



ANNUAL REPORT OF:

FREEDOM OF INFORMATION ACTIVITIES

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The Jersey Office of the Information Commissioner (JOIC)

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 Purpose

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

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 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.

Information Commissioner's Foreword



PAUL VANE BA(HONS) SOC POL CRIM (OPEN)
Information Commissioner



This year has been one of greater demand, significant challenge and important progress for the Freedom of Information (FOI) regime. As regulator, our role is to uphold the public's right to access information, promote good practice among public authorities, and ensure that transparency remains a living principle rather than a procedural formality.

Over the reporting period, we have seen a continued high volume of requests to public authorities and a corresponding rise in appeals to our office. While many authorities demonstrate a strong commitment to openness, a number of recurring issues have required regulatory attention. These include delays in responding to requests, inadequate searches for information, reliance on incorrect exemptions or the blanket application of exemptions, and timeliness of responses to information requests from the regulator.

The statutory time limits for responding to FOI requests are a critical part of the regime. Access delayed is often access denied in practical terms. This year, we have observed persistent delays among a range of Scheduled Public Authorities (SPAs), in some

cases driven by resource constraints and competing operational pressures. However, statutory obligations are not optional. Timely responses to requests are essential to ensuring that information remains relevant and that public debate is informed by current and accurate data. Similarly, as the regulator, we expect prompt responses to information requests as part of our statutory function. Delayed responses or the withholding of information from the JOIC is unacceptable and does not demonstrate a culture of transparency or accountability.

It is not unreasonable for requesters to question whether extensions and backlogs reflect administrative difficulty or reluctance to disclose. Delays erode trust, and public confidence depends

not only on the eventual release of information but on the assurance that it will be provided promptly and in good faith. In response, we have issued formal decision notices, required remedial action plans, and engaged proactively with senior leadership teams to address systemic backlogs. We have also increased our education and outreach to help SPAs manage high request volumes and clarified expectations around extensions and internal reviews, amending templates to help SPAs understand what is required of them.

A second recurring concern has been the adequacy of searches undertaken to locate requested information. In some investigations, we found that SPAs had interpreted requests too narrowly or failed to conduct thorough searches across relevant systems, departments, time periods and records. The duty to conduct reasonable and proportionate searches lies at the heart of the FOI framework. Where searches are incomplete, requesters are left with an inaccurate picture of the information held. Even where omissions are inadvertent, the perception can be damaging. Transparency requires not only the release of information, but confidence that what has been released represents the full extent of what is held, subject to lawful exemptions. To address this issue, we have provided advice on search standards, emphasising the importance of clear audit trails and documented search strategies.

We have also considered cases involving the reliance on incorrect or overly broad exemptions. In some cases, multiple exemptions were applied, or the exemption relied upon changed later in the process. While the FOI framework recognises the need to protect certain interests such as personal data, national security, or commercially sensitive information, these exemptions must be applied with care and precision, remembering that some of the available exemptions require qualification in order to be relied upon.

In some instances, exemptions were engaged without sufficient analysis or without proper consideration of the public interest test. In others, SPAs cited exemptions that were not applicable to the information requested. Such practices risk creating a culture of defensiveness rather than openness.



While many authorities demonstrate a strong commitment to openness, a number of recurring issues have required regulatory attention.





Misapplication of exemptions undermines confidence in the integrity of decision-making. The public must be assured that exemptions are used to protect legitimate interests, not to shield institutions from scrutiny or embarrassment. Through our decisions and guidance, we have reinforced the principle that exemptions should be interpreted narrowly and applied only where clearly justified.

When public authorities respond promptly, search diligently, apply exemptions carefully, and preserve records responsibly, they reinforce trust in public institutions. Conversely, systemic weaknesses, whether born of resource pressures, misunderstanding, or cultural resistance, can foster scepticism and disengagement.

Given the issues we have identified, it is important for SPAs to take proactive steps in order to minimise the risk of diminishing public confidence in the FOI system. Transparency is not achieved solely through compliance with procedural requirements. It hinges on a culture of openness, a commitment to accountability, and an understanding that access to information is a democratic right. It is of comfort, therefore, that we have seen improved processes from the Government of Jersey's Central FOI Unit, improved quality of responses and improved engagement between my office and SPAs. Our work as regulator is therefore

both corrective and preventative. We investigate appeals, issue binding decisions, and, where necessary, can take enforcement action. But we also provide guidance and support improvement. Regulation must be firm, fair and forward-looking.

As we enter the coming year, we will continue to focus on early intervention in cases of systemic delay, targeted engagement with SPAs demonstrating recurring non-compliance, and the promotion of best practice in records management and exemption handling.

The right of access to information is fundamental to democratic accountability. It enables informed public debate and empowers individuals to understand and challenge decisions that affect their lives. Safeguarding that right requires vigilance, consistency and collaboration.

I would like to thank my team for their continued professionalism and dedication throughout the year, and to acknowledge the many SPAs who have engaged constructively with us to improve their practices. Together, we must ensure that freedom of information remains not merely a statutory scheme, but a practical and trusted mechanism for transparency. Ultimately, trust in public institutions is built through openness. Our task is to ensure that this openness is meaningful, lawful and enduring.

PAUL VANE
Information Commissioner

Governance, Accountability & Transparency



ANNE KING
Operations Director

The Freedom of Information (Jersey) Law 2011 provides the public with a legal right for individuals to request access to, and be provided with, information held by Scheduled Public Authorities (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 Office of the Children's Commissioner for Jersey.

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 the right of access to their own personal data because this right is available under the Data Protection (Jersey) Law 2018).

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

- To encourage SPAs 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 FOI 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 exhausts 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 Commissioner must decide on 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 submissions, each party is providing their full and complete arguments and all relevant evidence in support.

The 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 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. Further information is available at www.jerseyoic.org.

2025 FOI GRANT

The Information Commissioner receives a grant from the Government of Jersey to undertake statutory responsibilities under the Freedom of Information (Jersey) Law 2011. These statutory responsibilities are undertaken by the relevant members of the JOIC Freedom of Information team.

The annual FOI grant ensures that the Commissioner's FOI team remain appropriately skilled, trained and resourced to respond to the volume and variety of FOI appeals.

The Commissioner carefully monitors the resources and deployment in each FOI appeal and inquiry.

2025 Operational Performance & Appeals



STEPHANIE MACNEILL
Compliance & Enforcement Manager



TABLE 1

Scheduled Public Authority	2025 Valid FOI Requests	Number of Appeals Received by the Information Commissioner
Andium Homes	12	0
Parishes	39	1
Children's Commissioner	0	0
Government of Jersey (which includes 1 - 8 from page 12)	1,042	12
Total	1,093	13

Altogether in 2025 the Information Commissioner received 13 Freedom of Information appeals. Five of those appeals were resolved and closed. Eight remain active at the start of 2026.

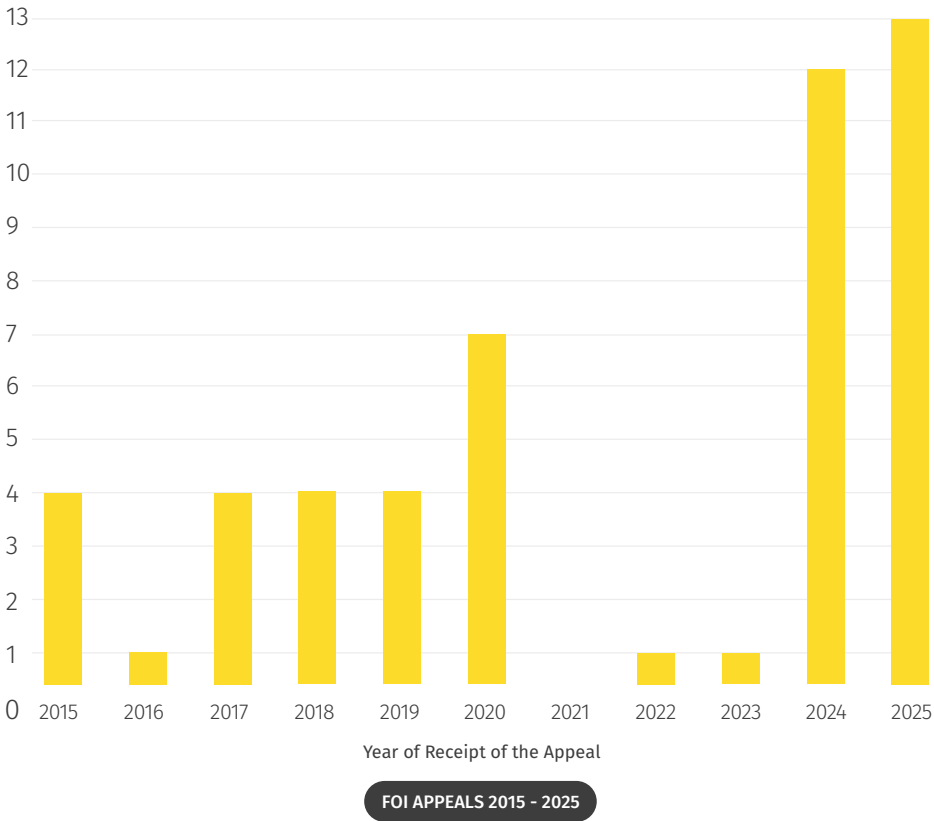
In 2025 the Scheduled Public Authorities received and responded to 1,093 valid requests, only 13 of these generated an appeal to our office, which represents less than 1.19%. It should be noted this is a testament to the work of the SPAs.

Nine Freedom of Information appeals were carried forward from 2024. All nine of these Freedom of Information appeals were resolved in 2025.

The total amount of resolved appeals in 2025 was 15.

- Five cases did not result in Decision Notices being issued.
- Ten Freedom of Information appeals resulted in Decision Notices being issued.

Out of the five that did not result in Decision Notices, this was due to a variety of reasons for example, the appeal being out of time to appeal, applicants not providing our office with necessary documents to proceed or applicants being too premature in the process as they had not yet gone through the Scheduled Public Authority internal review process.



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

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. The States of Jersey Police Force.
8. The Jersey Police Complaints Commission.
9. Andium Homes Limited.
10. Parishes.
11. The Office of the Commissioner for Children and Young People (Office of the Children's Commissioner for Jersey)

Table 1 highlights the number of valid FOI requests received by the SPAs. The Government of Jersey provided the number of valid requests received by all their SPAs, noted 1-8 above. Of these the Infrastructure & Environment Department received the most requests, with 195 received (18.7%). This was followed closely by Health & Care Jersey who received 184 requests (17.7%), and CYPES who received 110 requests (10.6%). All other SPAs included in the analysis received less than 100 FOI requests each across 2025.

In terms of the Government of Jersey FOI requests (noted 1-8 above), 65 requests were escalated for an Internal First Review by the SPA. Of these 50 (77%) of the original decisions were supported and the remaining 15 (23%) were overturned.

APPEALS 2015 – 2025

The following is a summary of the ten appeals that had Decision Notices issued.

In one appeal, the applicant requested a report from the **Department for the Environment** (the SPA) in April 2024, challenged its refusal to provide the report and pursued an internal review, and ultimately succeeded on appeal, with the Information Commissioner ordering the report’s disclosure in redacted form within 35 days.

In another appeal, the Commissioner’s decision about a delayed FOI request to **Health and Community Services** (the SPA), was partially upheld, finding the response was late.

The Commissioner partially upheld an appeal concerning an FOI request to the **Parish of Grouville** (the SPA) about its 2024 rates appeals process. The applicant asked the Commissioner to review their original FOI Request and the responses received from the SPA to ascertain whether what had been provided

was in accordance with the FOI Law and whether the exemptions cited by the SPA were appropriately applied.

In another appeal, the applicant sought information from **People Services** (the SPA), about recruitment freeze exemptions. The request was initially refused under Article 16 (cost and time), later revised under Article 3 (information not held), and although the appeal was partially upheld, no further action was required.

Elsewhere, the applicant requested certain information from the **Department for the Economy** (the SPA) about the legal basis for the establishment of the Economic Crime and Confiscation Unit (ECCU), which the Department for the Economy refused under Articles 27 and 31 of the FOI Law. While the Commissioner partially upheld the appeal by agreeing the identified document was properly withheld, it was found that inadequate searches had been carried out, requiring the SPA to conduct further searches and issue a fresh response within a set timeframe.

An applicant requested Data Protection Impact Assessment files and data-sharing/processing agreements from the **Infrastructure and Environment Department** (the SPA), which were withheld under Article 33(b) (commercial interests) and later also Article 21(3) (vexatious requests). The Commissioner rejected the appeal, upholding the SPA’s reliance on these exemptions.

In another appeal, the applicant requested certain information from the **Office of the Chief Executive** (the SPA) regarding the Housing and Work Advisory Group (HAWAG)’s business licence decisions, which the SPA initially withheld under Articles 25 and 31, and the Commissioner partially upheld the appeal, requiring the SPA to release certain information.

An applicant requested correspondence between Senator Ian Gorst and Lord Ahmad, which **External Relations** (the SPA), partially withheld under Articles 25, 31, and 41. The Commissioner partially upheld the appeal, requiring the SPA to release specified information.

In another appeal, an applicant requested a copy of the Financial Investigation manual produced by the Economic Crimes and Confiscation Unit (ECCU). The **Department for the Economy** (the SPA), withheld the manual under

Articles 27 and 31 and later Article 42 of the FOI law. The Commissioner upheld the SPA’s reliance on these exemptions meaning no further action was required. The SPA deleted electronic copies of the withheld information after the appeal was submitted, leaving only the master copy with the Law Officers’ Department, highlighting that information subject to a live appeal must not be destroyed and must be provided without delay.

An applicant sought a dossier and related emails from the **Office of the Chief Executive** (the SPA). The SPA said the dossier was not held and withheld parts of the emails citing FOI exemptions (Arts.25 and 31). After an internal review, the SPA released some previously withheld emails. The Commissioner partially upheld the appeal, requiring the SPA to provide further information.

The full Decision Notices can be found [here](#).



Freedom of Information Interim Review

Public Consultation

During the third quarter of the year Government of Jersey launched an interim review of the Freedom of Information (Jersey) Law 2011 with the aim of ensuring the FOI law continues to promote transparency, accountability and public trust in way that is fair, proportionate and fit for purpose.

As part of the review, Government of Jersey were considering if the FOI Law should be extended to cover a wider range of publicly owned or publicly funded organisations including States-owned entities, statutory bodies and organisations that receive significant public funding.

The review is around four workstreams.

1. Operational Improvements
2. Improved access to information
3. Extent of the Law
4. Legislative improvements

The Information Commissioner was actively involved in the review – attending a roundtable workshop and submitting a fulsome response. The Commissioner fully supports the principles of transparency, the right to know and accountability. Our response to the FOI Interim Review Consultation covered all of the matters raised but in particular we highlighted the following: the impacts of extending the scope of the law on the ‘new’ SPAs, a proactive publication scheme to help improve openness and the complexities if the Jersey Office of the Information Commissioner was brought into scope.

Extracts from our consultation response.

‘If the FOI law was extended to include *all States (fully and partly) Owned Entities*, the Information Commissioner highlights that for new SPAs brought into the law they would *likely* need necessary support, such as:

- Comprehensive training programmes (FOI and data protection integration; redaction; appeals)
- Access to a central FOI advisory support unit (and, where necessary, legal advice)
- Standardised templates, decision-trees, and procedural guides
- Digital tools (case management, workflow automation, audit trails, deadline alerts)
- Enhanced records management systems, metadata tagging, indexing, archiving
- Shared best practice forums among FOI practitioners
- Phased implementation timelines, with transitional exemptions or elongated deadlines until full readiness’

‘The Commissioner is charged with regulating and enforcing the FOI Law itself. No other regulator in scope or under consideration occupies such a dual position. Extending the FOI regime to include the Commissioner would create an unusual and potentially conflicted arrangement; one where the regulator would be subject to its own oversight under the same law it enforces. While this may be administratively workable in larger jurisdictions with substantial resources and structural separation (such as the UK ICO), it would be operationally challenging in Jersey’s smaller context.’

‘The JOIC supports improving openness in ways that complement, rather than dilute, FOI obligations. These include proactive publication (publication schemes, datasets, contracts, performance indicators) and providing simplified request mechanisms (including allowing requesters to specify the SPA they want to submit a request to, rather than relying on an internal triage undertaken by the Central Information Governance Unit). Coupled with setting of broad internal standards across the SPAs and provision of training, it is anticipated that this will assist in reducing requests for internal reviews and appeals to the JOIC, as has been demonstrated in the UK.’

‘If the JOIC were to be brought within scope of the FOI Law, it would be essential that appropriate exemptions are made available to protect the integrity of our regulatory and enforcement functions. Specifically, information obtained or created in the course of exercising our statutory powers under either the FOI Law or the Data Protection (Jersey) Law 2018 (DPJL 2018)/Data Protection Authority (Jersey) Law 2018 (DPAJL 2018) should be expressly excluded from disclosure. This would align with international practice for independent regulators and ensure that confidential intelligence, investigative material, and enforcement deliberations are not exposed in a way that could prejudice ongoing cases, compromise cooperation, or undermine public confidence in the regulatory framework.’

See appendix 1 for the full consultation response.

Communications & Outreach



SARAH MOORHOUSE

Communications & Public Relations Lead

SUE FERNANDES

Community Engagement Lead



Our Communications and Outreach activities centred around increasing public awareness of local Freedom of Information law and clarifying our role as part of the appeals process. We advanced this by highlighting these points at every available touchpoint including community outreach activities, interactive Data Protection and Freedom of Information guidance sessions and via our social media channels.



More specifically, we were pleased to raise awareness at our Data Protection Express weekly clinics, lunchtime drop-in sessions, 'Beginner's Guide' webinars and information pop-up stands, as well as Jersey Consumer Council's two-day event to celebrate their 30th anniversary, held for the benefit Islanders.

To support the above efforts and broaden our reach, we used a range of direct marketing methods, including distributing information leaflets in public

spaces, providing printed materials at community events and supplying partner organisations with information to share within their networks. These approaches helped ensure clear, accessible information was readily available for Islanders.



Finance Overview



CLAIRE LE BRUN
Finance Director

The Freedom of Information Partnership Agreement between the Information Commissioner, the Jersey Data Protection Authority (included as the physical recipient of the grant) and the Government of Jersey covers the period from 1 January 2023 through to 31 December 2025 (three years) and allows for the annual funding of Freedom of Information activities only.

Budget Area	Budget Full Year	Full Year	Variance
Income	£70,000	£70,000	£0
Staff	£28,796	£18,584	+£10,212
Non-Staff	£41,204	£41,841	- £637
Total Variance			+£9,575

During 2025, the annual grant of £70,000 was received, with £60,425 utilised to support Freedom of Information operations. This expenditure covered the Commissioner's statutory responsibilities under the Freedom of Information (Jersey) Law 2011, together with the delivery of those duties by the relevant members of the JOIC Freedom of Information team.

The areas most subject to fluctuation in resource allocation continue to be Compliance and Enforcement within the Freedom of Information team and the engagement of External Legal Counsel. Costs in these areas are largely demand driven, varying according to both the number and complexity of enquiries and appeals submitted to the Information Commissioner.

The volume of Freedom of Information matters during 2025 remained significant, resulting in increased activity across Compliance and Enforcement and a corresponding rise in expenditure on external legal support during the year.

DEPARTMENT	Actual cost 2025
Compliance and Enforcement	£14,326
Community and Engagement	£1,979
Support (Finance)	£2,279
Total cost to end Q4	£18,584

86% of the grant has been utilised in the year, the remaining unutilised grant of £9,575 has been added to the Freedom of Information restricted reserve at year end.

The unspent grant monies will be returned to Government in line with the Partnership Agreement.



Appendix 1



Assistant Minister for Sustainable Economic Development
Strategic Policy, Planning and Performance
Government of Jersey
Union Street
St Helier
Jersey
JE2 3DN

By Post & Email: FOIreviewconsultation@gov.je

10 November 2025

Dear Deputy Ferey

Response to the Interim Review of the Freedom of Information (Jersey) Law 2011

The Jersey Office of the Information Commissioner (**JOIC**) welcomes the opportunity to respond to the Government’s consultation and interim report R-138/2025 – Review of the Freedom of Information (Jersey) Law 2011.

The JOIC fully supports the principles of transparency, accountability, and the right of access to public information. However, any reform must be legally clear, practically deliverable, and proportionate. It must also respect the original intention of the Freedom of Information (Jersey) Law (**FOI Law**): to apply primarily to Scheduled Public Authorities (**SPAs**) - that is, to entities that are directly part of, or wholly owned and controlled by, the States of Jersey (**SoJ**).

While we recognise public interest in potentially expanding coverage, we caution against broad or open-ended inclusion of other bodies unless expansion will meet clear defined objectives, and until the existing system is demonstrably resourced, trained, and capable of meeting current obligations. Specifically, expansion must not occur without ensuring that the existing regime is fully resourced and that the regulator is properly empowered to oversee compliance.

This office has had the benefit of acting in appeals under the FOI Law since its coming into force on 1 January 2015 and has seen an exponential increase in the number of appeals submitted to this office under Art.46 of the FOI Law. Whilst there are certain individuals who have generated multiple FOI appeals over the years, this accounts for only part of the increase as even with first time appellants, the number of matters being appealed is still greater than when the law came into force.



Year	Number of appeals lodged	Number of Decision Notices issued ¹
2015	2	0
2016	0	2
2017	0	0
2018	4	3
2019	6	5
2020	4	4
2021	0	2
2022	1	0
2023	0	1
2024	11 ²	0
2025	10	9
TOTAL	38	26

This consultation response will look at two aspects; our general observations as regulator for the FOI Law and also in respect of the specific issues identified in the consultation (including as an entity to which the FOI Law may be extended in due course).

Summary/overview of the JOIC’s Position

Extension to other entities

Whilst the [Interim Report](#) notes that there has been criticism of the FOI Law’s limited application to identified bodies, no information has been given about the extent of that criticism (i.e. is it widespread) or whether there are certain entities that are being called upon to include.

We consider that the FOI Law should remain, on the whole, limited to States-owned or wholly controlled bodies, consistent with the original intent of P.39/2011 and any expansion beyond this should be specific, evidence-based, and achieved via Schedule amendment in the usual way, not through application of a broad “public function” test. The original States Assembly report accompanying P.39/2011 made clear that the FOI law’s purpose was to “*provide a right of access to information held by Scheduled Public Authorities*”.

¹ This number may differ from the number of appeals lodged. This is because the Information Commissioner may decline to decide an appeal in certain circumstances.
² Two (2) appeals were rejected for being out of time. Appeals to the Commissioner under Art.46 of the FOI Law must be lodged within six (6) weeks





This model was chosen for clarity and control: coverage would be explicit, listed, and amendable by regulation - not inferred through functional tests. It mirrors the Freedom of Information Act 2004 (applicable in England and Wales) where it is the bodies listed in the schedule to that Act that are brought within scope of that law. Indeed, Andium Homes Limited, States of Jersey Police Force, the Parishes and the office of the Commissioner for Children and Young People were all added to Schedule 1 of the FOI Law in this phased process³.

Wholly owned bodies and where SoJ has a controlling interest

The JOIC recognises that some wholly owned subsidiaries or incorporated entities may not yet appear in the Schedule to the FOI Law but act as public bodies in practice. It is reasonable to consider adding such entities where the States retains full ownership and control and notes that the original intent set out in P.149/2014 was to extend the provisions of the FOI Law to the States of Jersey Development Company, Jersey Post and Jersey Telecom as wholly owned bodies and to Jersey Electricity and Jersey Water given GoJ’s controlling interest.

JOIC recommends

- It is unclear why only Andium Homes has been included to date, but the JOIC broadly supports inclusion of fully States-owned or controlled bodies, but only after a readiness assessment noting our comments in the section below entitled “Resourcing and Capability”.

Partly owned bodies

Blanket inclusion of partly owned entities and private contractors would arguably be out of sync with similar regimes in other jurisdictions (such as England and Wales⁴ and Scotland⁵) and there is no ascertainable evidence to suggest that extension of an FOI scheme to these bodies is required or desirable. Similarly, expanding the FOI Law to bodies that are only partly publicly owned, or that carry out some “public functions,” risks ambiguity and unintended legal consequences.

³ Andium, SOJP and Parishes were included on 1 January 2015, and the Office of the Commissioner for Children and Young People from 26 July 2019
⁴ s.6(1) of FOIA refers to publicly-owned companies that are “wholly owned” by the Crown, by the wider public sector or by both together. FOIA does not apply to partly owned bodies (s.3(1) sets out what entities fall within the definition of public authorities.
⁵ Like FOI, the Freedom of Information (Scotland) Act 2002 (**FOISA**) similarly only applies to public authorities and publicly owned companies (which are those that are “wholly owned”) - see s.3 and s.6 of the FOISA.



In addition, for partly owned or mixed-ownership entities there may be competing obligations (commercial confidentiality, shareholder agreements, fiduciary duties) that conflict with an FOI disclosure regime. In addition, such entities may not currently have internal governance, record-keeping or staffing suitable for FOI compliance⁶.

Publicly funded organisations, particularly those receiving the majority of their operational funding from government

Statutory bodies

The consultation proposes using the test of being “*established in statute*” as a potential basis for inclusion (e.g. JFSC, C&AG). While being statutory is a relevant factor, it is not (of itself) a sufficient condition for inclusion. Most statutory regulators operate independently from government, are self-funded, or have statutory confidentiality duties (e.g. financial and data protection regulators). Automatic inclusion could conflict with their legal frameworks and any such inclusion would therefore require individual analysis, consultation, and specific legislative amendment in terms of necessary exemptions from disclosure requirements where disclosure could prejudice its regulatory activities for example.

JOIC recommends

- Retaining the current SPA list model as the anchor i.e. named entities outside GoJ need to be specifically named and listed in Schedule 1 of the FOI Law.
- Adding any new bodies only through specific legislative amendment, supported by a public-interest case and readiness assessment (see comments on resourcing and capability below).
- Avoiding any generic definition such as “any organisation exercising public functions,” which would likely generate uncertainty and administrative dispute.

Resourcing and capability

The 2024 JOIC Annual FOI Report recorded the highest number of appeals to date (12) - a sign of pressure on both compliance and consistency. Response timeliness and quality are uneven across authorities, likely reflecting capacity and system constraints.

⁶ Notice is drawn here to [Art.7 of the FOI Law](#) that mandates each SPA to prepare and maintain an index of the information that it holds.



Before any extension, however, the JOIC would also recommend that GoJ should conduct a comprehensive resource impact assessment (staffing, systems, legal costs) and set out minimum resourcing standards for FOI handling units across all SPAs including ensuring ring-fenced funding for training, systems and appeals handling.

It is submitted that Andium Homes may have useful, practical insight on how the FOI Law impacts on their daily operations and the level of resourcing required by those additional entities to ensure compliance with its statutory obligations under the FOI Law. It is also submitted that those identified bodies will likely need time to implement appropriate policies, procedures and training of staff.

FOI requires specialist judgment (particularly around application of exemptions, redactions, and balancing competing interests). Expansion will exponentially increase the number of decision-makers and FOI officers who need competence in these areas. Without a structured training framework, consistency and compliance will be difficult. If there is a lack of internal expertise, training will need to be sourced, provided and kept up-to-date. Even if a SPA receives few requests the individual with responsibility for dealing with such will need to ensure that their expertise, skills and awareness are kept up-to-date so that the SPA is able to comply with its legal obligations. If there is a suggestion that external expertise can be brought in on an as needed basis, we consider it prudent to highlight the fact that there appears to be a lack of available resource in this area locally. FOI is an area of law that requires particular technical expertise and as overall compliance for any responses will rest with the relevant SPA, they will need to be satisfied that any external provider they source is actually able to assist them in fulfilling their legal requirements.

As the regulator for both FOI appeals and data protection, JOIC emphasises that transparency must not compromise privacy. FOI decisions frequently involve personal data (e.g. staff names, correspondence, third-party submissions). Poor redaction or misunderstanding of exemptions risks breaches of the Data Protection (Jersey) Law 2018.

Similarly, it is possible that certain entities lack mature digital records systems (and certainly ones capable of being appropriately interrogated for FOI purposes). Expanding FOI obligations to new bodies without investment in records management will increase cost, delay, and risk of appeals. Before extension, new SPAs will likely need to complete a records management maturity assessment and may need to invest in digital document retrieval and redaction tools, integrated with data-protection and security systems.

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JOIC recommends

- FOI teams already report strain in meeting deadlines and handling appeals; broadening scope without investment will degrade compliance and public trust. Expansion should not proceed until new SPAs are able to demonstrate and put in place adequate capacity, systems, and training to fulfil their obligations under the FOI Law.
- A transition period will likely be required to ensure that any new SPAs have adequate time to address any systems, resourcing and training issues.

Implementation, Phasing and Review

Should Ministers decide to expand the FOI Law, the JOIC strongly recommends a phased approach such as beginning with a small number of wholly owned States entities that volunteer or are demonstrably ready or where there is good evidence that information from that entity is required/desirable.

This should then be followed by an evaluation period in which to review operational metrics after 12 months (volume, timeliness, cost, appeal rates) and before adding any further further bodies.

JOIC recommends

- A transition period/phased approach to implementation.
- An evaluation of those new SPAs prior to any further expansion to additional entities.

Cost–Benefit, Metrics and Public Benefit

The consultation does not yet quantify likely costs or benefits of expansion. Before proceeding, a transparent cost–benefit analysis should be undertaken, including:

- Estimated annual FOI request volumes per new entity
- Estimated time taken to respond to FOI requests based on existing data⁷
- Projected resource and training costs
- Anticipated public-interest benefits
- Appeal and oversight workload implications for JOIC (including any likely increase in appeals).

⁷ [Art.16 of the FOI Law](#) provides that SPAs may currently refuse to act on a request where it estimates that the cost of doing so would exceed the amount set out in regulations. The current limit is £500 calculated from 12.5 hours work at £40 per hour (see our published [guidance note](#)). Noting these provisions, the existing SPAs ought to be able to provide some tangible evidence of how long the average FOI request takes to complete.

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This should form part of the next stage of consultation before any legislation is proposed.

JOIC recommends

- Cost benefit analysis to be conducted, as set out above. This to be conducted prior to any decision being made as to whether to expand the list of SPAs

Broader Transparency Improvements (Without Expansion)

The JOIC supports improving openness in ways that complement, rather than dilute, FOI obligations.

These include proactive publication (publication schemes, datasets, contracts, performance indicators) and providing simplified request mechanisms (including allowing requesters to specify the SPA they want to submit a request to, rather than relying on an internal triage undertaken by the Central Information Governance Unit). Coupled with setting of broad internal standards across the SPAs and provision of training, it is anticipated that this will assist in reducing requests for internal reviews and appeals to the JOIC, as has been demonstrated in the UK.

JOIC recommends

- Consideration of whether more proactive publication schemes may support GoJ in its goals to improve transparency whilst ensuring the existing FOI regime is manageable and proportionate.

Enforcement, Independence and Resourcing of the Information Commissioner

The effectiveness of any FOI framework ultimately depends on enforceability and independent oversight. In its current form, the FOI Law leaves the Information Commissioner with very limited statutory powers to compel information or ensure compliance during investigations and appeals.

For example, the FOI Law provides no formal power for the Commissioner to require an SPA to supply information or documents when investigating a complaint or appeal. Although a Code of Practice sets out how SPAs should engage with the Commissioner, that Code has no legal force; compliance is essentially voluntary. The JOIC must therefore rely on the goodwill and cooperation of SPAs.

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Where cooperation is slow or incomplete, the only practical recourse is to reference non-engagement or delay in a published decision notice (which may or may not attract public or media attention) or to invoke the provisions of an MoU that exists between the Chief Minister and the Information Commissioner. This latter process is, however, of limited assistance as the current wording allows for the Chief Minister conclude that the information should not be provided despite the Commissioner’s request. This leaves a potential situation whereby the Commissioners statutory, independent role can essentially be overridden by the Chief Minister. This is not appropriate division of powers and impinges on the independence of the Commissioner in determining appeals under the FOI Law.

Unlike under the Data Protection Authority (Jersey) Law 2018 (**DPAJL 2018**), the Commissioner cannot issue Information Notices or pursue non-cooperation through the Royal Court. This omission means that the JOIC’s FOI functions rely almost entirely on voluntary cooperation. It can lead to protracted delays, as seen in several recent cases, where SPAs took many months to provide access to records or responses necessary for investigation. This had resource implications in terms of time taken to access the information and delays in finalising the appeals which, ultimately, impacted on the underlying complainant.

These structural weaknesses undermine public confidence in FOI enforcement, prolong resolution for applicants and impair the JOIC’s ability to provide consistent oversight and case-law development.

As coverage widens to additional entities, these problems will intensify unless enforcement powers are modernised.

JOIC recommends

- To ensure that the Commissioner has adequate powers of enforcement, introduce an Information Notice power, mirroring the provisions of paragraph 1 Schedule 1 of the DPAJL 2018, enabling the Commissioner to compel production of information relevant to an investigation or appeal
- create proportionate sanctions or escalation mechanisms for persistent non-cooperation (e.g. referral to the Royal Court)
- place the existing Code of Practice on a statutory footing so that SPAs have a clear legal duty to cooperate within prescribed timeframes.

Funding and capacity

At present, JOIC receives only £70,000 per annum from the GoJ for all FOI-related activity. This must cover investigations, decision notices, appeals handling, stakeholder engagement, and training support.

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The JOIC currently deploys three casework officers on FOI matters (subject to oversight by the Compliance & Enforcement Manager and Information Commissioner, and with support from External legal where required), which is becoming insufficient given increasing volumes and complexity and will likely require review if the law is expanded to other entities.

If the FOI Law is extended to additional bodies, there must be a corresponding uplift in statutory funding to maintain independence and effectiveness. Without secure, ring-fenced resources, expanded FOI obligations will outstrip the regulator's capacity to oversee them, eroding public confidence in the FOI scheme.

Specific questions raised in the survey questions

Question 2: "Should Jersey's FOI Law be extended to include all States (fully and partly) Owned Entities?"

As set out above, in our view, at this time the FOI Law should only be expanded to include entities that are fully owned by the States of Jersey (not partly owned unless they are the majority shareholder). This is for the following reasons:

- Expanding to *all* partly owned entities (e.g. minority shareholding, joint ventures) risks imposing obligations on bodies not sufficiently controlled by the State, which may lack alignment with public accountability and risk legal complexity.
- If partly owned entities are to be considered, it should be on a case-by-case basis, assessed against clear criteria (e.g. level of public control, public funding share, functional role).
- The default anchor should remain fully/majority owned States entities (i.e. those in which public accountability is strongest).

We note the survey's wording "all States Owned Entities" may include both fully and partially owned. If the intention is to allow partial coverage, then that needs clear delineation and threshold tests (percentage ownership, funding share, control rights).

Question 3: "Should the establishment of a body in statute (e.g. Comptroller & Auditor General, JFSC) be a criterion for inclusion under the FOI Law?"

JOIC view:

Yes, but only if additional criteria are satisfied (e.g. public funding, public function, regulatory role).

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Considerations/Rationale:

- Statutory bodies often act in a public capacity and have defined public responsibilities which is a reasonable indicator of accountability.
- However, statute alone is not necessarily sufficient: some statutory bodies are financially self-funded or regulatory/market bodies with commercial sensitivities.
- Inclusion by statute should be tempered by other tests (funding level, risk, public interest, readiness).

Thus, while statute should be a relevant factor, it should not be the sole or overriding criterion.

Question 4: "Should the level of transparency/accountability required be proportionate to public funding received?"

JOIC view:

Partially. Funding should be a factor, but other elements (public impact, function, risk) should also carry weight when deciding whether or not an entity should be included as a SPA.

Considerations/Rationale:

- Public funding is a useful metric of public, financial stake and legitimacy for requiring higher transparency but not all bodies with modest public funding operate in areas of high public interest (where high scrutiny is arguably needed), and vice versa.
- A multi-factor approach is preferable, where funding is considered alongside:
 - the nature and scale of public functions
 - the degree of governmental control or guarantee
 - the risk of secrecy or opacity
 - the potential impact on individuals or communities

Therefore, the decision whether to include a SPA should not be purely based on level of funding alone and should take into account the multi-factor approach, as set out above.

Question 5: "What level of public funding should serve as a threshold?"

JOIC view:

We caution against a static arbitrary threshold (e.g. "> £100,000") without flexibility or review. An arguably more realistic and proportionate approach is a sliding scale or percentage threshold (e.g. bodies receiving over 50% of their budget from public funds, or annual funding above a high floor).

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If a fixed threshold is used the JOIC suggests that it would be prudent to build in a discretion to include bodies below that threshold where other criteria (public function, strategic significance) are met.

Any threshold should be revisited periodically and be set in line with capacity to respond.

Question 6 (for listed organisations): "What challenges/risks do you foresee if your organisation were brought under FOI?"

JOIC view:

The JOIC is in a unique position responding to this consultation as both an entity proposed for inclusion, and as the body with oversight for and enforcement of the FOI Law. We consider that it is helpful to respond to this question in both capacities.

As a proposed entity for inclusion within the FOI regime

From JOIC's perspective, it would be able to deal with FOI requests in terms of expertise of response, but would likely experience some practical issues in implementation in terms of resourcing. The JOIC is a small team of 17 members of staff, four (4) of which have direct responsibility for dealing with appeals one of whom is the Commissioner. To expand the FOI regime to this office would involve identifying someone else within the organisation (outside of compliance and enforcement) to deal with and respond to the initial request plus an additional staff member to be capable of dealing with any requests for internal review. The Commissioner would then, presumably, still remain as the arbiter of appeals including made by his own office. Whilst this would mirror the scheme in England and Wales, it is right to note that the UK ICO is a far larger entity with thousands of staff and easily able to silo certain areas of its operations. That is not a model capable of easy replication here in Jersey.

In addition, if the JOIC were to be brought within scope of the FOI Law, it would be essential that appropriate exemptions are made available to protect the integrity of our regulatory and enforcement functions. Specifically, information obtained or created in the course of exercising our statutory powers under either the FOI Law or the Data Protection (Jersey) Law 2018 (**DPJL 2018**)/Data Protection Authority (Jersey) Law 2018 (**DPAJL 2018**) should be expressly excluded from disclosure. This would align with international practice for independent regulators and ensure that confidential intelligence, investigative material, and enforcement deliberations are not exposed in a way that could prejudice ongoing cases, compromise cooperation, or undermine public confidence in the regulatory framework.

For information, we have received requests for information on only three (3) occasions since the FOI Law came into force and whilst we had no obligation to answer the questions raised (which was explained to the various requesters), we did so in the spirit of the FOI Law.

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We also proactively publish much of the work we do (where permitted) and our annual reports (including our financial statements) provide very clear detail on our remit, activities, funding and expenditure.

As regulator

If a newly included body were brought under FOI, the risks and challenges would likely face include:

- Significant increase in administrative workload for the SPA (searching, compiling, redaction)
- Likely increase in workload for the Central Information Governance Unit
- Need for staff training in FOI, exemptions, redaction, appeals (including how to properly respond to requests for information from the Commissioner)
- Need for additional financial resources (staff, legal, IT)
- Potential conflict with commercial/confidence/third-party confidentiality obligations
- Risk of unauthorised or inadvertent disclosure of personal or sensitive data
- Challenges in legacy records, poorly indexed or unmanaged sources

These are not theoretical: existing SPAs already show strain in managing FOI workloads, as illustrated by delays in responding to requesters and increasing appeal numbers.

Another consideration would be how FOI appeals would be handled if it was against a decision of the Information Commissioner. In England and Wales, the UK ICO determines appeals against its own decisions but that organisation is of such a size that operationally this is possible. The JOIC is a small team with decisions issued by the Information Commissioner personally.

Question 7: "Are there specific types of information your organisation believes should be protected from disclosure?"

From JOIC's oversight perspective, sensitive categories that may warrant protection or careful handling include:

- Personal data (especially third-party personal data, staff confidential information)
- Commercially sensitive or proprietary information (e.g. contracts, bids, valuations)
- Legal advice, internal deliberations, and policy development papers (where disclosure would undermine effective government)
- Information subject to obligations of confidentiality or non-disclosure (e.g. regulatory and enforcement activity work/commercial confidentiality)

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JOIC specifically would require that the exemption at Art.26 of the FOI Law was sufficiently robust to ensure that investigation information could not fall for disclosure.

Question 8: "If FOI Law were extended to include your organisation, what support or guidance would you need?"

From JOIC's perspective it would not likely need external support or guidance save for time to review and implement internal processes and workflows, to allow compliance with any statutory requirements (noting the issues highlighted in our response to question six (6) above).

For new SPAs, likely necessary support would include:

- Comprehensive training programmes (FOI and data protection integration; redaction; appeals)
- Access to a central FOI advisory support unit (and, where necessary, legal advice)
- Standardised templates, decision-trees, and procedural guides
- Digital tools (case management, workflow automation, audit trails, deadline alerts)
- Enhanced records management systems, metadata tagging, indexing, archiving
- Shared best practice forums among FOI practitioners
- Phased implementation timelines, with transitional exemptions or elongated deadlines until full readiness

In addition, bodies would have access to JOIC's published guidance which are scheduled for review in 2026.

Concluding remarks

In closing, it is particularly important to reflect on the implications of bringing this office within scope of the FOI Law.

As the statutory regulator for both the FOI Law and the Data Protection (Jersey) Law 2018, the JOIC occupies a unique position unlike any other body considered for inclusion. Extending the FOI Law to the JOIC would therefore present an inherent tension between our role as the independent regulator and the operational realities of compliance.

Bringing the JOIC into scope may introduce a material risk of inadvertent disclosure of confidential or privileged information, particularly in relation to ongoing investigations, regulatory intelligence, or the exercise of statutory powers. The JOIC routinely holds highly sensitive information obtained under legal obligation or in confidence from individuals, public authorities, and private entities.

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Any real or perceived possibility of disclosure under FOI could erode the trust necessary for effective regulation, deter frank engagement with our office, and undermine our ability to perform our functions under both the FOI Law and the DPAJL 2018. This friction between transparency and confidentiality would need to be carefully balanced and robustly safeguarded before any such extension could be contemplated.

It is also essential to recognise that the Commissioner is charged with regulating and enforcing the FOI Law itself. No other regulator in scope or under consideration occupies such a dual position. Extending the FOI regime to include the Commissioner would create an unusual and potentially conflicted arrangement; one where the regulator would be subject to its own oversight under the same law it enforces. While this may be administratively workable in larger jurisdictions with substantial resources and structural separation (such as the UK ICO), it would be operationally challenging in Jersey's smaller context.

Accordingly, any proposal to bring this office within the FOI regime must be subject to detailed analysis, risk assessment, and consultation, to ensure that the integrity of both FOI and data protection frameworks is maintained.

We remain committed to supporting reforms that enhance transparency and public confidence, provided these are implemented in a way that preserves legal clarity, proportionality, and the effective functioning of regulatory bodies.

Thank you for considering this response and we welcome further engagement as discussions in this important area progress. Please do not hesitate to contact us should you have any queries regarding our response at consultation@jerseyoic.org.

Kind regards

Paul Vane
Information Commissioner

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