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JERSEY OFFICE OF THE
INFORMATION COMMISSIONER



Annual Report of Freedom of Information Activities

The Freedom of Information (Jersey) Law 2011



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**Annual Report
of Freedom of
Information
Activities**

The Information Commissioner has separate responsibility for regulating the Freedom of Information (Jersey) Law 2011 (**the FoI Law**). This includes encouraging public authorities to follow good practice in their implementation of the FoI Law (including adherence to the relevant code of practice) and help to promote transparency by supplying the public with information about the law and advice and guidance on how to exercise their rights.

OUR VISION

Our vision is to create an island culture whereby the protection of personal data and **privacy becomes instinctive**, with individuals and organisations taking a proactive approach to embed such protection throughout their daily activities and business planning.

OUR PURPOSE

To provide those who interact with Jersey organisations and the Government of Jersey with the highest standard of personal data protection.

OUR VALUES

Our values are hugely important to us, they create our identity and inform how we do business. We created our values to be more than words on a page, using them to guide decisions, select behaviours and drive continuous improvement in our service. Our values apply to us all, regardless of rank and flow through each area of our service, every day.

WE ARE FAIR.

We treat people equally, without favouritism or discrimination. We are impartial in our activities and free from bias or dishonesty. We are competent, reliable and respectful. Our decisions are open, honest and rationalised by a sound evidence base to promote integrity and trust.



WE ARE COLLEGIAL.

We share responsibility, including being honest and fair in our conduct towards others. We are willing to be judged on our performance. We work together to achieve our strategic outcomes. A collaborative approach allows us to work effectively together or individually. We communicate clearly, actively listen to others, take responsibility for mistakes, and respect the diversity of our team. We demonstrate impartiality and accountability.



WE ARE RESPECTFUL.

We respect those we work with and liaise with; this means that we actively listen to others and behave considerately towards others. We have self-respect and make responsible choices in what we say and do, to reach personal and organisational outcomes. We treat others in the way we want to be treated.



WE ARE ENERGETIC.

We are enthusiastic and approach our activities with vigour and vitality.



PAUL VANE BA(HONS) SOC POL CRIM (OPEN)
INFORMATION COMMISSIONER



INFORMATION COMMISSIONER'S FOREWORD

It is my pleasure to introduce my Annual Report for 2023 on our activities relating to our function as regulatory authority for the oversight of the Freedom of Information (Jersey) Law 2011.

In a world inundated with information, the concept of Freedom of Information stands as a cornerstone of democracy and progress. The bedrock of an informed society, this fundamental principle empowers individuals, fosters transparency, and fuels the engine of innovation.

As we navigate the digital age, the significance of public access to official information cannot be overstated. Freedom of Information serves as the lifeblood of a thriving democracy, ensuring that citizens possess the knowledge necessary to make informed decisions. Informed citizens are not mere spectators but active participants in the democratic process, capable of holding their governments accountable. It is through the free

flow of information that individuals can scrutinise government actions, assess policies, and voice their opinions, thereby helping to shape the collective destiny of a nation.

The democratic ideals underpinning Freedom of Information also extend beyond political spheres to encompass social, economic, and cultural territories. Access to information empowers individuals to participate in the democratic process, fostering equality, diversity and inclusivity. It acts as a catalyst for social progress, breaking down barriers and challenging outdated norms. In an era marked by interconnectedness, the availability of information becomes a force for unity, bridging gaps and fostering a sense

of shared humanity. Transparency is essential for building trust between governments and their citizens. A government that operates in the open, willingly disclosing its actions and decisions, demonstrates a commitment to accountability. It not only deters corruption but also strengthens the social contract between the citizen and the State, reinforcing the notion that those in power are stewards of the public interest. Through the lens of transparency, citizens become active participants in governance, forging stronger relationships with the decision makers.

Freedom of Information is also one of the foundations from which groundbreaking ideas emerge. Access to a wealth of knowledge enables researchers, scientists, and inventors to build upon the discoveries of others, propelling society forward. Limiting access to information stifles innovation, hindering the collective progress of our community. Yet, as we applaud the virtues of Freedom of Information, we must also confront the challenges that arise in its pursuit. The digital age has brought about unprecedented opportunities for information propagation, but it has also given rise to concerns about misinformation, manipulation, and privacy. Striking a balance between openness and safeguarding the integrity of information is a delicate task that requires thoughtful consideration and responsible governance, as well as community education on how to make informed judgements on what is the truth and what is not.

Openness and transparency of public information means that anyone can make a formal request under the FoI Law. 2023 saw over a thousand Freedom of Information requests made to Scheduled Public Authorities (SPAs) in Jersey, most coming from individuals with approximately 9% coming from the media. It is unsurprising that the SPAs receiving the most requests tend to be those in the public eye arising from current policy issues and areas of high emotive public interest. For example, last year saw most requests made to those SPAs working in areas such as housing, the environment, health and children's services, all high-profile and topical areas of interest with the public of Jersey. A more detailed breakdown of requests received can be found within this report.

In terms of the activities of the Jersey Office of the Information Commissioner (JOIC), whilst the majority of our work is in data protection regulation, such is the nature of Freedom of Information law we must always be ready and able to deal with the enquiries and appeals that result from requests made to the public sector. In 2023 we focused our energies on ensuring

our staff are appropriately trained in the Freedom of Information Law and have the skills necessary to deal with the increasing number of enquiries received by our office. We continued to provide advice and guidance on FoI matters, and adjudicated on appeals made to our office under the Law.

“ Striking a balance between openness and safeguarding the integrity of information is a delicate task... ”

I was also pleased to see the issue of the JOIC's funding by the Government of Jersey finally resolved. Since the advent of the Jersey Data Protection Authority (JDPA) in 2018, the JOIC has been funded mainly from data protection registration fees, with a small contribution from Government. It was principally not right that the private sector should be funding the regulation of Government in respect of Freedom of Information compliance when they themselves are not subject to the Law. This unsatisfactory position has now been resolved and an agreement reached with the Government of Jersey in respect of future funding of the JOIC for its FoI function. I use this opportunity to thank the Government officers involved for their work in delivering this resolution, and I am grateful we have a clearer position moving forward.

In conclusion, the importance of Freedom of Information cannot be underestimated in a world where knowledge is power. It is the driver for democracy, a catalyst for societal progress, and a cornerstone of innovation. As we navigate the complexities of the modern age, let us uphold and defend this fundamental principle, ensuring that the flow of information remains unrestricted, empowering individuals, and enriching societies across the globe.

PAUL VANE
INFORMATION COMMISSIONER

Information Commissioner

ANNE KING
OPERATIONS DIRECTOR



GOVERNANCE, ACCOUNTABILITY & TRANSPARENCY

The FoI Law provides the public with a legal right for individuals to request access to, and be provided with, information held by SPAs. This covers ‘information recorded in any form’ held by a SPA and includes printed documents, computer files, letters, emails, photographs, and sound or video recordings. SPAs covered by the FoI Law include Government of Jersey departments, Parishes, States of Jersey Police, Andium Homes and the Children’s Commissioner.

The aim of the FoI Law is to promote a culture of openness and transparency across the public sector, improve accountability and promote good governance by providing individuals with a better understanding of how SPAs carry out their duties, make the decisions they do and spend public funds.

(The FoI Law does not give individuals a right of access to their own personal data because this right is available under the DPJL 2018).

Our role in regulating the FoI Law includes the following functions:

- To encourage public authorities to follow good practice in their implementation of this Law and the supply of information.
- To supply the public with information about the FoI Law.
- To deal with appeals.

An applicant who is dissatisfied with a decision of a SPA in responding to their request may, within six weeks of the notice of that decision being given or within six weeks of the date the applicant has exhausted any complaints procedure provided by the SPA, appeal to the Information Commissioner on the basis that the decision of the SPA was not reasonable.

The Information Commissioner must decide the appeal as soon as is practicable but may decide not to do so if satisfied that:

- The applicant has not exhausted any complaints procedure provided by the Scheduled Public Authority.
- There has been undue delay in making the appeal.
- The appeal is frivolous or vexatious; or
- The appeal has been withdrawn, abandoned or previously determined by the Information Commissioner.

In each case, the Commissioner conducts a formal appeal process adhering to the principles of administrative fairness and the laws of natural justice. Both sides are provided with an opportunity to make formal written submissions in support of their position. The Commissioner presumes that when making its submissions, each party is providing their full and complete arguments and all relevant evidence in support.

The Information Commissioner must serve a notice of his or her decision in respect of the appeal on the applicant and on the SPA. This is done by way of a formal Decision Notice based on the submissions of the parties, the precise wording of the legislation and any relevant case law. It will set out the Commissioner’s decision and, without revealing the information requested, the reasons for the decision.

“The aim of the FoI Law is to promote a culture of openness and transparency.”

The decision is objective and includes adequate reasons. If a party is dissatisfied with the Decision Notice, the only avenue of appeal is to the Royal Court. The Royal Court may review the Commissioner’s decision to determine whether it was reasonable.

The Commissioner’s team also provides informal advice and assistance to both members of the public and SPAs prior to any formal appeal.

2023 FoI Grant

The Information Commissioner signed an Agreement with the GoJ on the 23 October 2023 to separately fund the Information Commissioner and the relevant team members for the delivery of FoI related activities. The activities ensure that the Information Commissioner’s statutory functions as provided for in the FoI Law.

The Agreement is effective from 1 January 2023 to 31 December 2025 and provides for an annual grant of £70,000. The Agreement provides for an enhanced Governance framework.

ANNE KING
OPERATION DIRECTOR

STEPHANIE MACNEILL
COMPLIANCE AND ENFORCEMENT MANAGER



2023 OPERATIONAL PERFORMANCE & APPEALS

The FoI Law provides the public with a legal right for individuals to request access to, and be provided with, information held by SPAs. The Scheduled Public Authorities are set out in Schedule 1 of the Freedom of Information (Jersey) Law 2011.

1. The States Assembly including the States Greffe.
2. A Minister.
3. A committee or other body established by resolution of the States or by or in accordance with standing orders of the States Assembly.
4. A department established on behalf of the States.
5. The Judicial Greffe.
6. The Viscount's department.
7. Andium Homes Limited, registered on 13th May 2014 under registration number 115713.
8. The States of Jersey Police Force.
9. A parish.
10. The office of the Commissioner for Children and Young People.

The table below shows the volume of valid Freedom of Information requests excluding Parishes, Children's Commissioner and Andium Homes.

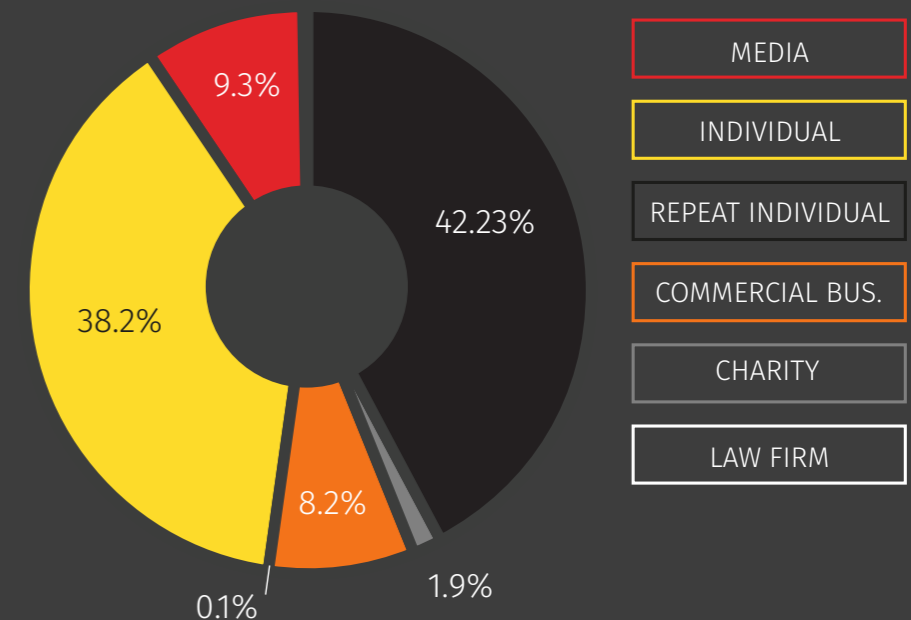
The departments below also received 116 requests which were invalid due to the

- Information being available elsewhere for example, already answered.
- Request falling under the mandate of the Data Protection (Jersey) Law 2018 as it is personal information.

FREEDOM OF INFORMATION STATISTICS	2021	2022	2023
Office of the Chief Executive	74	65	66
Infrastructure, Housing & Environment	180	115	209
Children, Young People, Education and Skills	70	48	95
Health and Community Services	216	179	164
Justice and Home Affairs	216	48	48
Judicial Greffe	18	14	28
Customer and Local Services	91	73	38
States Greffe	24	16	12
States of Jersey Police	81	58	93
Treasury and Exchequer	67	58	79
Strategic Policy, Planning and Performance	101	85	61
Chief Operating Office	85	84	62
Department of the Economy	-	-	58
Total Valid Requests	1130	883	1013

The Central Freedom of Information Unit of the Government of Jersey reported that it received [1,013] valid FoI requests during 2023, with the majority (80.4%) of requestors being individuals, of these 42% are repeat individuals. The media submitted 9.3% of the requests.

Requester Type - 2023



The Government departments which received substantial increases in the number of valid requests were:

- Children, Young People, Education and Skills (CYPES).**
 Applicants were seeking information regarding the teachers disputes and strikes. Additionally, requests were received about exam results, supply staff off-island placements. Of interest also were off-island placements in relation to eating disorders and mental health. Requesters were also seeking information about Children and Adolescent Mental Health Services. The volume of requests doubled from 2022 to 2023.
- Infrastructure, Housing & Environment (IHE).**
 Valid requests to the IHE department increased by 81% in 2023. The main themes of the applications were around planning committee minutes, planning application records and emails. Also of interest was St John's Road traffic calming measures.
- States of Jersey Police.**
 The States of Jersey Police number of valid requests increased by 63% in 2023. Applicants sought information on accidents, convictions and general complaint statistics.
- Judicial Greffe.**
 Whilst the volume of requests to the Judicial Greffe doubled in number there were notable patterns in the subject matter requested.

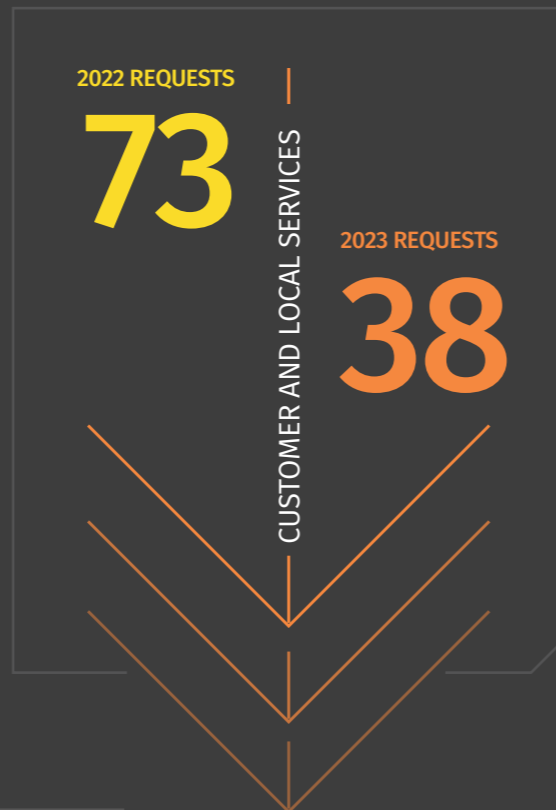
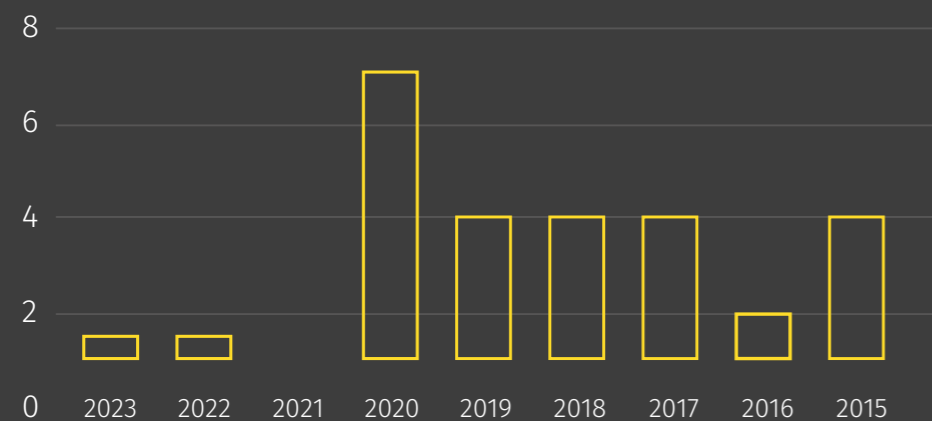
It should also be noted that two departments experienced significant declines in the volume of requests namely Customer and Local Services with the number of requests decreasing from 73 in 2022 to 38 in 2023. Likewise Strategic Policy, Planning and Performance requested dropped by 40%.

The Comité des Connétables publishes a Disclosure Log which displays the responses to FoI requests submitted to all the island parishes. The 30 published responses in 2023 ranged in subject matter from roads and parking to the Honorary Police.

The Government of Jersey similarly publish FoI requests and responses.

The table below highlights the number of appeals received by JOIC.

FoI Appeals 2015 - 2020



Significant 2023 Decision Notices and Enquiries

In 2023 we were involved in one FoI appeal which resulted in a decision notice in favour of the SPA.

Summary/Decision

- In August 2022, the Complainant requested certain information via the Government of Jersey (GoJ) website relating to the myRegistry portal for the Jersey Financial Services Commission (JFSC) (the Request).
- The GoJ's Central FoI Unit (the Unit) wrote to the complainant indicating that a) the requested information was not held by the GoJ; and (b) advising that, in any event, the JFSC is not a scheduled public authority for the purposes of the Freedom of Information (Jersey) Law 2011 (the FoI Law) (the Response).
- The Complainant did not agree with the Response and requested an internal review on 7 September 2022 (the IR Request).

- The GoJ responded to the IR Request on 4 October 2022 (the Internal Review).
- The Complainant did not agree with the outcome of the Internal Review and so appealed to the Information Commissioner (the Commissioner) on 4 October 2022 (the Appeal).
- The Commissioner's decision is that:
 - the information requested by the Complainant is not held by the GoJ to whom the Request was addressed; and
 - JFSC is not a scheduled public authority for the purposes of the FoI Law and the appeal is not upheld.

We also received two FoI requests submitted directly to the Information Commissioner in error and we signposted the applicants to the correct GoJ Central FoI Unit.

Other Freedom of Information Enquiries:

- Several individuals copied us into their FoI email exchanges with the Central FoI Unit – these are enquiries which we treat accordingly.
- We received an FoI which we responded to as 'Business as Usual' providing information about our funding as appears in our statutory accounts.
- We were notified of an error in an FoI published response in relation to an Article cited. The error was corrected following our intervention.

- We received a premature appeal which we directed the applicant back to GoJ Central FoI Unit for an internal review.
- We received an enquiry regarding the integrity of maintaining the anonymity of the applicant of an FoI request.
- Enquiries seeking clarity as to data protection and FoI and understanding potential exemptions.

Our activities within Freedom of Information are varied in terms of resource requirements and involvement.

STEPHANIE MACNEILL
 COMPLIANCE AND
 ENFORCEMENT MANAGER

CLAIRE LE BRUN
HEAD OF FINANCE

FINANCE OVERVIEW



The first Freedom of Information Partnership Agreement (the Partnership Agreement) between the Information Commissioner, the Jersey Data Protection Authority (included as the physical recipient of the grant) and the Government of Jersey was signed on 23 October 2023.

The agreement term covers the period from 1 January 2023 through to 31 December 2025 (3 years) and allows for the annual funding of FoI activities only.

BUDGET AREA	BUDGET FULL YEAR	FULL YEAR	VARIANCE
Income	£70,000	£70,000	£0
Staff	£24,158	£24,158	£0
Non-Staff	£45,489	£38,787	+£6,702
Total Variance			+£6,702

The funded activities include the Information Commissioner’s statutory functions as provided by the Freedom of Information (Jersey) Law 2011 (the FoI Law), together with an allowance for the performance of those functions by appropriate JOIC team members (FoI Team). The FoI Team assist the Information Commissioner with the performance of his statutory functions on a day-to-day basis, ensuring such are carried out in a timely and cost-effective manner. The funding also provides for ongoing training and other associated operational costs for the FoI Team. The Partnership Agreement provides for the Information Commissioner and relevant team members to be appropriately trained and resourced to maintain a fit for purpose FoI provision.

The annual grant is £70,000 and is to be paid by 1 July each year (the first-year payment date was in December 2023 by agreement of both parties).

CLAIRE LE BRUN
HEAD OF FINANCE

“ The FoI Team assist the Information Commissioner with the performance of his statutory functions on a day-to-day basis, ”



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JERSEY OFFICE OF THE
INFORMATION COMMISSIONER

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