £1,250 and ordered to pay £300 costs.

**January 2006:** A private detective was given a one year conditional discharge and ordered to pay costs of £1,200 by Croydon Magistrates after pleading guilty to unlawfully disclosing personal data, a section 55 offence.

**February 2006:** Another individual was convicted of data protection offences as part of the same case. He was fined £500 and ordered to pay £500 costs by Croydon Magistrates, also under section 55, after pleading guilty to obtaining information unlawfully.

**March 2006:** An agency traded as 'The Data Protection Act Registration Service', out of an address in Wilmslow (where we have our main office). This agency and its directors were fined a total of £1,000 and ordered to pay a total of £1,800 costs by Macclesfield Magistrates. They were convicted of failing to notify with the Information Commissioner as a data controller, a section 17 offence.

This agency traded as a data protection service, encouraging data controllers to pay fees that were significantly higher than the true cost of notifying us directly. It costs just £35 to notify us directly and some such bogus agencies charge more than four times this amount.

**March 2006:** A private detective was convicted of attempting to obtain personal information, again in breach of section 55, and was fined £600 and ordered to pay £1,000 costs by Salisbury Magistrates. This case is subject to appeal.

## **Sharing good practice: data protection conference**

We hosted a one-day conference 'Data Protection: the next 21 years?' in Manchester in November 2005. This was attended by data protection commissioners and experts from around the UK and the world.

The conference celebrated the 21st anniversary of the Data Protection Act receiving Royal Assent and looked ahead to the challenges of the next 21 years.

Debate included:

- how to make compliance simpler for data controllers;
- how to improve remedies; and
- improved enforcement powers for the Information Commissioner.

The conference also marked the retirement of Francis Aldhouse, who was Deputy Commissioner for data protection, since the Information Commissioner's Office was established in 1985. Many tributes were paid to his contribution to data protection, echoed by wider recognition in many other quarters. Francis' contribution was recognised in June 2006 when he was awarded a CBE for services to data protection in the Queen's birthday honours list.

## **The public register of data controllers**

We maintain a public register of organisations that hold and process people's personal information. The public register is held on our website, is fully searchable and highlights the reasons why organisations hold information.

In 2005-2006 more than 11,000 people visited the public register pages on our website.

Businesses who consistently failed to fulfil their data protection obligations by not notifying the Commissioner were targeted by us in 2005-2006.

In 2005-2006 we wrote to firms of solicitors and accountants that failed to notify us that they were processing personal information. This led to increases in notifications of 19 per cent for each of these sectors compared to 2004-2005.

We brought 10 successful prosecutions against individuals and businesses who failed to notify as data controllers under section 17 of the Data Protection Act 1998. An outline of individual prosecutions is available on page 38.

The total number of notification calls answered in 2005-2006 remained static, compared with last year at approximately 83,000. Nearly 22,000 written notification queries were answered, 12,500 fewer than in the previous year.

We received nearly 36,000 new notifications in 2005-2006, this was around 5,000 fewer than the previous year. Renewals processed for 2005-2006 numbered 240,000, almost 15,000 more than the previous year. The total number of changes processed for 2005-2006 was 69,000, an increase of almost 14,000.

Research among 100 data controllers from September 2005 will inform an action plan to be put in place in 2006-2007. This will encourage good practice in information handling and wider compliance with the Data Protection Act.

## 7 Our people

The year saw our first internal communications strategy agreed, informed by a MORI staff survey, which revealed that 76 per cent of staff were satisfied with the ICO as an employer. We also appointed our first Internal Communications Officer and our internal newsletter has been refreshed and relaunched. Work has started on improving our intranet. All staff attend regular team meetings, and guidance helping managers to hold these has been issued. The Executive Team now holds quarterly open forum question time sessions with staff.

### **Learning and Development**

We continued to develop tailored learning programmes for our staff. This year we focused on areas including policy development and human rights.

We have gained national accreditation from the Institute of Leadership and Management for our junior and middle management business ethics course and 26 members of staff have successfully completed the Chartered Management Institute Introduction to Management level three or level four Award. We are currently developing our Senior Leadership Development Programme to support our senior managers in the delivery of our Corporate Plan. Training days for 2005-2006 average at 3.6 per employee.

Our ongoing pay and grading review will be completed by August 2006. Much work has been done to establish a new job evaluation scheme and to benchmark our salaries against those of comparable organisations. Recommendations from the review will be implemented in 2006-2007.

### **Looking ahead**

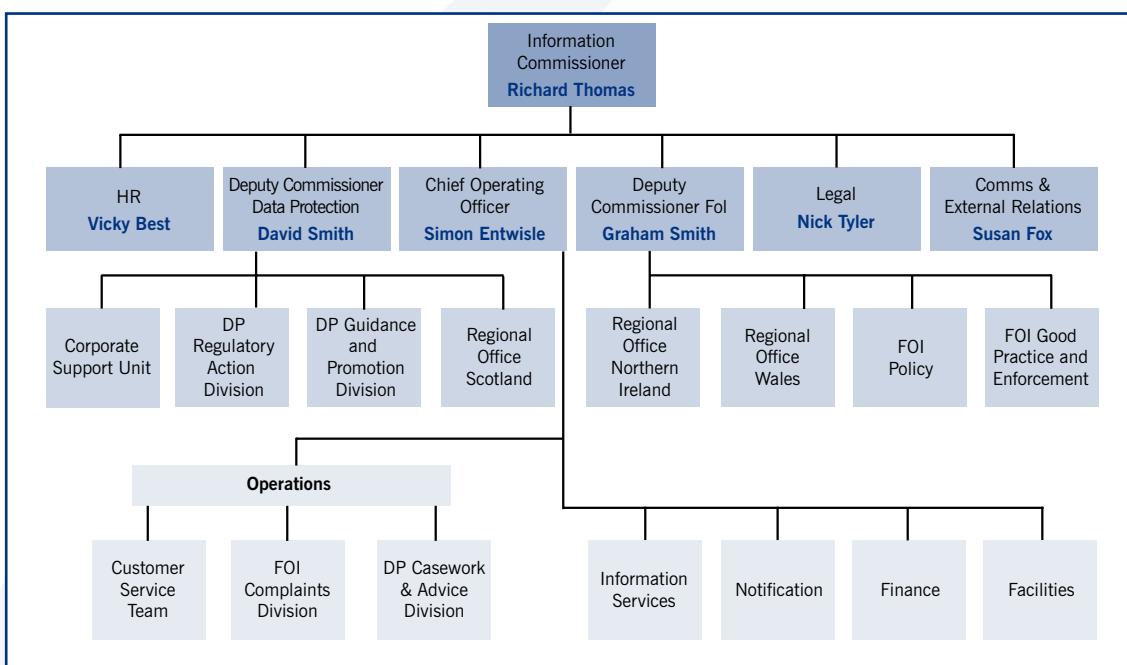
Our new Human Resources Director, Vicky Best, will focus on developing and implementing a new human resources strategy. This is an ambitious and detailed programme of actions covering a range of key employment themes, including recruitment, reward, equality and diversity, staff development and performance management.



## Changes to our structure

A new organisational structure was put in place to help us deliver the aims and objectives set out in the Corporate Plan 2005-2008.

Complaints handling freedom of information and data protection were brought together under the leadership of one Assistant Commissioner, reporting to the Chief Operating Officer. This highlights our commitment to a more consistent approach to complaint handling and will help to deliver the improvements to complaint resolution we have committed to this financial year.



## The environment

All used paper is confidentially shredded on site and recycled. This includes archive files for which four recycling days are held each year. Newspapers and cardboard are also recycled. In 2005-2006, our recycling saved the equivalent of 129 trees.

We are moving towards producing all printed guidance, reports and other materials with vegetable inks on paper containing 75 per cent post-consumer waste and 25 per cent Elemental Chlorine Free (ECF) pulp. Low energy light bulbs are used throughout our offices.

## Information Technology

We are currently undertaking a reprocurement exercise for the supply of our information technology services through a managed service contract, which will replace the current contract which expires in July 2007.

## 8 Regional offices

The three regional offices – Belfast, Cardiff and Edinburgh – have firmly established themselves in 2005-2006 and are delivering clear benefits for local stakeholders. The role of the regional offices was clarified this year and the Northern Ireland office and Wales office now have devolved responsibility to deal with freedom of information casework as well as their continued responsibilities to promote good practice and awareness of rights. Freedom of information is a devolved matter in Scotland and that country has its own Information Commissioner. However, we retain responsibility for data protection and so the Scotland office focuses on the promotion of good practice in information handling.



### Northern Ireland

The Northern Ireland regional office was established in 2003 to meet local demand for advice and expertise on information rights and Assistant Commissioner, Marie Anderson, now leads a team of five.

The office has built up an extensive network of local stakeholder contacts and handled more than 900 enquiries from individuals and organisations. The majority of enquiries (62 per cent) related to data protection issues, a marked difference from last year when almost twice as many freedom of information enquiries as data protection were received.

Focusing on our statutory duty to promote good practice, Northern Ireland regional office staff attended more than 50 speaking engagements and meetings with practitioners to discuss issues of relevance and concern.

A key objective was the full implementation of freedom of information and environmental information casework and this has been achieved. Freedom of information and environmental information casework was devolved to the regional office in June 2005.

More than two thirds of freedom of information complaints received in Northern Ireland relate to public authorities withholding information as they claim an exemption applies, rather than because they have not handled the case in line with the procedural requirements of the Act. This differs from our experience in England and Wales, where we generally receive as many complaints in relation to procedural matters. This reflects the complexity and sensitivity of the local issues that have been the subject of freedom of information requests in Northern Ireland.

Almost half of all complaints closed in Northern Ireland are withdrawn by the complainant, demonstrating the effectiveness of informal resolution.



## Scotland

Dr Ken Macdonald joined the Information Commissioner's Office on 31 August 2005 as Assistant Commissioner for Scotland, based in Edinburgh.

Ken is responsible for promoting and advising on matters of data protection and informing current policy debates in Scotland. He also plays an important role liaising with the Scottish Information Commissioner's Office (which covers freedom of information for devolved matters in Scotland and reports to the Scottish Parliament).

As well as ensuring that data controllers are following their legal obligations under the Data Protection Act, the Scotland office has additional responsibilities that reflect the greater powers and competencies invested in the Scottish Executive compared with the other devolved administrations. Many of these devolved areas of government – social work, education, justice and health, for example – have significant implications for the handling of personal information. The Scotland office monitors the legislative programme of the Executive and Parliament and ensures that proposals conform with the eight principles of the Data Protection Act.

The Scotland office has been involved in several consultations conducted by the Executive, including the joint inspections of children's services, the retention of fingerprints and DNA sampling of innocent people, and the disposal of health records. As well as providing written evidence, we meet officials and discuss ways in which proposals can comply with the Data Protection Act.



## Wales

The Wales office, led by Assistant Commissioner Anne Jones, also works in partnership with a range of local stakeholders and accepted responsibility for freedom of information casework in July 2005.

The office responded to around 150 enquiries each month in 2005–2006 on both data protection and freedom of information issues, more than half as many again as last year. As with the Northern Ireland office, freedom of information enquiries are figuring far less prominently, with almost three quarters of all queries relating to data protection.

The office responded to several consultations where matters are devolved, including healthcare and local government administration.

New publications are translated and made available for Welsh speakers.

The Wales Office held a reception and conference in March 2006 reflecting on the first year of freedom of information. The events were attended by around 160 freedom of information practitioners and stakeholders from across Wales.

The information rights reception, cohosted by National Assembly Member Lorraine Barrett, was held at the newly opened Assembly Building, the Senedd. The conference explored the impact of freedom of information on Welsh public authorities and provided the opportunity to share experiences of working with the Freedom of Information Act.

## 9 Communicating

We focused on our core communications tools, the website and media relations, and on improving the areas in need of most development – internal communications and stakeholder relations. We started a programme to ensure our communications materials are better targeted to the needs of the user. Initiatives included devising a set of new publication categories reflecting the level of information required, developing a consistent style guide and corporate identity, and becoming a corporate member of the Plain Language Commission.

Work was started to update and significantly improve the content, quality and accessibility of the current website. We embarked on a major project to improve our website and appointed a contractor to build a new website which will be launched in autumn 2006.

Our media relations programme continued to influence debate on information rights issues. We gave around 60 media interviews, including several consumer radio programmes tackling data protection issues. Publication of our new range of data protection good practice notes, and freedom of information Decision Notices have also contributed to our media profile.

To inform our stakeholder relations work, we conducted surveys on customer satisfaction, data protection notification and freedom of information one year on. Action programmes have been drawn up to address issues raised in the surveys. We began a stakeholder mapping project, to clarify others' expectations of us.

A new post of Internal Communications Officer was created and significant work done to improve communication within the organisation.



## 10 Corporate Governance

The Information Commissioner reports directly to Parliament and his Executive Team reports to him.

Deputy Commissioner, data protection (until 13 Jan 2006)	<b>Francis Aldhouse</b>
Deputy Commissioner, data protection (from 14 Jan 2006)	<b>David Smith</b>
Deputy Commissioner, freedom of information	<b>Graham Smith</b>
Chief Operating Officer	<b>Simon Entwistle</b>
Legal Director	<b>Nick Tyler</b>
Director of Communications and External Relations	<b>Susan Fox</b>
Director of Personnel and Finance (until 30 October 2005)	<b>Mike Duffy</b>
Interim Director of Human Resources (from 1 November 2005 to 7 April 2006)	<b>Roger Place</b>
Director of Human Resources (from 3 April 2006)	<b>Vicky Best</b>

The Executive Team meets every two weeks and is responsible for the overall management of the organisation. The Executive Team forms part of the Commissioner's Management Board which usually meets six times a year and helps the Commissioner to discharge his statutory responsibilities. The Management Board focuses on the effective functioning of the ICO and ensures it adheres to the high standards expected of a public body. Its responsibilities include strategic direction, financial control and performance assessment. The Board includes four non-executive directors, recruited in open competition:

Dr Robert Chilton

David Clarke

Sir Alistair Graham

Clare Tickell.

A Register of Interests is maintained for the Information Commissioner, his two Deputy Commissioners and his four Non-Executive Board Members, and is published on the Commissioner's website [www.ico.gov.uk](http://www.ico.gov.uk).

## Governance

### **Key achievements and changes 2005 2006**

A new internal constitution was adopted by the Management Board in May 2005 and took effect from 1 July 2005.

New corporate governance arrangements have improved the quality of our decision making. They are designed to achieve maximum clarity about the role and authority of decision making bodies within the ICO. They devolve more power and responsibility to senior management within the organisation, minimising any overlaps and duplication, to achieve a more integrated approach to leadership and management of the ICO as a whole.

Two new committees, reporting to the Executive Team, were created covering policy and operational issues. Project boards and steering groups also report directly to the Executive Team. The Audit Committee continues to report to the Management Board.

A new Corporate Support Unit services the committees. This unit ensures that regular reports on project and committee progress are made to the Executive Team, enabling easier identification of links and risks. Terms of reference, minutes and key messages are made available to staff and minutes posted on our website.

## 11 Prosecutions

Sixteen cases involving offences under the Data Protection Act 1998 were prosecuted, 15 successfully, with sentences including fines ranging from £100 to £5,000 and a conditional discharge.

Defendant	Offence	Court	Date of hearing	Plea	Result	Sentence	Costs
Mploy Staffing Solutions Ltd	s17 (Non notification)	Bournemouth Magistrates	22/04/2005	Guilty	Convicted	£100 fine	£700
G McFarlane	s55 (Unlawful obtaining etc. of personal data) (x2)	Dundee Sheriff Court	03/06/2005	Guilty	Convicted	£500 x 2 fine (£1,000 in total)	Nil
R Donner	s17	Bolton Crown Court	24/06/2005	Appeal against sentence	Appeal allowed	£1,000 fine (£3,500 reduced from £3,150 – see last year's Annual report)	
Abacus Recruitment Services (Wales) Ltd	s17	Abergavenny Magistrates	23/08/2005	Guilty	Convicted	£2,000 fine	£400
D Hounselea	s55	Liverpool Magistrates	15/09/2005	Guilty	Convicted	Absolute discharge	Nil
Corporate & Trade Ltd	s17	Manchester City Magistrates	12/10/2005	No show*	Convicted	£5,000 fine	£300
General & Commercial Guarantee Ltd	s17	Manchester City Magistrates	12/10/2005	No show*	Convicted	£5,000 fine	£300
A McInerney	s17	Brent Magistrates	19/10/2005	Guilty	Convicted	£500 fine	£150
R Pearson	s55 (x7) and s17	Brent Magistrates	19/10/2005	Guilty	Convicted	£750 x 7 and £500 fines (£5,750 in total)	£600
Pearmac Ltd	s17	Brent Magistrates	19/10/2005	Guilty	Convicted	£750 fine	£150
D R Sibley	s55	Croydon Magistrates	12/01/2006	Guilty	Convicted	12 months conditional discharge	£1,200
D Schumacker	s55 (x 8)	Croydon Magistrates	23/02/2006	Guilty	Convicted	£500 fine (in total)	£500
An individual	s55	Salisbury Magistrates	27/03/2006	Not Guilty	Convicted (subject to appeal)	£600 fine	£1,000
Highpoint Accounting Consultancy Services Ltd	s17	Macclesfield Magistrates	29/03/2006	Guilty	Convicted	£400 fine	£599.90
A A Khalish	s17	Macclesfield Magistrates	29/03/2006	Guilty	Convicted	£300 fine	£599.90
A Suburan	s17	Macclesfield Magistrates	29/03/2006	Guilty	Convicted	£300 fine	£599.90

\* No show – dealt with in absence

Number of cautions administered – 11

Number of premises search warrants applied for – 12

Number of undertakings signed – 11

**The Information Commissioner's Office****Accounts****for the year ended 31st March 2006**

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## **History**

On 12 June 2003 responsibility for the Information Commissioner passed to the newly created Department for Constitutional Affairs. Previously responsibility for the Information Commissioner passed to the Lord Chancellor's Department from the Home Office following the Machinery of Government changes announced in June 2001.

Following implementation of the Data Protection Act 1998 on 1 March 2000, the corporation sole by the name of Data Protection Registrar, established by the Data Protection Act 1984, continued in existence but under the name Data Protection Commissioner.

The Freedom of Information Act 2000 received Royal Assent on 30 November 2000. The title of the Data Protection Commissioner changed to the Information Commissioner with effect from 30 January 2001.

## **Statutory background**

The Information Commissioner's main responsibilities and duties are under the Data Protection Act 1998, the Freedom of Information Act 2000, Environmental Information Regulations 2004 and Privacy and Electronic Communications Regulations 2003.

The Information Commissioner is not a typical Non-Departmental Public Body. Such bodies usually have a relationship with Ministers which is based on the delegation of Ministerial powers. The Commissioner is an independent body created by statute who reports directly to Parliament. He is required to carry out those functions laid down in the Data Protection Act 1998 and Freedom of Information Act 2000, using only those powers which these Acts set out. His decisions are subject to the supervision of the Information Tribunal and the Courts.

The Information Commissioner is responsible for setting the priorities for his Office, 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 Constitutional Affairs 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 £20,000 (2004/2005: £20,000) and 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.

## **Senior Management**

A list of senior managers is set out in Section 10 of the published Annual Report.

## **Pension Liabilities**

The treatment of pension liabilities is set out in the Remuneration report on pages 44-47, and Note 5 to the Accounts.

## **Employee Policies**

The Commissioner's Equal Opportunities policy aims to ensure that no potential or actual employee receives more or less favourable treatments on the grounds of race, colour, ethnic or national origin, marital status, sex, sexual orientation, religious belief or disability. To further this policy the Information Commissioner's Office (ICO) promotes the observance of good employment practice particularly when relevant to disabled people.

The Commissioner has an Equality Scheme approved by the Northern Ireland Equality Commissioner, produced as part of his responsibilities under section 75 of the Northern Ireland Act 1998.

The Information Commissioner continues to place importance on ensuring priority is given to the provision of appropriate training so that staff can develop skills and understanding of their roles in line with the aims and objectives of the ICO. A full-time training officer has been in place throughout the year.

Maintenance of the provision of information to, and consultation with employees continues to be managed through a weekly newsletter, staff intranet and regular meetings with Trade Union representatives, and again briefings for all staff were held to ensure all staff were being kept up to date with the significant changes affecting the ICO. A formal Health and Safety Policy Manual is available to all members of staff and a Health and Safety Committee is in place to address health and safety issues.

## **Changes in fixed assets**

During the year an amount of £922,165 was spent on Information Services upgrading the applications and infra-structure provided for the IT network. An amount of £55,518 was spent on the acquisition of teleconferencing equipment to improve communication between regional sites, and £32,836 was spent on replacing photocopiers and upgrading telephony.

## **Creditor payment policy**

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 2006, 97.8% (31 March 2005: 97.7%) 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%.

## **Management commentary**

A detailed review of activities and performance for the year and, plans for future years, of the ICO is set out in sections 1 to 11 of the published Annual Report.

### **Financial Performance**

The funding regime for the Information Commissioner was changed at the start of this financial year.

#### **Grant-in-aid**

Freedom of information expenditure continues to be financed by a grant-in-aid from the Department for Constitutional Affairs (DCA), and for 2005/2006 £5,100,000 (2004/2005: £4,500,000) was drawn down.

Under the conditions of the Framework Document between the Information Commissioner and the DCA up to 2% of the annual grant-in-aid can, with the prior consent of the DCA, be carried forward to the following financial year. At the end of the financial year an amount of £97,576 (1.9%) was carried forward for expenditure in 2006/2007 with the permission of the DCA.

There are no fees collected in respect of Freedom of Information type activities.

#### **Fees**

From the start of the year it was agreed with the DCA, with the consent of the Treasury, that rather than drawing grant-in-aid from the DCA Vote (2004/2005: £8,000,000), expenditure on Data Protection activities would instead be 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 has been unchanged since it was introduced on 1 March 2000.

The ICO maintains a Public Register of organisations that hold information about people. This Register can be accessed via our website, and is updated daily.

Fee income collected in the year was £9,655,060 (2004/2005: £9,243,781) representing an increase of almost 4.5% over the previous year.

Under the conditions of the Framework Document between the Information Commissioner and the DCA, fees 'cleared' through the banking system, up to an amount of 3% of the expenditure on data protection activities can be carried forward for expenditure to the following financial year. At the end of the financial year an amount of £111,426 (1.2%) was carried forward for expenditure in 2006/2007, as was a further £159,621 of 'un-cleared' fees.

### **Cost apportionment**

Many costs incurred during the year cover both freedom of information and data protection work. In order to split annual expenditure an apportionment model is used, which draws upon the management accounting system which allocated expenditure to various value centres and then apportions functions (on an actual basis where possible or by way of reasoned estimate where an actual split is not available).

### **Cash outturn**

The year end outturn for all of the financial annuity 'cash' controls were met.

### **Accruals outturn**

There was a surplus for the year of £83,873, however the change in fee regime has led to a further deficit of £4,973,265, resulting in a retained deficit for the year of £4,889,392 as explained in note 1.3 to the Accounts. This deficit is a 'one-off' presentational effect and does not affect the actual expenditure plans or resources available to the Information Commissioner.

The year on year movements in working capital (bank balances, debtors and creditors) represent the retained deficit for the year, and consequently the cumulative deficit of the Income and Expenditure Reserve shown on the Balance Sheet represents the total working capital used by the 'business'.

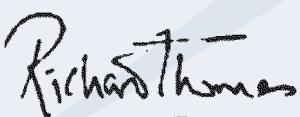
The accounts continue to be prepared on a going concern basis as a non-trading entity continuing to provide public sector services. Grant-in-aid has already been included in the DCA Estimate for 2006/2007, which has been approved by Parliament, and there is no reason to believe that the DCA's future sponsorship and future parliamentary approval will not be forthcoming.

### **Treasury management**

Under the terms of the Framework Document between the Information Commissioner and the DCA, the Commissioner is unable to borrow or to invest funds speculatively.

Fee income is collected and banked into a separate bank account, and cleared funds are transferred weekly to the Information Commissioner's administration account to fund expenditure.

In accordance with Treasury guidance on the issue of grant-in-aid that precludes Non-Departmental Public Bodies from retaining more funds than are required for their immediate needs, grant-in-aid is drawn in quarterly tranches. In order not to benefit from holding surplus funds, all bank interest and sundry receipts received are appropriated in aid to the Secretary of State for Constitutional Affairs on a quarterly basis.



**Richard Thomas**

**Information Commissioner**

**12 June 2006**

## **Remuneration Report**

### **Remuneration Policy**

The remuneration of the Information Commissioner is set in accordance with a motion made pursuant to Standing Order 118(6) (Standing Committees on Delegated Legislation) and is increased annually on 1st April, by the average percentage by which the mid-points of the Senior Civil Service pay bands increase.

The remuneration of senior civil servants is set by the Prime Minister following independent advice from the Review Body on Senior Salaries.

The salary of the Information Commissioner is paid directly from the Consolidated Fund in accordance with paragraph 3(5) to Schedule 5 to the Data Protection Act 1998.

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

In reaching the determination, the Information Commissioner and Secretary of State for Constitutional Affairs 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.

### **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 of 60. 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 fixed term contract periods commencing:

David Clarke	1 January 2004 for 3 years
Dr. Robert Chilton	1 January 2004 for 3 years
Sir Alistair Graham	1 January 2006 for 2 years
Clare Tickell	1 January 2006 for 2 years

**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, his two Deputy Commissioners and his four Non-Executive Board Members, and is published on the Commissioner's website [www.ico.gov.uk](http://www.ico.gov.uk).

**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**

Salary	2005/2006 £'000	2004/2005 £'000
Richard Thomas, Information Commissioner	95-100	90-95
Francis Aldhouse, Deputy Commissioner (until 13 January 2006)	55-60 (Full year equivalent 70-75)	70-75
David Smith, Deputy Commissioner (from 14 January 2006) and Deputy Commissioner Designate (from 01 November 2005)	25-30 (Full year equivalent 60-65)	n/a
Graham Smith, Deputy Commissioner	70-75	65-70

**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 2005/2006.

<b>Pension Benefits</b>	<b>Accrued Pension at age 60 as at 31 March 2006 and related lump sum</b> £'000	<b>Real increase in pension and related lump sum at age 60</b> £'000	<b>CETV at 31 March 2006</b> £'000	<b>CETV at 31 March 2005</b> £'000	<b>Real increase in CETV</b> £'000
			31 March 2006	31 March 2005	
<b>Richard Thomas</b> Commissioner	25-30	0-2.5	536	423	13
<b>Francis Aldhouse</b> Deputy Commissioner Until 13 January 2006	30-35 +lump sum 95-100	0-2.5 +lump sum 0-2.5	659 As at 13 January 2006	514	16
<b>David Smith</b> Deputy Commissioner From 14 January 2006 Deputy Commissioner Designate From 1 November 2005	20-25 +lump sum 60-65	0-2.5 +lump sum 2.5-5	421 As at 1 November 2005	326	19
<b>Graham Smith</b> Deputy Commissioner	0-5 +lump sum 10-15	0-2.5 +lump sum 2.5-5	72	43	16

### Partnership pensions

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

### Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 1 October 2002, employees may be in one of three statutory based 'final salary' defined benefit schemes (classic, premium, and classic plus). The schemes are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, and classic plus are increased annually in line with changes in the Retail Prices Index. New entrants after 1 October 2002 may choose between membership of premium or joining a good quality 'money purchase' stakeholder arrangement 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 and classic plus. Benefits in classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' 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 (but members may give up (commute) some of their pension to provide a lump sum). Classic plus is essentially a variation of premium, but with benefits in respect of service before 1 October 2002 calculated broadly in the same way as classic.

The partnership pension account is a stakeholder pension arrangement. The employers 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 selection of approved products. 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).

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)

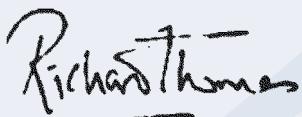
### **Cash Equivalent Transfer Values**

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 CETV figures, and from 2003/04 the other pension details, include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements and for which the CS Vote has received a transfer payment commensurate with the additional pension liabilities being assumed. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

Please note that the factors used to calculate the CETV were revised on 1 April 2005 on the advice of the Scheme Actuary. The CETV figure for 31 March 2005 has been restated using the new factors so that it is calculated on the same basis as the CETV figure for 31 March 2006.

### **Real increase in CETV**

This reflects the increase in CETV effectively funded by the employer. It takes account of 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.



**Richard Thomas**

**Information Commissioner**

**12 June 2006**

## **Statement of the Information Commissioner's responsibilities**

Under paragraph 10(1)(b) of Schedule 5 to the Data Protection Act 1998 the Information Commissioner is required to prepare in respect of each financial year a statement of account in such form as the Secretary of State for Constitutional Affairs may direct. The accounts are prepared on an accruals basis and must give a true and fair view of the Information Commissioner's state of affairs at the year end and of his income and expenditure, total recognised gains and losses and cash flows for the financial year.

In preparing the accounts the Information Commissioner is required to:

- observe the Accounts Direction issued by the Secretary of State for Constitutional Affairs 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 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.

As the senior full time official, the Commissioner carries the responsibilities of an Accounting Officer. His relevant responsibilities as Accounting Officer, including his responsibility for the propriety and regularity of the public finances and for keeping of proper records, are set out in the Non-Departmental Public Bodies' Accounting Officer Memorandum, issued by the Treasury and published in Government Accounting.

# Statement on Internal Control

## 1 Scope of responsibility

As Information Commissioner and Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the policies, aims and objectives of the Information Commissioner's Office (ICO), whilst safeguarding the public funds and assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Government Accounting.

As Accounting Officer, I work with my Executive Team of senior managers to develop and implement the plans of the ICO, allocate resources and delegate financial and managerial authority to senior staff and others as appropriate. The Management Board decides and advises on issues of strategic importance, makes decisions on matters involving significant expenditure and receives regular reports on financial and operational performance. The Management Board is also involved in the management of risk at a strategic level, considering major factors that could prevent the Office's objectives being achieved.

The ICO is funded from the vote of the Department for Constitutional Affairs, partly from grant in aid and partly from Data Protection fee income. I am designated as Accounting Officer by the Department's Principal Accounting Officer. I advise the Department on the discharge of my responsibilities in connection with receipts and payments in accordance with the terms of an agreed Framework Document. In addition there is a programme of formal liaison meetings with the Department for Constitutional Affairs and reports are circulated when appropriate.

## 2 The Purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve the 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 the achievement of the policies, aims and objectives of the ICO, 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 for the year ended 31 March 2006 and up to the date of approval of the annual report and accounts, and accords with Treasury Guidance.

## 3 Capacity to handle risk

As Accounting Officer I acknowledge my overall responsibility for the effective management of risk throughout the ICO.

Registers that identify, assess and set out mitigating actions to significant risks are in place at a corporate level, and for specific projects. The management and review of the risks identified are led at Executive Team level within each business area, in particular through the quarterly reviews of progress against the Business Plan. These reports compare performance with key performance indicators in the business plan and describe activities that have been completed. They also note any variances against the business plan and highlight planned significant activities for the next quarter.

Significant risks are considered by the Management Board and Audit Committee through the Corporate Risk Register which covers the entire organisation.

#### **4 The risk and control framework**

The risk strategy utilises the following processes to identify, evaluate and control risk:

The continued development and maintenance of risk registers. This includes reviewing the major risks facing the organisation. Risks that threaten the achievement of the objectives for the ICO are identified and analysed in terms of impact and likelihood and are reported on quarterly via the corporate risk register to Management Board and the Audit Committee. Risk registers are also maintained for certain projects as a mechanism for identifying and controlling risks, and significant risks are channelled into the Corporate Risk Register.

Ownership of each risk is assigned to a named individual responsible for the active management of that risk. Risk management is incorporated into the decision making processes.

The other key elements in the control system are regular management information, a comprehensive budgeting system with an annual budget which is approved at Board level, regular reviews by the Management Board and Executive Team of periodic and annual financial reports and a system of delegation and accountability. The ICO continues to embed risk management into key business processes such as business planning, performance and project management and policy making. The system of internal control continues to be supported by a Fraud Policy and a 'Whistle-Blowing' policy for confidential reporting of staff concerns.

#### **5 Review of effectiveness**

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of this system is informed by the work of the internal auditors and the executive managers within the ICO who have responsibility for the development and maintenance of the internal control framework, and comments made by external auditors in their management letter and other reports. I have been advised on the implications of the results of the review by the Board and the Audit Committee and plans are in place to address weaknesses and ensure continuous improvement of the system.

##### **In addition:**

The Management Board meets six times a year and on a quarterly basis its agenda includes the subject of risk management and internal control. The Board also looks at management information relating to key performance indicators for the ICO as a whole. These relate to operational performance in respect of both data protection and freedom of information casework as well as current and projected data protection fee income.

The Executive Team usually meets every two weeks, and is responsible for office-wide leadership, articulation of operational policies and ensuring the office is efficiently and effectively managed. The Executive Team also consider performance against the ICO business plan. Formal reports are prepared by the ET member responsible every quarter.

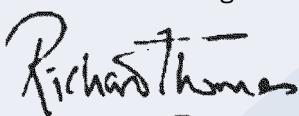
The Audit Committee is chaired by a Non-Executive Board Member and attended by internal auditors (PricewaterhouseCoopers) and external auditors (National Audit Office) and reports to the Accounting Officer on the adequacy of audit arrangements and on the implications of assurances provided in respect of risk and control. It considers all audit reports and recommendations and the formal management responses.

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, including their independent opinion on the adequacy and effectiveness of the ICO's system of internal control. The internal auditors also provide an annual statement which expressed the view that, in the areas they scrutinised this year, established procedures were broadly adequate to meet management's overall objectives and that controls were generally operating satisfactorily with some minor exceptions.

In response to recommendations from the internal auditors, detailed controls were - or are being – strengthened in a number of areas. These include Human Resources, Business Continuity and Media & External Relations. A more significant control issue was identified from an internal audit review on Corporate and Business Planning which concluded that – although it was acknowledged that the process has been evolving and has significantly improved over recent years - controls in place were inadequate. This opinion stemmed largely from the lack of explicit connectivity between the Corporate Plan, individual departmental Business Plans and the budget. The recommendations made in the review had been anticipated and were accepted. They were taken fully into account for the preparation of the Corporate Plan for the period 2006-9 and the Business Plan for the period 2006/7.

The ICO has undergone a period of significant change through the year with work undertaken to further implement the Freedom of Information Act, the completion of the business transformation project for Data Protection, a new 'internal constitution' with structures for improving decision making, and a new funding regime. During the year the post of Director of Personnel and Finance was split, with the creation of a new post of Director of Human Resources, and responsibility for finance and facilities being transferred to the current Chief Operating Officer. The new Director of Human Resources will be well placed to address the control issues identified by the internal auditors regarding recruitment processes.

I recognise the challenges of embedding risk management and sound governance across the reshaped organisation. I have commenced a review of current arrangements for risk management and will continue to monitor the effectiveness of the current Corporate Governance arrangements.



**Richard Thomas**  
**Information Commissioner**  
**12 June 2006**

## **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 2006 under the Data Protection Act 1998. These comprise the Income and Expenditure Account, the Balance Sheet, the Cashflow Statement and Statement of Recognised Gains and Losses and the related notes. These financial statements have been prepared under the accounting policies set out within them.

### **Respective responsibilities of the Information Commissioner and Auditor**

As described on page 48 the Information Commissioner is responsible for preparing the financial statements in accordance with the Data Protection Act 1998 and directions made thereunder by the Secretary of State for Constitutional Affairs with the approval of Treasury and for ensuring the regularity of financial transactions. The Commissioner is also responsible for the preparation of the other contents of the Annual Report.

My responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Data Protection Act 1998 and directions made thereunder by the Secretary of State for Constitutional Affairs with the Approval of Treasury. I also report whether 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. I also report to you if, in my opinion, the Annual Report is not consistent with the financial statements, if the Information Commissioner has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by relevant authorities regarding remuneration and other transactions is not disclosed.

I review whether the statement on pages 49 to 51 reflects the Information Commissioner's compliance with HM Treasury's guidance on the Statement on Internal Control, and I report if it does not. I am not required to consider whether the Accounting Officer's statements on internal control cover all risks and controls, or form an opinion on the effectiveness of the Information Commissioner's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises only the Annual Report, including the unaudited part of the Remuneration Report and the Management Commentary.

I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

### Basis of audit opinion

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Information Commissioner in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Commissioner's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error and that 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. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

### Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the Data Protection Act 1998 and directions made thereunder by the Secretary of State for Constitutional Affairs with the approval of Treasury, of the state of the Information Commissioner's affairs as at 31 March 2006 and of its deficit for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Data Protection Act 1998 and directions made thereunder by the Secretary of State for Constitutional Affairs with the approval of Treasury; and
- 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.

I have no observations to make on these financial statements.



**John Bourn**  
Comptroller and Auditor General  
22 June 2006

**National Audit Office**  
157-197 Buckingham Palace Road  
Victoria London SW1W 9SP

**Income and Expenditure account for the year ended 31 March 2006**

	Note	2005/2006 £	2004/2005 £	RE-STATEMENT
<b>Income</b>				
Operating income	2	15,983,027	12,982,269	
Other income	6	<u>14,852</u>	<u>18,867</u>	
		15,997,879		13,001,136
<b>Expenditure</b>				
Staff costs	5	7,158,834	5,547,829	
Other operating costs	7	6,268,098	5,125,186	
Depreciation of tangible fixed assets	8	1,910,033	1,564,818	
Loss on disposal of fixed assets		6,410	7,801	
Loss on revaluation of fixed assets		<u>555,778</u>	<u>-</u>	<u>(12,245,634)</u>
		(15,899,153)		
<b>Operating surplus</b>		98,726	755,502	
Non operating fee income to be appropriated	3	-	9,189,343	
Interest receivable		50,250	51,962	
Notional cost of capital	1.7	<u>(107,188)</u>	<u>(211,353)</u>	
<b>Surplus for the year before appropriations</b>		41,788	9,785,454	
Notional cost of capital reversal	1.7	107,188	211,353	
Appropriations due (total)	4	<u>(5,038,368)</u>	<u>(9,260,172)</u>	
<b>Retained (deficit)/surplus for the year</b>	1.3	<u>(4,889,392)</u>	<u>736,635</u>	

Comparatives for staff costs have been restated as explained in Note 5 to the Accounts

**Statement of Recognised Gains and Losses**

	Note	2005/2006 £	2004/2005 £
Movement on deferred government grant reserve	11	<u>(1,461,702)</u>	<u>684,990</u>

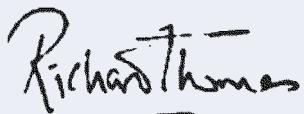
There were no material acquisitions or disposals in the year.

The notes on pages 57 to 67 form part of these accounts.

**Balance Sheet as at 31 March 2006**

	Note		31 March 2006		31 March 2005
		£	£	£	£
<b>Fixed assets</b>					
Tangible fixed assets	8		4,468,712		5,905,107
<b>Current assets</b>					
Debtors and prepayments	9	517,420		5,399,757	
Cash at bank and in hand	13	<u>380,894</u>		<u>231,092</u>	
		898,314		5,630,849	
<b>Creditors-amounts falling due within one year</b>	10	<u>(5,437,212)</u>		<u>(5,410,928)</u>	
<b>Net current (liabilities)/assets</b>			<u>(4,538,898)</u>		<u>219,921</u>
<b>Net (liabilities)/assets</b>			<u>(70,186)</u>		<u>6,125,028</u>
<b>Capital and reserves</b>	11				
Income and expenditure reserve			(4,538,898)		219,921
Deferred government grant reserve			4,443,405		5,905,107
Revaluation reserve			<u>25,307</u>		<u>-</u>
			<u>(70,186)</u>		<u>6,125,028</u>

The notes on pages 57 to 67 form part of these accounts.



Richard Thomas  
Information Commissioner  
12 June 2006

**Cashflow Statement for the year ended 31 March 2006**

	Note	2005/2006 £	2004/2005 £
<b>Net cash inflow from operating activities</b>	12	293,455	11,879
<b>Returns on investment &amp; servicing of finance</b>			
Interest received		50,250	51,962
<b>Investing activites</b>			
Payment to acquire tangible fixed assets		(1,010,519)	(1,461,820)
<b>Net cash inflow before financing</b>		<u>(666,814)</u>	<u>(1,397,979)</u>
<b>Financing</b>			
Grant-in-aid for capital expenditure		1,010,519	1,461,820
Fee income		-	9,243,781
Appropriations made	4	<u>(193,903)</u>	<u>(9,403,127)</u>
		816,616	1,302,474
<b>Increase\Decrease in cash</b>		<u><u>149,802</u></u>	<u><u>(95,505)</u></u>

The notes on pages 57 to 67 form part of these accounts.

# Notes to the accounts

## 1 Statement of Accounting Policies

### 1.1 Accounting convention

These accounts have been prepared in accordance with an Accounts Direction issued by the Secretary of State for Constitutional Affairs, with the approval of the Treasury in accordance with paragraph (10)(1)(b) of schedule 5 to the Data Protection Act 1998.

These accounts shall give a true and fair view of the income and expenditure and cashflows for the financial year, and state of affairs at the year-end. The accounts are prepared in accordance with The Government Financial Reporting Manual for 2005-06 and other guidance which the Treasury has issued in respect of accounts which are required to give a true and fair view, except where agreed otherwise with the Treasury, in which case the exception is described in the notes to the accounts.

These accounts have been prepared under the historical cost convention, as modified by the inclusion of fixed assets at current cost. The accounts meet the accounting and disclosure requirements of the Companies Act 1985 and the accounting standards issued or adopted by the Accounting Standards Board to the extent that those requirements are appropriate.

### Going Concern

These accounts have been prepared on a going concern basis. For non-trading entities in the public sector, the anticipated continuation of the provision of a service in the future, as evidenced by inclusion of financial provision for that service in published documents is normally sufficient evidence of going concern. The Government Financial Reporting Manual states sponsored entities whose balance sheets show total net liabilities should prepare their financial statements on the going concern basis unless, after discussion with their sponsors, the going concern basis is deemed inappropriate.

### 1.2 Grant-in-aid

Grant-in-aid received for revenue expenditure is credited to income in the year to which it relates as operating income.

A proportion of the grant-in-aid received, equal to the apportioned expenditure on fixed asset acquisitions in the period, is taken to the Deferred Government Grant Reserve at the end of the financial year. The amount deferred is released back to the Income and Expenditure Account in line with depreciation charged.

Up until 1 April 2005 grant-in-aid was received to fund both Data Protection and Freedom of information activities, however, from 1st April 2005 fee income is no longer remitted to the Department for Constitutional affairs and is instead retained to fund Data Protection Activities.

Freedom of information activities continue to be funded by a grant-in-aid from the Department for Constitutional Affairs.

### **1.3 Income recognition**

Fee income comprises fees in respect of notifications by data controllers, made under the Data Protection Act 1998 and is retained as operating income.

The notification fee is paid in advance for a period of one year, and a proportion of this income is therefore deferred and released back to the Income and Expenditure Account over the fee period.

From 1 April 2005 fee income is retained by the Information Commissioner to fund expenditure on data protection activities. Prior to 1st April 2005 fee income was remitted regularly (appropriated) to the Secretary of State for Constitutional Affairs, and thus a prepayment was included in respect of income appropriated in advance of recognition in the Income and Expenditure Account.

#### **Retained deficit for the year**

The Department for Constitutional Affairs has directed that cleared fees collected in any financial year shall be spent in that financial year, (subject to an agreed maximum carry forward of 3% of annual expenditure on data protection functions), however within these accounts only the expired proportion of the fee collected is recognised as income and the balance as deferred income.

The overall effect of the change in funding regime is to create a one-off deficit as prepaid appropriations are charged, which results in the reporting of a significant retained deficit for the year and creates a net liabilities position on the Balance Sheet.

### **1.4 Tangible fixed assets**

Assets are capitalised as fixed assets if they are intended for use on a continuous basis, and their original purchase cost, on an individual basis, is £2,000 or more. Fixed assets (excluding assets under construction) are valued at net current replacement cost by using the Price Index Numbers for current cost accounting published by the Office for National Statistics when the effect of revaluing assets over time is material.

### **1.5 Depreciation**

Depreciation is provided on all fixed assets 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 use. No depreciation is charged in the year of disposal.

The principal rates adopted are:

Office fixtures	10 years
Office equipment	5-10 years
IT equipment and software	5 years
Leasehold improvements	over the remaining lease term
Assets under construction	nil

## 1.6 Stock

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

## 1.7 Notional charges

A notional charge reflecting the cost of capital employed in the year is included in the Income and Expenditure Account along with an equivalent reversing notional income to finance the charge. The charge is calculated using the Treasury's discount rate of 3.5% applied to the mean value of capital employed during the year.

## 1.8 Pension costs

Pension contributions are charged to the Income and Expenditure Account in the year of payment.

## 1.9 Operating leases

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

## 1.10 Value added tax

Most of the activities of the Information Commissioner are outside of the scope of VAT. Irrecoverable VAT is charged to the relevant expenditure category, or included in the capitalised purchase cost of fixed assets. Where output tax is charged or input tax is recoverable the amounts are stated net of VAT.

## 2 Operating Income

	2005/2006	2004/2005
	£	£
Data protection fee income (note 3)	9,421,325	-
Grant-in-aid drawn from the Department for Constitutional Affairs	5,100,000	12,500,000
Transfer to deferred government grant reserve for fixed asset additions	(1,010,519)	(1,090,349)
Release of deferred government grant for depreciation, on disposal and loss on revaluation of fixed assets	2,472,221	1,572,618
	<u>15,983,027</u>	<u>12,982,269</u>

**3 Fee income**

Fees collected under the Data Protection Act 1998	2005/2006	2004/2005
	£	£
Deferred income at 1 April 2005	4,973,265	4,918,827
Fee receipts	9,655,060	9,243,781
Deferred income at 31 March 2006	(5,207,000)	(4,973,265)
Fee income	<u>9,421,325</u>	<u>9,189,343</u>

**4 Appropriations**

Appropriations to the Secretary of State for Constitutional Affairs were: (in accruals terms)	2005/2006	2004/2005
	£	£
Fee receipts to surrender (for 2005/2006 fee income is retained)	-	9,243,781
Prepaid appropriations at 31 March 2005	4,973,266	4,918,827
Prepaid appropriations at 31 March 2006	-	(4,973,265)
Interest receivable	50,250	51,962
Other income	<u>14,852</u>	<u>18,867</u>
Appropriations due	<u>5,038,368</u>	<u>9,260,172</u>
Appropriations paid to the Secretary of State for Constitutional Affairs were: (in cash terms)		
Fee receipts	128,801	9,332,299
Interest received	50,250	51,962
Other income (note 6)	<u>14,852</u>	<u>18,866</u>
	<u>193,903</u>	<u>9,403,127</u>

**5 Staff costs and numbers**

Staff costs were:	2005/2006	2004/2005
	£	£
		<b>RESTATEMENT</b>
Wages and salaries	5,834,519	4,644,252
Social security costs	390,374	330,771
Other pension costs	<u>933,941</u>	<u>572,806</u>
	<u>7,158,834</u>	<u>5,547,829</u>
Average number of full-time equivalent staff were:		
	<b>Number</b>	<b>Number</b>
Staff with a permanent (UK) employment contract with the Information Commissioner	230	211
Other staff engaged on the objectives of the Information Commissioner	<u>15</u>	<u>14</u>
	<u>245</u>	<u>225</u>

The salary and pension entitlements of the Information Commissioner are paid directly from the Consolidated Fund as a standing charge. As a result of new guidance the employment costs of the Information Commissioner of £130,573 (2004/2005 £121,315) are included above and also as a credit to the Income and Expenditure reserve (note 11), comparatives for staff costs in 2004/2005 have been re-stated accordingly.

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme. The Information Commissioner is unable to identify its share of the underlying assets and liabilities. The Scheme Actuary (Hewitt Bacon Woodrow) valued the scheme as at 31 March 2003. 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 2005/06, employer contributions of £927,103 were payable to the PCSPS (2004/2005 £565,270) at one of four rates in the range 16.2 to 24.6 per cent of pensionable pay, based on the salary bands (the rates in 2004/05 were between 12% and 18.5%). The Scheme Actuary review employer contributions every four years following a full scheme valuation. From 2006/07, the salary bands will be revised and the rates will be in a range between 17.1% and 25.5%.

The contribution rates are set to meet the cost of the benefits accruing during 2005/06 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. Employer's contributions of £6,483 (2004/2005: £7,092) were paid to one or more of a panel of three appointed stakeholder pension providers. Employer contributions are age-related and range from 3 to 12.5 per cent of pensionable pay. Employers also match employee contributions up to 3 per cent of pensionable pay. In addition, employers contributions of £355 (2004/2005: £442), 0.8 per cent of pensionable pay, were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees.

No contributions were due or prepaid to partnership providers at the balance sheet date.

No individuals retired early on health grounds during the year.

## 6 Other income

	2005/2006	2004/2005
	£	£
Legal fees recovered	9,106	5,790
Travel expenses recovered	5,346	12,764
Other	<u>400</u>	<u>313</u>
	<u><u>14,852</u></u>	<u><u>18,867</u></u>

**7 Other operating costs**

	2005/2006	2004/2005
	£	£
Accommodation (rent, rates and services)	1,085,000	1,001,616
Office supplies, printing and stationery	291,490	288,950
Carriage and telecommunications	115,388	146,673
Travel, subsistence and hospitality	416,213	454,325
Staff recruitment	183,671	222,473
Specialist assistance, consultancy and research	476,988	212,513
Communications and external relations	1,343,110	1,049,660
Legal costs	155,528	103,849
Staff training, health and safety	392,061	250,488
Information services	1,787,349	1,373,472
Vehicle expenses	1,300	1,167
Audit fee	<u>20,000</u>	<u>20,000</u>
	<u>6,268,098</u>	<u>5,125,186</u>

Included above are operating lease payments for land and buildings of £573,141  
 (2004/2005: £545,181)

**8 Tangible fixed assets**

	Leasehold improvements	Equipment & furniture	Information Technology	Total
	£	£	£	£
<b>Cost or valuation</b>				
At 1 April 2005	433,226	311,482	7,812,436	8,557,144
Additions	-	88,354	922,165	1,010,519
Disposals	-	(32,037)	-	(32,037)
Revaluation	<u>33,813</u>	<u>(2,188)</u>	<u>(1,266,841)</u>	<u>(1,235,216)</u>
At 31 March 2006	<u>467,039</u>	<u>365,611</u>	<u>7,467,760</u>	<u>8,300,410</u>
<b>Depreciation</b>				
At 1 April 2005	54,153	222,273	2,375,611	2,652,037
Charged in year	54,099	47,175	1,808,759	1,910,033
Disposals	-	(25,627)	-	(25,627)
Revaluation	<u>8,506</u>	<u>(1,616)</u>	<u>(711,635)</u>	<u>(704,745)</u>
At 31 March 2006	<u>116,758</u>	<u>242,205</u>	<u>3,472,735</u>	<u>3,831,698</u>
<b>Net Book Value</b>				
At 31 March 2006	<u>350,281</u>	<u>123,406</u>	<u>3,995,025</u>	<u>4,468,712</u>
At 31 March 2005	<u>379,073</u>	<u>89,209</u>	<u>5,436,825</u>	<u>5,905,107</u>

Tangible fixed assets totalling £106,971 (2004/2005: £79,059) have not been capitalised and are included within 'Other operating costs', as the individual costs were below the capitalisation threshold of £2,000.

The Information Commissioner has a managed service agreement with Fujitsu Services Limited for the provision of Information Services. The contract term is ten years expiring in July 2007. The title of hardware and software procured under this agreement is owned by Fujitsu Services Limited. The Commissioner is entitled to purchase the title of such assets for a nominal sum in the event the agreement is terminated. Information Technology includes software licences procured via the managed service agreement, and as such are not separately disclosed as intangible assets.

### 9 Debtors

	31 March 2006	31 March 2005
	£	£
Other debtors	30,655	28,023
Prepayments	486,765	398,469
Prepaid appropriations	-	4,973,265
	<u>517,420</u>	<u>5,399,757</u>
<b>Split:</b>		
Other Central Government Bodies	19,696	18,332
Bodies external to Government	497,724	5,381,425
	<u>517,420</u>	<u>5,399,757</u>

### 10 Creditors amounts falling due within one year

	31 March 2006	31 March 2005
	£	£
Other taxes and social security	2,005	2,499
Trade creditors	67,513	59,418
Other creditors	27,548	250,430
Accruals and deferred fee income	5,340,146	4,969,780
Fee income to be appropriated to the Department for Constitutional Affairs	-	128,801
	<u>5,437,212</u>	<u>5,410,928</u>
<b>Split:</b>		
Other Central Government Bodies	29,612	128,801
Bodies external to Government	5,407,600	5,282,127
	<u>5,437,212</u>	<u>5,410,928</u>

### **11 Reserves**

	Income and Expenditure Reserve	Deferred Government Grant Reserve	Revaluation Reserve	Total
	£	£	£	£
Balance at 1 April 2005	219,921	5,905,107	-	6,125,028
Consolidated fund standing charges	130,573	-	-	130,573
Retained deficit for the year	(4,889,392)	-	-	(4,889,392)
Grant deferred for additions	-	1,010,519	-	1,010,519
Release for depreciation	-	(1,910,033)	-	(1,910,033)
Loss on disposal of fixed assets	-	(6,410)	-	(6,410)
Net loss on revaluation of fixed assets	<u>-</u>	<u>(555,778)</u>	<u>25,307</u>	<u>(530,471)</u>
Balance at 31 March 2006	<u>(4,538,898)</u>	<u>4,443,405</u>	<u>25,307</u>	<u>(70,186)</u>

### **12 Reconciliation of operating surplus to net cash inflow from operations**

	2005/06	2004/2005
	£	£
<b>Operating surplus for the year</b>	98,726	755,502
Depreciation provided in the year and loss on disposal of fixed assets	1,910,033	1,564,818
Loss on disposal of fixed assets	6,410	7,801
Loss on revaluation of fixed assets	555,778	-
Consolidated Fund - standing charge	130,573	121,315
Release of deferred government grant	(2,472,221)	(1,572,619)
(Increase)/reduction in debtors relating to operating activities	(90,929)	(226,312)
(Reduction)/increase in creditors relating to operating activities	<u>155,085</u>	<u>(638,626)</u>
<b>Net cash inflow from operating activities</b>	<u>293,455</u>	<u>11,879</u>

### **13 Cash at bank and in hand**

	2005/2006	2004/2005
	£	£
Balance at 1 April 2005	231,092	326,597
Increase/(Decrease) in cash	<u>149,802</u>	<u>(95,505)</u>
Balance 31 March 2006	<u>380,894</u>	<u>231,092</u>
Commercial banks	379,649	230,943
Cash in hand	1,245	149
	<u>380,894</u>	<u>231,092</u>

## 14 Commitments under operating leases

Commitments under operating leases to pay rentals during the year following the year of these accounts are given in the table below, analysed according to the period in which the lease expires.

<b>Land and buildings</b>	<b>31 March</b>	<b>31 March</b>
	<b>2006</b>	<b>2005</b>
	<b>£</b>	<b>£</b>
Expiry within 1 year	3,584	5,845
Expiry within 2 to 5 years	-	96,007
Expiry thereafter	<u>502,364</u>	<u>373,001</u>
	<b><u>505,948</u></b>	<b><u>474,853</u></b>

The leases of land and buildings are subject to periodic rent reviews.

## 15 Capital commitments

No capital commitments were outstanding at 31 March 2006 (31 March 2005: nil)

## 16 Related party transactions

The Information Commissioner confirms that he had no personal or business interests which conflict with his responsibilities as Commissioner.

The Department for Constitutional Affairs 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 notification fee income and sundry receipts.

In addition, the Information Commissioner has had various material transactions with other central Government bodies. These transactions have been with the Central Office of Information (COI) and the Home Office Pay and Pensions Service.

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

## **17 Financial instruments**

Financial Reporting Standard 13, Derivative and other Financial Instruments: Disclosures required disclosure of the role which financial instruments have had during the year in creating or changing the risks an entity faces in undertaking its activities. Because of the non-trading nature of its activities and the way in which central government sector entities are financed, the Information Commissioner is not exposed to the degree of financial risk faced by business entities.

Moreover, financial instruments play a much more limited role in creating or changing risk that would be typical of the listed companies to which Financial Reporting Standard 13 mainly applies. The Information Commissioner has no powers to invest surplus funds and may only borrow with the prior approval of the Secretary of State for Constitutional Affairs.

Financial assets and liabilities are generated by day-to-day operational activities and are not held to change the risks facing the Information Commissioner in undertaking his activities.

As permitted by FRS13, debtors and creditors which mature or become payable within 12 months from the balance sheet date have been omitted from the currency profile.

<b>Liquidity risk</b>	The Information Commissioner's funding is provided by fee income and grant-in-aid voted annually by Parliament within the Supply Estimate of the Department for Constitutional Affairs. It is not, therefore, exposed to significant liquidity risks.
<b>Interest rate risk</b>	The Information Commissioner is not exposed to any interest rate risk.
<b>Foreign currency risk</b>	The Information Commissioner's foreign currency transactions are not significant.

## 18 Statement of resources by function

The Secretary of State for Constitutional Affairs provides grant-in-aid to the Information Commissioner to fund freedom of information statutory functions annually, and has directed that the fees collected under the Data Protection Act 1998 shall be retained by the Information Commissioner to fund data protection statutory functions.

Staff costs and other running costs are apportioned between the data protection and freedom of information functions on the basis of costs recorded in the Information Commissioner's management accounts system. This system allocates expenditure to various value centres across the organisation. A financial model is then used to apportion expenditure between the functions on an actual basis where possible, or by way of a reasoned estimate where costs are shared between functions.

	Freedom of Information £	Data Protection £	Total 2005/2006 £	Freedom of Information £	Data Protection £	Total 2004/2005 £
<b>Income</b>						
Operating income	5,315,036	10,112,213	15,427,249	4,678,474	8,303,795	12,982,269
Other income	-	14,852	14,852	-	18,867	18,867
	<u>5,315,036</u>	<u>10,127,065</u>	<u>15,442,101</u>	<u>4,678,474</u>	<u>8,322,662</u>	<u>13,001,136</u>
<b>Expenditure</b>						
Staff costs	2,639,086	4,519,748	7,158,834	1,893,912	3,653,917	5,547,829
Other operating costs	2,050,661	4,217,437	6,268,098	1,697,013	3,428,173	5,125,186
Depreciation	548,730	1,367,713	1,916,443	734,778	837,841	1,572,619
	<u>5,238,477</u>	<u>10,104,898</u>	<u>15,343,375</u>	<u>4,325,703</u>	<u>7,919,931</u>	<u>12,245,634</u>
<b>Operating surplus</b>	<b><u>76,559</u></b>	<b><u>22,167</u></b>	<b><u>98,726</u></b>	<b><u>352,771</u></b>	<b><u>402,731</u></b>	<b><u>755,502</u></b>

The data protection notification fee is set by the Secretary of State for Constitutional Affairs, 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, the Secretary of State shall have regard to the desirability of securing that the fees payable to the 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 functions under the Data Protection Act 1998.

These accounts do not include the expenses incurred by the Information Tribunal, or the expenses incurred by the Secretary of State in respect of the Commissioner, and therefore these accounts cannot be used to demonstrate that the data protection fees offset expenditure on data protection activities.

The segmental information above has not been disclosed for the purpose of Standard Statement of Accounting Practice 25: Segmental Reporting, or for compliance with the Treasury Fees and Charges Guide.

## 19 Accountability

No exceptional kinds of expenditure such as losses and special payments that required separate disclosure because of their nature or amount were incurred.

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