

Office of the Information Commissioner
Queensland



Annual Report 2008–2009

Copies of this report are available on our web site at www.oic.qld.gov.au and further copies are available on request to:

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Reader's Feedback

The Office of the Information Commissioner values your feedback on our Annual Report. Please provide any feedback or suggestions to the Manager, Corporate and Executive Services at the above address.

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10 September 2009

The Honorable R John Mickel MP
Speaker of the Legislative Assembly
Parliament House
George Street
BRISBANE Q 4000

Dear Mr Speaker

I am pleased to present our 17th annual report to the Queensland Parliament, the last annual report to be prepared under the *Freedom of Information Act 1992*. This report contains an account of our work for the twelve months ending 30 June 2009 and is made pursuant to section 101 of the *Freedom of Information Act 1992*. It reflects our performance against our strategic plan for 2008–2012 and preparations for the implementation of the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

I certify that this Annual Report meets the prescribed requirements of the *Financial Administration and Audit Act 1977* and the *Financial Management Standard 1977* particularly with regard to reporting the Office of the Information Commissioner's governance arrangements, objectives, functions and performance, as well as the Office's additional reporting and tabling obligations for this report prescribed by the *Freedom of Information Act 1992*.

Yours sincerely



Julie Kinross
Information Commissioner

Message from the Information Commissioner

In September 2007 the Queensland Government initiated a major independent review of the *Freedom of Information Act 1992* (FOI Act) in keeping with its priority to deliver open and accountable government. In June 2008 the Independent Panel chaired by Dr David Solomon AM released its report '*The Right to Information*' finding that the 1992 FOI legislation had not brought about the anticipated "major philosophical and cultural shift in the institutions of government and the democratisation of information". To bring about those shifts the Government's response in August 2008 committed to major reform including a strategic information policy, and new legislation aimed at maximising the disclosure of information and reducing the time, cost and effort involved in accessing government documents. The *Right to Information Act 2009* and *Information Privacy Act 2009* were passed by Parliament on 2 June 2009 and commenced on 1 July 2009.

The new regulatory framework supporting the changes meets world's best practice. Best practice in providing access to government information includes: maximum disclosure while protecting essential interests, an obligation to publish key information, the promotion of open government, exceptions of limited scope with a presumption in favour of disclosure, processes to facilitate access, limitation of excessive costs, the precedence of freedom of information laws over conflicting secrecy laws; and the protection of whistleblowers. The legislation meets each of these principles. It is now for agencies to achieve the objectives of the legislation.

Both the *Right to Information Act 2009* and the *Information Privacy Act 2009* give significantly

enhanced roles to the Information Commissioner to support the changes. Those roles include issuing guidelines, education and training, promoting awareness, performance monitoring and reporting and commenting on legislation and administrative changes to improve right to information and privacy practice, mediating privacy complaints, deciding on waiver or modification of the application of the privacy principles. Since November 2008 the Office has been preparing agencies and itself for compliance with the legislation and the performance of these new roles. Implementation training was developed and delivered to all agencies affected by the new legislation, guidelines to assist administration and the interpretation of the new laws were issued, and a multi-functional organisation was established.

Given the significance of its implementation task, some concern was held about whether the Office would be able to maintain the performance of its external review function this year. Not only was the Office busy preparing itself for the implementation of major reform, the Office's workload increased significantly with 18% more applications for external review received than in the previous year. Despite this increase in demand, the external review team finalised 26% more applications than the previous year. Continuous improvements in its processes and the commitment of an experienced team meant the Office also improved its timeliness by 34%. The staff are to be commended for these exceptional results in the face of large scale change. At the end of the financial year, the Office was in the best possible position to face the challenges ahead.



Julie Kinross
Acting Information Commissioner



Corporate Governance

About Us

The Freedom of Information Act 1992

The object of the *Freedom of Information Act 1992* (FOI Act) is to extend as far as possible the right of the community to have access to information held by Queensland government. It confers on citizens legally enforceable rights to obtain access to documents held by government agencies and Ministers and to seek amendment of information relating to an individual's personal affairs if the information is inaccurate, incomplete, out-of-date, or misleading. These rights are limited in circumstances where the disclosure of information would have a prejudicial effect on essential public, private or business interests.

The FOI Act establishes the statutory office of the Office of the Information Commissioner and the statutory officer, the Information Commissioner.

Legislative developments/changes in 2008–2009

During 2008–2009 the Parliament passed the *Right to Information Act 2009* and the *Information Privacy Act 2009*, delivering on the new information rights regulatory framework. The legislation commenced on 1 July 2009 with parts of both pieces of legislation commencing at a later date. The *Right to Information Act 2009* repeals the *Freedom of Information Act 1992*. The legislation establishes new roles for the Information Commissioner and establishes two new statutory officer holders as deputy Information Commissioners, the Privacy Commissioner and the Right to Information Commissioner.

In accordance with the new legislation the Office will:

- review and report on agencies' performance in relation to right to information and personal information handling practices
- decide applications of waivers of the privacy principles and table any approval as though it were subordinated legislation
- issue guidelines
- promote awareness about RTI and privacy in government agencies and in the community through education and training programs, the website, an enquiries service and other avenues
- undertake research and comment on legislation and administrative changes to improve practice
- continue independent merits review of RTI and IP decisions concerning access to and amendment of information.

The Information Commissioner together with other key agencies will have a collaborative role in strategic information policy and fostering cultural change within the public sector. The Information Commissioner will also be responsible for making decisions regarding applications from non-profit organisations for the waiver of charges on the basis of financial hardship.

Our role

In 2008–2009 the role of Office of the Information Commissioner was to provide an independent merit-based review of Queensland government agencies' and Ministers' FOI decisions about access to and the amendment of information. Agencies include Queensland government departments, regional councils, universities, and government owned enterprises.

The Office is one of three tiers of review. Once an agency makes an FOI decision, a person aggrieved by the decision has a right of 'internal review' by the agency itself, the first tier of review. If a person remains aggrieved by the internal review decision, the person may apply to the Information Commissioner for a review external to the agency and executive government, the second tier of review. If a person remains aggrieved by the Information Commissioner's decision, an order of statutory review may be sought from the Supreme Court, the third tier of review.

The Office conducts its reviews fairly, with as little formality, technicality, and as much expedition as a proper consideration permits. The Office aims to informally resolve issues by agreement between the parties. The Information Commissioner will make formal decisions about any outstanding issues.

Our Governance

The Information Commissioner is a statutory office holder appointed by the Governor in Council under the FOI Act. The Commissioner is an officer of the Parliament and during the year was accountable to the Queensland Parliament through the Parliamentary Legal, Constitutional and Administrative Review Committee (LCARC). The Commissioner is independent of ministerial control in the exercise of functions under the Act. Through these arrangements the community can have confidence that external reviews of FOI decisions will be carried out independently, fairly and impartially. The Law, Justice and Safety Committee was created on 28 May 2009 under the *Parliament of Queensland Amendment Act 2009* and is the new committee to which the Commissioner is accountable.

Key elements of the governance and accountability framework include our annual report to Parliament, the Service Delivery Statement and Estimates Committee hearings, and meetings with the Parliamentary Committee to discuss issues such as the Office's activities, work output, budget, annual report and any other significant issue. The Parliamentary Committee may also require a report on a particular aspect of the Office's performance, but it cannot investigate particular conduct or reconsider or review decisions in relation to a specific investigation or review. An independent strategic review of the Office is conducted at least every five years.

The Office's management team comprises the Information Commissioner, the First Assistant Information Commissioner and the Manager, Corporate and Executive Services. The senior leadership group includes the Assistant Commissioners and the Principal Review Officer. Given the size of the Office, fortnightly 'all staff' meetings are held. This is the mechanism through which staff are consulted and provided information on operational planning, risk management, workplace health and safety, and waste management issues. During 2008–2009, staff were directly involved in the review of the Strategic and Operational Plans, and were directly consulted about the major changes to the Office's goals and performance targets necessitate by the RTI reforms.

Our organisation is also strengthened by the feedback we receive from parties to reviews. The Office surveys applicants when reviews are finalised and seeks feedback from agencies through a number of mechanisms. The Office also has a complaints process. Feedback is taken seriously and where specific improvements can be identified, they are implemented as soon as practicable.

By ensuring timely high quality external review of certain decisions made under the FOI Act, the Office supports the public sector's corporate governance and accountability framework. The Office also plays its part in an FOI system that supports a civil democratic society by strengthening people's participation in government decisions that affect their lives, and improving the transparency and accountability of government decision making and activity. The Right to Information reforms will also increase the accessibility of government information and the responsiveness of government services to the community while protecting rights such as protection from the disclosure of personal information.

Our Office

The essential function of the Information Commissioner is to review any decision made by an agency or Minister in relation to an application made under the FOI Act, and decide any matter in relation to the application that could have been decided by the agency or Minister.

After conducting a review where issues have not been resolved between the parties, the Commissioner must make a written decision affirming, varying or setting aside the decision and making a decision in substitution for it.

The Commissioner's powers

The Commissioner has the power to do all things necessary to conduct a review:

- attempt to effect an informal settlement
- require the production of documents and information from agencies and any other person
- determine the procedures to be followed in a review and give directions; and
- refuse to review a decision if the application is frivolous, vexatious, misconceived or lacking in substance.

The Commissioner's powers are limited to reviewing the categories of decision specified in section 101C of the FOI Act. In the conduct of such a review, the Commissioner is empowered by section 88 to review any decision that has been made in relation to the application concerned and decide any matter in relation to the application that could, under the FOI Act, be decided by an agency or Minister.

The Commissioner cannot direct that access be granted to a document that is exempt matter under the FOI Act.

Our processes

Any person can apply for access to documents or for the amendment of any personal affairs information that the person claims is inaccurate, incomplete, out-of-date or misleading under the FOI Act. Applications are dealt with in the first instance by the agency that possesses or controls the relevant documents.

Applicants who are aggrieved with an agency decision may seek internal review within the agency, unless the agency's principal officer made the initial decision. Applicants are entitled to an internal review if they apply within 28 days of being given the FOI decision.

A person who are aggrieved by:

- an internal review decision
- a decision of the principal officer of the agency
- may apply for an external review.

Applicants may also apply for an external review:

- if an agency has not made a decision and notified the applicant within the relevant statutory or extended timeframe—generally 45 days (or 60 days where the agency has to consult with a third party) and
- the applicant does not wish to allow the agency further time to consider the application.

The external review process can contain a number of distinct steps:

- assessment
- preliminary inquiries
- notification
- scoping
- mediation/informal resolution
- submissions
- consultation with third parties
- preliminary view
- written decision.

Not all steps are required in every review. Where possible, steps are run in parallel to expedite the review. During the year the Office documented its processes and associated timeframes. These publications are available on the website.

Our goals

The 2008–2012 Strategic Plan applied for the reporting period. The relevant plan concerns the essential function of the Office to review decisions made by agencies under the FOI Act. The Plan sets out the Office's three strategic goals:

1. Independent review of FOI decisions
2. Timely resolution of external reviews
3. Authoritative and clear decision making.

The 2006 Report on the Strategic Management Review of the Office of the Information Commissioner recommended that the *'goals, key result areas and performance measures should be revised to strengthen the focus on timely resolution of external reviews'*. The subsequent strategic planning exercise identified three goals of the Office for the 2006–2007 year. These have since been carried over. The goals reflect the Office's core responsibility to resolve external reviews of certain decisions made under the FOI Act.

Strategic Goal Number 1

Independent review of FOI decisions

Strategies

- Provide information about the role of the Office through our website and other media
- Use clear and precise English in all written communications and educative material
- Ensure procedural fairness for all parties in external reviews.

Strategic Goal Number 2

Timely resolution of external reviews

Strategies

- Develop and implement an effective case management plan for each external review and closely monitor progress throughout the external review
- Continue to appropriately use problem solving and dispute resolution methods in external reviews.

Strategic Goal Number 3

Authoritative and clear decision making

Strategies

- Use clear and precise English in all decisions and communications
- Ensure the currency of information and references in decisions using online legal research databases and the Office knowledge management system.

During 2008–2009 the Office also had new priorities. During the year we readied ourselves for the implementation of the Government's response to the recommendations contained in the report on the Review of Queensland's Freedom of Information Act by the Independent Review Panel chaired by Dr David Solomon. A report on our preparations is contained under "Performance".

A new strategic plan 2009–2013 has been developed to reflect the Office's new functions under the *Right to Information Act 2009* and the *Information Privacy Act 2009*. Our vision is "An informed Queensland that values and respects information rights and responsibilities". Our aim is

"to be recognised as an independent, influential and practical authority on information rights and responsibilities".

Our Goals are:

Goal 1 An independent, timely and fair resolution service, including high quality decision making.

Goal 2 Foster improvements in the quality of practice in RTI and Information Privacy in government agencies.

Goal 3 Promote the principles and practices of Right to Information and Information Privacy in the community and within government.

Goal 4 Organisational excellence.

Corporate Services

In 2008–2009 the Office of the Information Commissioner purchased corporate services through a service level agreement with the Queensland Parliamentary Service at a cost of \$92,046.35. These services included information communication technology systems and support, human resource management services and financial services.

Information and Communication Technology

The information and communication systems used support the Office in maintaining the necessary security of information considered during an external review. The Office has a service level agreement for information and communication technology services with the Queensland Parliamentary Service, which provides high level security. The Office has policies and network protocols in place to provide all Office staff with clear guidelines on the responsibilities of each individual regarding ethical information management, usage and access of systems within the Office.

International Travel

No overseas travel was undertaken by the Information Commissioner or staff in 2008–2009.

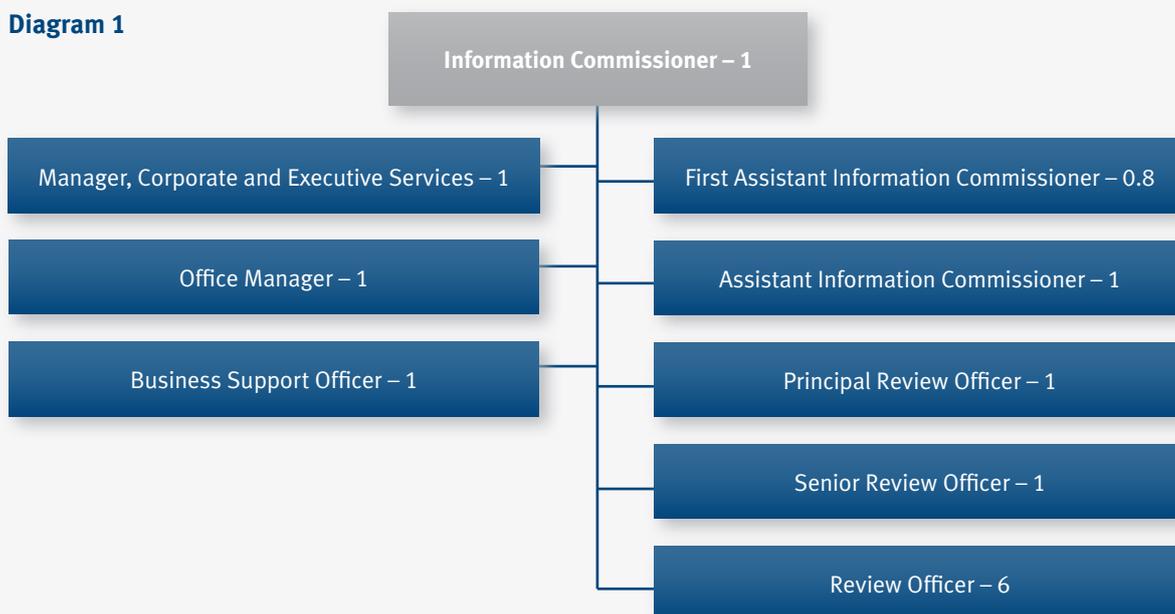
Consultants and Contractors

In 2008–2009 the Office of the Information Commissioner spent \$95,394 on contractors. No funds were spent on consultants. Apart from \$120, the expenditure on contractors was planned budget expenditure and due to the implementation of the Right to Information reforms. The expenditure covered work on the review of the organisational structure, strategic planning day facilitator, the costs of the trainer in running back-to-back training courses to ensure the capability of agency RTI practitioners under the new RTI and IP legislation, and communications.

Human Resource Management

The approved permanent establishment at 30 June 2009 was 13.8 full time equivalent staff. Diagram 1 shows the organisational structure together with the numbers of full time equivalent positions at each level at 30 June 2009. The implementation team is comprised of 10 positions, all of which are temporary and non-ongoing.

Diagram 1



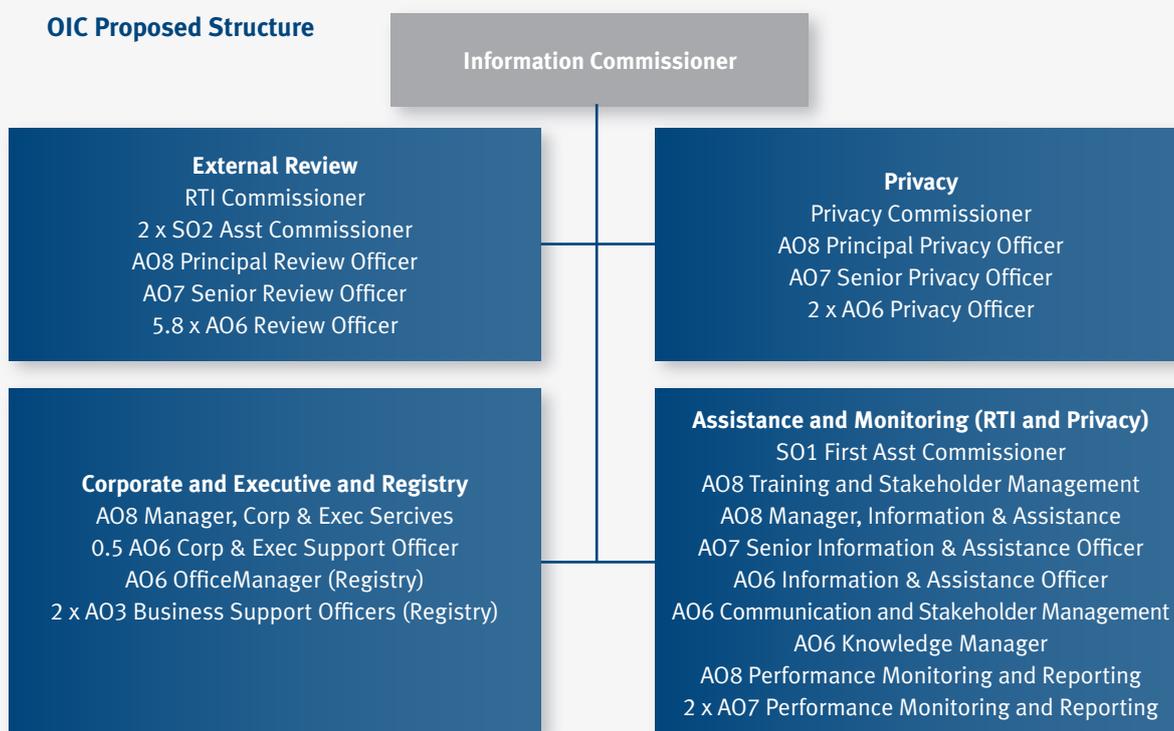
In October 2008 the Cabinet Budget Review Committee approved additional funding for the Office in the amount of \$1.6m for 2008–2009 and \$0.9m for 2009–2010 to fund an implementation team up until December 2009 to enable the Office to ready itself and agencies for the Right to Information and Information Privacy reforms. The funding supported the employment of up to 10 temporary employees over the period of the project. Two employees were recruited to assist with budget preparation, accommodation, administrative systems, an updated electronic case management system to encompass new roles, a new PABX, a new website, design a new organisational structure, develop roles and responsibilities, plan and run a recruitment and selection process for a range of new positions. One employee was recruited to develop and run a training strategy, with the initial priority of training agency decision makers

for the 1 July 2009 commencement in the procedures and responsibilities imposed on agencies by the new legislation. Five temporary employees were engaged to develop guidelines, tools and resources associated with the new legislation to support agencies and members of the community, including new procedures for the new responsibilities of the Office. New procedures include dealing with privacy complaints, making decisions on financial hardship, and running the helpline. One staff member has been engaged to develop and run a communications strategy and tools. The implementation team is led by a senior officer.

No Voluntary Early Retirement packages were taken by employees during the reporting period.

The Office is composed of 20.8 women and three men.

The approved establishment for 2009–2010 is 32.3 and the organisational chart is:



Recruitment and Selection

The Office conducts recruitment and selection processes in accordance with the merit-based requirements of the *Public Service Act 2008*, the relevant Public Service Commissioner's policies and the Industrial Relations Directives.

During the year the following resignations were tendered:

Business Support Officer.

One Business Support Officer was permanently appointed.

A Review Officer was seconded to a government department. A temporary officer was appointed to this position.

Professional Development

A key priority for the Office is to maintain an environment of continued professional development and learning. The focus of the Office's professional development program is on skill development, career enhancement and supporting a culture of ongoing learning through participation in university courses, mediation training, seminars, on-the-job training and mentoring by experienced officers.

During 2008–2009 the Office expended over \$39,249.29 in staff professional development, training, workshops and post graduate university studies. The annual expenditure equates to around 2.7% of employee expenses to develop new skills, enhance professional qualifications and implement new policies and procedures within the Office of the Information Commissioner. This amount meets the longer-term target of employee-related expenses recommended in the 2005–2006 Strategic Management Review report.

The 2005–2006 Strategic Management Review report stated *'the skill level and confidence of Office staff are key factors in achieving timely resolution of external reviews.'* The provision of effective mentoring and training for review officers, such as in legal research, informal dispute resolution and decision writing skills, ensures all relevant issues are identified and analysed to complete the review process in a timely and professional manner.

During 2008–2009 Office staff participated in the following areas of professional development:

The core skills program included caseload management, mediation and negotiation skills, online legal research skills, statutory interpretation, decision making and problem solving skills. Training for all staff included security protocols and procedures, use of the case management system, online legal research using new software and resources, and the use of Office templates.

Training was also provided by State Archives in the requirements of the *Public Records Act 2002* and by the Office of the Chief Statistician on the Government Information Licensing Framework.

Induction programs were run for new staff and updates throughout the year for all staff, were provided on workplace health and safety, the Office Code of Conduct, the information technology usage policy and network compliance requirements, professional duties and responsibilities, and public sector employee policies and guidelines.

Staff also participated in programs run through the QUT Faculty of Law Public Lecture Series, the Queensland Law Society Government Lawyers conference, and an Office in-house professional development series included briefings to all staff on the operation of the RTI and IP legislation, file management, management of voluminous applications, dealing with querulous applicants, specific exemption provisions of the FOI Act, public sector-wide information standards, document management, and emerging technologies for document management systems in the public sector.

The priority areas for professional development for 2009–2010 will be the operation of the RTI and IP legislation, online legal research skills, informal resolution skills, statutory interpretation, decision writing skills, performance monitoring and review. By providing staff with high quality, targeted professional development and training, the Office effectively fulfilled its mandate to provide high quality, timely resolution of external reviews.

In-house knowledge management system and research resources

In 2008–2009 the Office initiated two significant projects. Firstly it investigated the feasibility of an intranet to organise its online research resources with annotated legislation as the centrepiece. The project is under development and will be ready for implementation early in 2009–2010. The annotated legislation will enable staff to access at the click of a mouse, the relevant precedent cases and other resource material pertinent to the interpretation of a provision in the legislation. The annotated legislation will be kept up to date by a ‘knowledge manager’ and will remove the significant duplication of legal research that occurs on individual matters, because of limitations in the way information is currently stored.

Secondly the Office upgraded its website with new functionalities including a subscription service to its web site allowing interested parties to be automatically advised whenever a new decision or other information is uploaded onto the Office’s website. This service enables users to keep abreast of developments in the jurisdiction in a timely way. The new functionalities will support the performance of new roles in 2009–2010.

Other initiatives have continued, such as the systems for specific staff members to conduct high level legal research and monitor relevant developments in Queensland and other jurisdictions to support the resolution of particular issues on external review. Results of this research and analysis to the work of the Office are shared with all staff, including through monthly case issue meetings of review staff to discuss novel or complex issues arising in current external reviews. In some cases, specific in-house professional development workshop sessions have been conducted, for example regarding developments in a particular area of the common law critical to the application of certain exemption provisions of the FOI Act.

Such enhancements to research resources and in-house knowledge management to improve access to cases and precedents from other Australian jurisdictions assist the achievement of the goals of quality, quantity and timeliness through ensuring the Office is able to efficiently access and reference the most recent relevant higher court decisions and make accurate decisions consistent with the relevant law. The in-house knowledge management system and research resources of the Office will be further reviewed, to ensure the future needs of the new and enhanced functions of the Office are met.

Code of Conduct

In accordance with section 17 of the *Public Sector Ethics Act 1994*, the Office of the Information Commissioner has in place a Code of Conduct approved by the Attorney-General. All employees of the Office of the Information Commissioner (excluding the Information Commissioner) are employed under the *Public Service Act 2008*. The Office’s Code of Conduct is consistent with the requirements under the *Public Service Act 2008*, the *Public Sector Ethics Act 1994*, and the relevant PSC policies and Industrial Relations Directives. The Code of Conduct was reviewed in 2008–2009. All new staff receive a copy of the Code of Conduct and are required to read and understand it. All staff receive annual formal training on the Code.

Risk Management

The objective of the Office Risk Management Policy is to facilitate the development of a risk management culture within the Office and to assist all staff in implementing sound risk management practices that eliminate or minimise potential losses and add value to the business operations of the Office. In applying risk management principles it is expected that officers at all levels will:

- seek to reduce vulnerability to both internal and external events and influences that can impede achieving the goals of the Office
- seek to capitalise on opportunities to enhance Office business processes and create value
- contribute to effective corporate governance.

The Office's Risk Management Framework is designed to encourage an integrated approach to managing all risks in the Office that impact on the achievement of the Office strategic and business objectives. It is built around having a common language and common approach to help identify which risks are important and the most effective way to respond to these risks. The Framework was reviewed in 2008–2009.

Complaints Management

From time to time applicants, agencies or staff may have a concern about their dealings with the Office. The Office has a complaints policy and process, which ensures that concerns are dealt with in the Office through an independent and appropriate process. Complaints can provide important opportunities for service improvement.

All employees are required to adhere to the values of the Office and undertake their duties with professionalism, respect for diversity and courtesy. To do this, all employees of the Office are made aware of their ongoing responsibilities, duty and requirements under the core legislative, policies and standards outlined below:

- *Public Service Act 2008*
- *Public Sector Ethics Act 1994*
- *Financial Accountability Act 2009*
- Australian Standard on Complaints Handling
- Office of the Information Commissioner Code of Conduct
- Public Service Commissioner Directive 13/06 Complaint Management Systems.

All employees are required to adhere to the service standards set out in the Office's operational plan and individual performance plans.

Recordkeeping

In compliance with the provisions of the *Public Records Act 2002* the Office is required to make and keep full and accurate records of its activities and have regard to any relevant policy, standards and guidelines made by the State Archivist about the making and keeping of public records.

The Office applies whole of government information policies and standards including *Information Standard 40: Recordkeeping* to ensure its records are accountable, reliable and secure.

Office systems are supported by internal guidelines, procedure and policy regarding the management of information and records. Staff are fully trained in the creation, maintenance and management of records for system compliance with monitoring, management and auditing requirements.

Major initiatives during 2008–2009 include:

- revision of the Business Classification Scheme
- the development of specifications to ensure the electronic case management system enables the Office comply with the requirements of the law
- training in the requirements of the *Public Records Act 2002*
- ongoing training in Office recordkeeping systems.

Workplace Health & Safety

A Workplace Health & Safety (WHS) program is embedded within the Office culture and practices. All staff are informed and aware of the employers and each employee's responsibility to create and maintain a safe workplace for everyone in the Office. All staff are expected to be vigilant in identifying and reporting and addressing potential workplace health & safety risks.

No events resulting in injury were reported. During the year training in the emergency procedures of the Office was provided.

Waste Management

The Office implemented a Waste Management Policy during 2008–2009 with an emphasis on waste avoidance, reduction, reuse and recycling. In particular the Office is implementing work procedures to reduce the use of paper.

Carbon Emissions

The Office is progressively replacing lighting with energy efficient lamps which are promoted as delivering a 34–56% energy saving and a reduction in replacement costs through a longer ballast lifetime. All non-essential office lighting is switched off at the end of each day. Where appropriate, all electrical appliances are turned off at the wall when not in use. Individual computers are placed into shutdown mode overnight. Air conditioning temperature is maintained at 23.5 degrees Celsius for summer operation. The single fleet vehicle is a part of the government's initiative to offset emissions 50% by 2010 and 100% by 2020, and almost 100% of fuel purchases are E10.

Public interest disclosures

Two public interest disclosures were made under the *Whistleblowers Protection Act 1994* to our Office by the same person about a government department. Those disclosures were referred to the Crime and Misconduct Commission.

Freedom of Information

Section 12 of the FOI Act excludes the Information Commissioner from the application of part 3 (*Access to documents*), part 4 (*Internal review*) and section 20 (*Notices to require specification of documents in statements*) of the Act.

Privacy

Two privacy related complaints were received by the Information Commissioner during the reporting period. Both concerned the publishing of applicant's names in decisions on the website. In both cases the applicant's identifying information was removed from the decisions published on the internet.

Performance

The performance measures and targets for the Office of the Information Commissioner are published each year in the Office's Strategic Plan. Performance measures focus on the quantity, quality and timeliness of external reviews conducted by the Office and the quality of information available on the Office website. The performance against each of these targets for 2008–2009 and for each of the previous four years is reported in this section of the report together with other relevant information about external review applications. The implementation of Right to Information and Information Privacy reforms were a critical task for the Office during the year. A report on implementation progress is provided at the end of the external review statistics.

Quantity

Performance measure

Number of applications for review finalised or resolved

Table 1 shows the number of applications for review finalised against the target for the past five years. The Office finalised 359 review applications in 2008–2009, significantly more than its target number of finalised reviews of 300.

Year	Target	No finalised
2004–2005	250	265
2005–2006	250	336
2006–2007	300	308
2007–2008	300	289
2008–2009	300	359

Table 1. Number of applications for review finalised against the target 2005–2009.

Included in the total number of review applications finalised in 2008–2009 figure are 56 applications from one applicant, received and finalised in the year as ‘quick turnaround’ reviews. The high number of reviews finalised is an excellent result in the face of an 18% increase in the number of applications for external review over the previous year.

Appendix 1 contains the number of applications received and finalised since the commencement of the FOI Act. In 2008–2009 the Office finalised the second highest number of applications since the commencement of the FOI Act.

Performance measure

Proportion of applications for review resolved informally compared to reviews resolved by written determination

Table 2 shows the proportion of reviews resolved informally compared to reviews resolved by written determination. In 2008–2009 the target proportion of 75% was met with 79% of reviews being resolved informally.

Year	Target	% of reviews resolved informally
2004–2005	70%	87%
2005–2006	70%	77%
2006–2007	75%	72%
2007–2008	75%	79%
2008–2009	75%	79%

Table 2. Proportion of reviews resolved informally 2005–2009.

In 2008–2009 the Office trialled new processes which assisted informal resolution at an earlier stage including the allocation of assessment and early resolution responsibilities to a dedicated senior member of staff. Informal resolution of FOI applications may occur if personal contact is made with the parties at an early stage to identify the issues. Often resolution is achieved through an understanding of the reason the applicant is seeking the information.

Case example:

X and Queensland Health

The applicant sought access to his late father's health care records. Queensland Health refused access to them on the basis that the documents contained personal affairs information concerning a person other than the applicant.

In the course of the review the applicant indicated that the reason he wanted to access the records was to prove to family members that he had not been responsible for a health care decision involving his father. A decision had been made for the then terminally-ill father to be placed into residential care. The applicant believed that the decision was authorised by his wife (the applicant's mother) who also died shortly thereafter.

The applicant's brother had accused the applicant of signing the authorisation to 'get rid of the father' and this issue had bitterly estranged the family as family members had 'taken sides'. As the mother was no longer able to settle the issue, the applicant had asked for the father's health care records to obtain the mother's authorisation.

The review resolved through Queensland Health providing the applicant with a letter stating that there was no document in the father's health care records showing that the applicant had been responsible for the health care decision.

This was a matter where the applicant knew the document that was in contention – 'his authorisation' – did not exist; he just wanted an official document stating this (one way or another). Once Queensland Health realised he did not wish to access the records themselves, they were willing to provide a document that stated, by default, that the applicant did not provide the authorisation.

The evaluation of the Early Assessment and Resolution pilot found:

- The median days taken to finalise those applications which closed during the pilot period was 62, a 33% improvement.
- Of the applications closed during the pilot period 14 were discontinued because they did not fall within the jurisdiction of the Office. The median days taken to finalise this class of application was 5, a 58% improvement.
- The number of external reviews finalised before 90 days during the pilot period was 27, an increase of 125%.
- There was a 30% decrease in the median days to finalise a review to 124 in the period 1 July 2008 – 23 March 2009 compared to 180 for the full 2007–2008 year.

Case example:

Applicant Y and Queensland Police Service

A hotel operator's FOI request to the Queensland Police Service potentially included a large number of documents in relation to crimes that had occurred in the vicinity of the hotel. QPS refused the applicant access to the documents on the basis that processing the application would impose an unreasonable administrative burden.

A review officer convened a face-to-face meeting involving the parties. At the meeting QPS explained to the applicant the breadth and volume of the documents captured in the application. The applicant acknowledged that he was not seeking access to most of the documents that would be captured through the application. The applicant indicated the type of documents he was seeking. What the applicant wanted was a considerably smaller number of documents which would be relatively easy to locate and likely to be provided in full.

The review resolved with the applicant agreeing to a considerable reduction in the scope of his FOI application and QPS agreeing to prioritise the processing of the reduced application.

The dispute over the scope of the application had gone on for six months but once the meeting took place the issues were resolved within 30 minutes and the reduced scope application was finalised within two weeks.

In 2009–2010 the new early assessment and resolution processes will be formalised and further refined.

In 2008–2009, 76 written decisions were issued under section 89 of the FOI Act. Section 89 requires the Commissioner to make a decision in writing:

- (a) affirming the decision; or
- (b) varying the decision; or
- (c) setting aside the decision and making a decision in substitution for the decision.

Appendix 2 contains a list of the Information Commissioner's decisions in date order, the outcome and where a decision refusing access to exempt matter was made, the provision of the FOI Act under which the matter was classified as exempt matter. In 43% of reviews, agency decisions were either set aside or varied. This compared to 68% in the previous year.

Several significant decisions were issued during the year and these are highlighted in the following box.

Price and Nominal Defendant

(210556, 13 February 2009)

Functus Officio

The applicant applied to the Office of the Information Commissioner for a review of matter previously subject to two external reviews.

The earlier decision of the Information Commissioner's delegate was valid under section 89 of the FOI Act. The second review was otherwise finalised. The Acting Information Commissioner noted that:

- there are no errors in either review that render the outcomes invalid
- the FOI Act does not give the Information Commissioner a broad power to review, vary, set aside or affirm the outcome of a finalised external review or decision
- the FOI Act gives the Information Commissioner the power to correct an obvious accidental slip or omission
- the applicant is not seeking a correction of an obvious slip or omission in the decision.

The question raised by this application for review is whether the Information Commissioner has the power to vary, set aside or affirm the outcome of a finalised review. The question as to whether a power is spent is a matter of interpretation of the statute conferring the relevant power.

In her decision, the Acting Information Commissioner made the following observations:

- section 24AA of the *Acts Interpretation Act 1954* (AIA) clarifies that the authorisation by an Act to make a decision included the power to amend or repeal the decision
- section 4 of the AIA provides that a contrary intention in an Act may wholly or partly displace section 24AA
- under the FOI Act decisions of the Information Commissioner are final, determinative of the rights of individuals, adjudicative in nature and binding on agencies
- section 24AA of the AIA is wholly displaced by virtue of section 4 of the AIA on the basis that the FOI Act expresses a "contrary intention"
- the Information Commissioner has no power to amend or repeal an external review decision under section 24AA of the AIA.

Once issued to a participant in an external review, a decision is irrevocable because the decision-making power is spent. The applicant's request for a review of an external review is beyond the power of the Information Commissioner, who is *functus officio* in these circumstances.

PDE and University of Queensland

(210632, 9 February 2009)

Section 28A(1) FOI Act – Documents nonexistent or unlocatable

The applicant applied to the University of Queensland (UQ) for access to the results form of a specified UQ course (**Course**). UQ located and released a number of documents in the original decision and on internal review. One of the documents released by UQ on internal review was a form signed by the Chief Examiner. In his external review application the applicant contended that UQ must hold but had not released a copy of the form signed by the Chief Examiner which also contained the signatures of the Course Coordinator and the Executive Dean/Academic Registrar.

In this decision, the Acting Information Commissioner made the following observations with respect to 'sufficiency of search' issues:

- section 28A of the *Freedom of Information Act 1992* (Qld) (FOI Act) should be applied when a question of sufficiency of search arises
- sections 28A(1) and 28A(2) of the FOI Act are mutually exclusive propositions
- the approach should reflect the ordinary meaning conveyed by the text of the provision of the FOI Act, taking into account the purpose or object underlying the FOI Act
- it is preferable that general guidance provided in *Shepherd and Department of Housing, Local Government and Planning* (1994) 1 QAR 464 and a number of the earlier review decisions be aligned with the approach taken in section 28A of the FOI Act.

For the purposes of sections 28A of the FOI Act, whether an agency is 'satisfied' that a document does not exist is an evaluative judgement based on the knowledge and experience of the agency with respect to:

- the administrative arrangements of government
- the agency structure, functions and responsibilities (particularly with respect to the legislation for which it has administrative responsibility and the other legal obligations that fall to it)
- relevant administrative practices and procedures including but not exclusively information management approaches
- key factors within the FOI application or factors reasonably inferred from any other information supplied by the applicant.

The Acting Information Commissioner indicated that section 28A(1) of the FOI Act is relevant in circumstances where the document sought does not exist. If so satisfied, the agency or Minister is not required by the FOI Act to carry out all reasonable steps to find the document. Nonetheless, the construction of section 28A of the FOI Act does not preclude an agency or Minister from using searches as a means to satisfy itself that a document does not exist under section 28A(1). However if the agency undertakes searches to satisfy itself that the document does not exist, then all reasonable steps must be taken to find the document before refusing access.

In applying section 28A(1) of the FOI Act to the issues arising in this external review, the Acting Information Commissioner determined that:

- by reference to its knowledge and experience of the ordinary practice for processing the Course results UQ could be satisfied on reasonable grounds that the document sought by the applicant was never created
- there was no evidence to suggest that there has been any deviation from the usual process in relation to this particular incident/event/procedure/transaction
- it was therefore unnecessary for UQ to conduct searches to satisfy itself that the document sought does not exist.

Access to the document sought in the FOI Application could be refused under section 28A(1) of the FOI Act.

Scott and South Burnett Regional Council

(210279, 210349, 210465 AND 210466, 9 April 2009)

The applicant was a supporter and friend of Ms L Sheridan, an employee of the former Nanango Shire Council (now South Burnett Regional Council) (**Council**). The CEO terminated Ms Sheridan's employment with Council in 2006.

The applicant sought access to a range of documents from Council relating to the termination of Ms Sheridan's employment and other related matters.

The Office had previously finalised a number of related external reviews and had four other related external reviews on foot involving Ms Sheridan.

During the course of the external reviews, the Office requested that the former CEO of Council provide information in relation to his concerns about the release of documents to the applicant and Ms Sheridan.

Section 42(1)(ca) – Disclosure of the matter in issue could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation

The Acting Information Commissioner made the following observations about the operation of section 42(1)(ca) of the FOI Act:

- The conduct contemplated in section 42(1)(ca) is more 'serious' than some conduct that may be contemplated by section 96A(3)(b).
- Some degree of harassment or intimidation is contemplated as permissible before the right to access documents under the FOI Act is removed.
- The subjective purpose of the applicant is not a relevant consideration.
- Section 42(1)(ca) may apply in respect of a single access application, that is, neither the application nor the applicant need be characterised as vexatious for the provision to apply.
- Section 42(1)(ca) does not require a causal link to be drawn between a specific person and the conduct; nor does it require the conduct to be that of the applicant.

Having regard to parliament's intention in enacting section 42(1)(ca) of the FOI Act and the plain meaning of the words used in that provision, the Acting Information Commissioner found that:

- Acts which induce fear or force a person into some action by inducing fear or apprehension are acts of intimidation.
- Acts of intimidation which have undesired consequences or cause concern and/or apprehension are serious acts of intimidation.

- Acts which persistently trouble, disturb or torment a person are acts of harassment.
- Acts of harassment which have undesired consequences or cause concern and/or apprehension are serious acts of harassment.

The Acting Information Commissioner found that serious acts of harassment and intimidation had previously occurred based on the:

- information provided by the former CEO that he had received a threatening phone call from an unknown caller with reference to Ms Sheridan and had been subject, in the presence of his children, to an act of physical violence
- numerous postings that had been made on a website known as Bunya Watch by people claiming to be Ms Sheridan's supporters
- use of FOI applications by Ms Sheridan, the applicant and another associated person.

Having taken into account the:

- nature of the matter in issue which was the subject of the external reviews
- likely effect of disclosure of the matter in issue
- past conduct
- nature of the relationship between the parties and/or third parties
- the Acting Information Commissioner determined that, in the circumstances, the matter in issue qualified for exemption under section 42(1)(ca) of the FOI Act.

Section 29(4) – Refusal to deal with an application

The Acting Information Commissioner decided to refuse to deal with the sufficiency of search issues raised by the applicant in these reviews under section 29(4) of the FOI Act on the basis that if the documents existed they would fall within the classes of documents that could reasonably be expected to result in a person being subjected to a serious act of harassment and/or intimidation if disclosed and would qualify for exemption under section 42(1)(ca) of the FOI Act.

Quality

Applicant feedback

“I would like to comment on the professionalism, courtesy and energy of OIC staff who assisted me in the last 6 months. They demonstrated enormous enthusiasm for the task they perform but scrupulously avoided ‘taking sides’...I felt my external appeal was in excellent hands”.

Following the 2000 Strategic Review, the Office introduced a practice whereby each applicant was surveyed approximately two or three months after the external review. This was done by telephone with the survey administered by Office staff.

The 2006 Strategic Review of the Office of the Information Commissioner reviewed this practice and the surveys. It recommended that the applicant surveys should continue but the questionnaire should be simplified to a single page if possible, and mailed to the applicant with the final letter. There were no specific recommendations about the agency surveys. To implement the review recommendation the then Information Commissioner developed a one-page survey using internal feedback on the wording of questions.

A revised survey instrument and methodology were adopted in 2008–2009. Survey instruments were sent to all agencies and external review applicants with a finalised application, including on those applications which did not require a determination. That means that the pool of applicant survey respondents was significantly increased by applicants who ‘did no better’ as a result of their contact with the Office. These changes are significant and mean that the results are not directly comparable to previous years. Surveys were sent to an applicant once. That is, where an applicant had more than one review closed during the year, the applicant was surveyed once. This practice was adopted on the basis of applicant feedback.

Applicant feedback

“Thought the whole matter was handled very well, even when I was at fault initially. Staff quickly put me on the correct track (by letter) promptly and courteously”.

Performance measure

% applicants satisfied with the conduct of the review

The target for this performance measure in 2008–2009 was 70% of applicants being satisfied with the conduct of the review. 69% of respondents were satisfied overall with the service provided.

73% of applicants indicated they thought the Office’s letters were written in plain English.

83% of applicants agreed that they received a courteous and professional service.

Last year 61% of applicants agreed that the time taken to process their application was satisfactory. Despite the significant improvement in the time frames for processing applications, this year 50% of applicants indicated that the time taken to resolve external reviews met their expectations. This may point to a response bias to the survey. Nevertheless, a number of strategies will be implemented in 2009–2010 to further improve timeliness and to improve applicant satisfaction levels.

Performance measure

% agencies who are satisfied with the information and assistance provided from the Office

Early in each year the Office surveys the agencies that participated in a review finalised during the previous calendar year.

The Office’s 2009 annual agency survey contained different questions to the 2008 survey and the same process was used. The results are therefore not directly comparable. This measure is not intended to measure an agency’s satisfaction with the outcome of external review/s although this may influence the response given. Rather it is intended to be a measure of the agency’s satisfaction with the conduct of the external review by the Office.

The target for this performance measure in 2007–2008 was 75% satisfaction. The 2009 agency survey showed a satisfaction rating of 92%, higher than the previous year’s rating of 88%.

Four agencies accounted for the 8% of agencies which did not indicate satisfaction with the Office's services. Of those four, three agencies indicated they were 'undecided' about their levels of satisfaction. One agency indicated that overall it was not satisfied with the Office's services. While that agency strongly agreed the staff were courteous and the review process was fair, and agreed that the time taken for the review was in line with its expectations and the website was useful, the agency disagreed that the Office's decisions were in plain English and that it was kept informed about the progress of the review.

The main areas where agencies were satisfied with the Office's services were staff being courteous (100%); the usefulness of the website (87%); and plain English decisions (86%). Areas of improvement identified were:

- keeping agencies up to date on the progress of reviews;
- navigability of the website.

Significant changes to the website were made in early 2009. Next year's survey will provide information about whether agencies' suggestions for improvement have been adequately responded to. A focus on updating participants in a review will be maintained in 2009–2010.

Complaints about the Office

During the year the Office received four complaints under its complaint policy. The complaint that the Office had done nothing about an allegation made to it about an officer of a government department was investigated and found to be unsubstantiated. The complainant was advised the Office had referred his allegations to the relevant department and that he had been previously advised of this action in writing. The complaint about the Office using highlighter pens was unsubstantiated as redacting technology has not been adopted by all agencies and a method of marking exempt information is still required. This complaint also included a concern about lack of transparency which was also found to be unsubstantiated on the grounds that the exempt material he sought access to contained the personal affairs of other people and could not be disclosed to him.

One external review applicant complained that the Office's correspondence was overly technical and that the Office's advice on appeal mechanisms amounted to bullying. These

complaints were found to be unsubstantiated on the basis that the applicant, a PhD student, repeatedly wrote to the Office raising new technical legal grounds as to why the Office had jurisdiction in her case and the Office had to deal with the issues raised in accordance with the law. Giving an applicant written advice as to their review rights concerning the Office's decision was not found to amount to bullying.

Another external review applicant complained about the transparency of the Office's processes. It was explained to the applicant that as the agency has claimed a section 35 exemption (neither confirm nor deny the existence of the document), the Office had to communicate with him in a way that neither confirmed nor denied the existence of the document and that in those circumstances it was difficult for him to know the details of the course of the review. He was unhappy about not being told the name of the electoral staff who complained to the police about him. The law was explained to him in relation to this but he remained unhappy. The applicant was also unhappy about the length of time the review took. His dissatisfaction was acknowledged and it was explained to him that his was one of a handful of complaints that had taken over a year to process and that this was due to a number of factors including the need to first deal with the section 35 issues. He was also advised that the Office was taking several steps to improve the timeliness of processing external review applications.

Judicial Review

Decisions of the Information Commissioner can be judicially reviewed on questions of law by the Supreme Court under the *Judicial Review Act 1991*. Each decision of the Commissioner must clearly give reasons for any findings. The decision must speak for itself because a tribunal or *quasi judicial* body is not ordinarily permitted to play an adversarial role in defending its decision.

During 2008–2009 no applications for judicial review of an external review decision were made to the Supreme Court by the Queensland.

During 2008–2009 one application for a statutory order of review remained on foot. No judgements were delivered by the Supreme Court.

Timeliness

Performance measure

Median days to finalise an application for review

Table 3 contains the number of median days to finalise an application for review in each year since 2006–2007. The target number of median days to finalise an application for review in 2008–2009 was 90 days.

Year	Target no	No of median days to finalise
2006–2007	90	115
2007–2008	90	85
2008–2009	90	56

Table 3. No of median days to finalise an application for review in each year compared to the target.

This target was proposed by the independent consultant who conducted the 5-yearly Strategic Management Review of the Office of the Information Commissioner in 2005–2006. It was introduced as a new measure in the 2006–2007 Ministerial Portfolio Statement. Median days were not reported in previous reporting periods.

As the middle point in a list of numbers that have been organised from largest to smallest, the median gives a reliable indication of the number of days it is most likely to take for an external review to be resolved or finalised. The Office uses the number of calendar days to resolve (informally) or finalise (by decision) an external review. Unlike the average, the median is uninfluenced by extreme values.

The Office met the performance target for timeliness. Part of the improved timeliness during the year can be attributed to the large volume of ‘quick turnaround’ reviews lodged by the one family. It is therefore likely that the median days in future years will be higher than that achieved this year. The improved timeliness is also directly attributable to the improvements made in the processing of external review applications under the Early Assessment and Resolution Pilot.

The changes in process under the Early Assessment and Resolution Pilot include the development of a checklist to ensure consistent assessment of applications as to jurisdiction and the identification of the correct decision for external review. The assessment of applications is undertaken by senior staff who are able to identify at an early stage the factors that will be taken into account by the Information Commissioner if a formal decision is required to settle the application for review. Drawing parties’ attention to the relevant factors at an early stage can assist them make early submissions.

Z and Department of Education Training and the Arts

The applicant sought access to her daughter’s school records in relation to an incident where the daughter had alleged the applicant had physically disciplined her. The Department refused the applicant access to the records on the basis they contained the daughter’s personal affairs information.

In accordance with its policies, the school had informed the police of the allegation. After investigation, the police found there was no case to answer. The daughter told police she had fabricated the allegation because she was angry with her mother.

In the course the review the review officer spoke with the applicant who indicated she was concerned there was a permanent school record that she had hit her child and wanted access to the records to determine if the police’s conclusion that there was no case to answer had been included in the record.

After shuttle negotiation between the parties, the review was resolved by the Department agreeing the applicant could add a notation to the daughter’s record to the effect that the police had investigated the allegation and found there was no case to answer.

In this case the application for external review concerned the Department’s decision to refuse access on the basis that the records contained the daughter’s personal affairs. If the matter had proceeded to decision the applicant may have been refused access to the document had the Office not identified that the applicant was actually seeking an amendment to the record rather than access to the whole record. To the Department’s credit, it allowed the mother to amend the record outside the FOI process without having to lodge a fresh application.

Performance measure

Number of open reviews more than 12 months old at the end of the reporting period

A small number of reviews take an extended period for legitimate reasons. The reasons necessitating a longer period of time include:

- extensive 'sufficiency of search' issues that required the Office to request a number of searches by the respondent agency for many documents and repeated requests for searches as the likely existence of further documents comes to light during the course of a review;
- the large number of documents in contention; and
- the circumstances of some of the applicants, such as illness or overseas travel.

These reviews affect the overall performance of the Office and are therefore closely monitored by the Information Commissioner throughout the year and in particular at the monthly case management meetings with the Information Commissioner and through regular age reports.

Table 4 contains the number of open reviews more than 12 months old at the end of the reporting period. This performance measure was introduced in 2005–2006 and a target of having fewer than 10 reviews more than 12 months old at the end of the reporting period was adopted. The target used prior to 2005–2006 was the proportion of reviews on hand.

Year	Target no of reviews	No of open reviews >12 months old
2004–2005	27 (20% of reviews on hand)	25
2005–2006	<10	11
2006–2007	<10	7
2007–2008	<10	11
2008–2009	<10	7

Table 4. Number of open reviews more than 12 months old as at 30 June at the end of each reporting period 2005–2009.

As at 30 June 2009 seven reviews more than 12 months old were open. Two of these applications were lodged in 2006 but put on hold in July 2007 awaiting the outcome of a judicial review specifically on point. A trial date for the review is still awaited at the time of preparation of this report.

In 2009–2010 the Office will continue to focus on expeditious resolution of all external reviews.

External Review Statistics

FOI applications, internal and external reviews

Applications made under the FOI Act for access to documents, or to amend records, must be made to the government agency that holds the documents. If the applicant does not accept that the agency’s original decision is correct, in most instances they must apply to that agency for an internal review of that decision. A person who does not accept the agency’s internal review decision can apply in writing to the Information Commissioner for an external review.

Diagram 2 shows the number of FOI applications that were made to agencies, the number of applications for internal review as reported in the FOI Annual Report 2007–2008 and the number of applications for external review in 2007–2008.

Diagram 2

FOI Applications to agencies	13320		
Internal Review applications to agencies		380	
Applications for External Review in 2007–2008			289

These 2007–2008 figures show that while the number of FOI applications made to agencies increased by 9%, the number of applications for internal review decreased by 8% compared to last year’s figures. The number of applications for external review increased by 9.5% in the same year.

Table 5 shows the number of FOI applications made to agencies in the last five years, the proportion of FOI applications that resulted in applications for internal review, and the proportion of FOI applications that resulted in applications for external review.

Year	No FOI applications	% Internal Review	% External Review
2003–2004	12288	2.99	2.33
2004–2005	12554	3.22	2.45
2005–2006	12106	3.02	2.82
2006–2007	12180	3.39	2.16
2007–2008	13320	2.85	2.17
2008–2009	N/A	N/A	N/A

Table 5. Number of FOI applications made to agencies in the past five years, the proportion that resulted in internal and external reviews.

The number of FOI applications made to agencies, and the proportion of FOI applications which are either internally or externally reviewed have remained fairly consistent over the past five years. The increase in 2007–2008 may be explained by the highlighted publicity around the Right to Information reforms.

External reviews

Table 6 shows the categories of external review application received for the past five years.

	2004–2005 ¹	2005–2006	2006–2007	2007–2008	2008–2009
Initial FOI application	Not reported	Not reported	12	6	3
Deemed Refusal of Access	Not reported	90	51	76	43
Deemed Refusal of amendment	Not reported	2	3	2	0
Fees	Not reported	n/a ²	6	14	49
Charges	Not reported	13	3	5	3
Statements of Affairs	0	0	0	0	1
Refusal of Access	248	190	125	131	177
Refusal of Amendment	9	6	6	3	5
Agency refusal to deal ³	n/a	n/a	11	5	3
Reverse FOI ¹	Not reported	Not reported	15	21	14
Sufficiency of Search ⁴	Not reported	Not reported	32	26	42
No Jurisdiction	50	41	n/a ⁵	n/a ⁵	n/a ⁵
Total applications received	307	342	264	289	340

Table 6. Categories of application for external review received in the past five years.

¹ Figures in these columns are sourced from the corresponding annual reports.

² Count is included under the 'Charges' category

³ 2005 Amendment to the FOI Act

⁴ Where sufficiency of search is the sole complaint. 'Refusal of access' applications frequently involve sufficiency of search issues identified by the parties or the OIC at any time during the course of the external review.

⁵ The category of 'No jurisdiction' is no longer considered to be an application category. 'No Jurisdiction' is now counted as an outcome type.

Consistent with previous years, a high percentage of applications received (65%) concerned refusal of access. Applications concerning fees and charges jumped from 6.6% of the number of applications received to 15%. Most of the applications concerning fees were made by one family which was unable to accept a decision that some of the information they were seeking was not their personal affairs. Taking this factor into account, the number of applications concerning fees and charges received is in line with previous years.

When an agency does not make a decision on an FOI application within 45 days (or 60 days where consultation is required with a third party), the agency is taken to have made a 'deemed decision' to refuse the application. The agency can then negotiate an extension of time with the applicant to deal with the application or, if the applicant chooses, the applicant can ask for an external review of the 'deemed decision' straight away.

Table 7 shows the number of external review applications received that concerned 'deemed decisions' and the proportion of the total number of review applications received that were 'deemed decisions'.

Year	No review applications received	No review applications concerning 'deemed decisions'	% of review applications concerning 'deemed decisions'
2004–2005	307	Not reported	n/a
2005–2006	342	92	26.90%
2006–2007	264	54	20.45%
2007–2008	289	78	26.98%
2008–2009	340	43	12.94%

Table 7. Number of external review applications received, number of applications concerning 'deemed decisions' and the proportion of review applications received concerning 'deemed decisions'.

The proportion of applications received concerning ‘deemed decisions’ decreased by 50%. The Office considers reviews of ‘deemed decisions’ take longer to complete and therefore affect the timeliness of the Office’s review function. Because of this several strategies were put in place during 2007–2008 to minimise the numbers of deemed decisions coming for external review. Together with close monitoring by the Office in 2008–2009, these strategies appear to have worked. The extended processing time amendments made to the FOI Act during 2007–2008 also assisted agencies in managing matters that took longer than the prescribed period to process an application.

Table 8 shows the number of open applications on hand as at 30 June 2009 and for each of the previous four years together with the number of applications received.

Year	No applications on hand as at 30 June	No applications received
2004–2005	134	307
2005–2006	141	342
2006–2007	97	264
2007–2008	102	289
2008–2009	83	340

Table 8. Number of open applications on hand as at 30 June 2009 and the number of applications received in each year between 2005–2009.

This point-in-time reading of the number of open applications gives an indication of the workload generally on hand. The number of open applications on hand has historically correlated directly with the number of applications received in the year, ie if a higher number of applications was received in the year; there was a higher number of applications on hand. Conversely, if a lower number of applications was received in the year, there was a lower number of applications on hand. As a measure of genuine productivity improvement in 2008–2009, this is the first year when work in hand declined despite a significant 18% increase in workload.

Table 9 shows the profile of applicants who made external review applications in the past four years. Equivalent figures were not reported in 2004–2005.

	2005–2006	2006–2007	2007–2008	2008–2009
Agencies	0	3	0	1
Individuals	247	199	227	268
Companies	13	18	31	31
Journalists	6	8	4	2
Lobby and Community Groups	10	4	3	2
Politicians	14	7	0	1
Prisoners	52	25	24	22
Unspecified	N/A	N/A	N/A	13 ¹
Total	342	264	289	340

Table 9. External review applicant profile for the past four years.

¹ This classification has not previously been used.

Table 10 shows the applications received in each year for the past five years against the agency profile.

	2004–2005	2005–2006	2006–2007	2007–2008	2008–2009
Boards/Commissions/GOC	21	40	50	25	76
Departments	184	191	138	182	187
Local Governments	44	84	54	68	36
Universities	26	25	15	7	15
Ministers	3	1	4	4	1
Other Bodies	29	1	3	3	25
Total	307	342	264	289	340

Table 10. Agency profile.

Appendix 3 contains the numbers of external review applications received in 2008–2009 by respondent agency or Minister. Generally speaking the numbers of external review applications received reflects the volume of FOI applications made to agencies. For example, the Department of Health and the Queensland Police Service receive the highest number of FOI applications as reported in the FOI Annual Reports. The highest numbers of external review applications are reported against each of these agencies in the Appendix, and are therefore proportionate to the overall trend for initial applications that result in external review applications.

Table 11 shows the outcomes of reviews finalised during the reporting period.

Outcome of review	2004–2005	2005–2006	2006–2007	2007–2008	2008–2009
Decision under s.89 of FOI Act	32	72	79	59	76
Affirming agency decision	11	45	46	20	43
Varying agency decision	8	20	17	31	15
Setting aside agency decision	13	7	16	8	18
Review settled informally	184	223	142	125	156
Determination of review not required	49	41	87	100	127
Decision application is out of jurisdiction – ss12, 73	48	Not reported	60	74	103
Decision not to deal with application – s77 of FOI Act	0	Not reported	16	7	4
Decision to allow agency further time to deal with application – s79 of FOI Act	1	Not reported	11	19	20
TOTAL	265	336	308	284	359

Table 11. Outcomes of reviews finalised from 2005–2009.

Declarations of vexatious applicants

No applications for a declaration of a vexatious applicant were received during 2008–2009.

Right To Information and Information Privacy Implementation

Details of the implementation funding and staffing are provided in this report under the heading 'Corporate Governance – Human Resource Management'.

Information Resources

Under the *Right to Information Act 2009* and the *Information Privacy Act 2009*, passed by Parliament on 2 June 2009, the Office of the Information Commissioner is responsible for issuing guidelines to assist the community and agencies in the interpretation and administration of the legislation. During the year the Office developed an extensive suite of guidelines, tools and resources to assist agencies to implement the new laws. Appendix 4 contains a list of guidelines prepared in relation to the *Right to Information Act 2009*. Appendix 5 contains a list of guidelines developed in relation to the *Information Privacy Act 2009*. These resources are published on the Office's website.

The Office re-developed its website to promote new messages, provide new functionalities to support the Office's enhanced roles and ensure the Office meets its legislative obligations in relation to its publications scheme and administrative access. A complete re-design of the site's look and feel, providing it with a fresh and more visually appealing look was also completed.

Training

The Office had responsibility for developing and delivering implementation training to agency decision makers on the *Right to Information Act 2009* and the *Information Privacy Act 2009*. Decision makers from all agencies affected by the reforms were provided training. During the year over 120 decision makers were trained in June on legislation passed by Parliament in early June. The implementation training program will continue in early 2009–2010.

Organisational planning and new accommodation

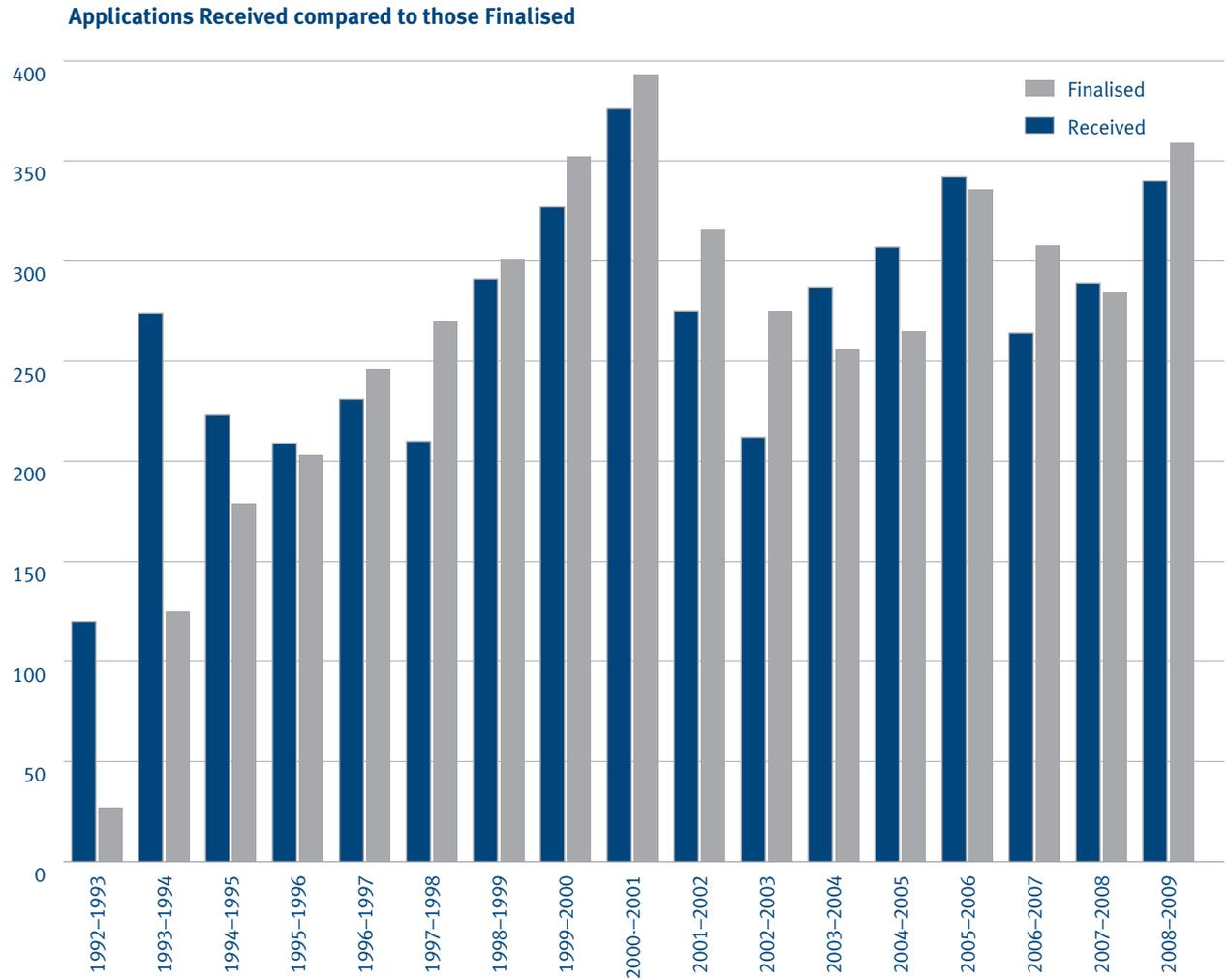
During the year the Office secured a budget and accommodation and fitted it out for the implementation team, and then reconfigured it for the ongoing needs of the Office in 2009–2010. A new organisational structure was designed once the budget outcome was known in May 2009, roles and responsibilities delineated, position descriptions written and evaluated and merit selection processes commenced.

Systems upgrade

New procedures and processes for all OIC functions, including case management, statistical reporting, were mapped. Existing systems were reviewed against identified specifications. The existing database is being enhanced to capture the privacy function and provide a case management function for external review. A new PABX system has been purchased and is being installed to support ongoing operational needs, in particular the telephone enquiry service.

APPENDIX 1

External Review Applications received and closed 1992–2009



APPENDIX 2

Outcomes of decisions

Review Number	Agency	Date of Decision	Outcome	Access / Amendment Refused / Granted	Relevant Provisions of FOI Act where access/ amendment refused
210422	Environmental Protection Agency	03-Jul-08	Affirmed	Access refused	44(1)
210307	Medical Board of Queensland	03-Jul-08	Set Aside	Amendment granted	53; 54E;
210526	Department of Transport	08-Aug-08	Affirmed	Fee payable	35B
210417	The University of Queensland	21-Aug-08	Set Aside	Fee not payable	35B
210424	Department of Main Roads	21-Aug-08	Varied	Access refused	37(1)(a); 37(1)(c)(i); 37(1)(g)
210433	Brisbane City Council	25-Aug-08	Set Aside	Fee not payable	35B; 44(1);
210532	Gold Coast City Council	28-Aug-08	Affirmed	Refused	43(1);
210515	Department of Justice and Attorney-General	08-Sep-08	Affirmed	Fee Payable	35B; 35C
210434	Queensland Nursing Council	30-Sep-08	Set Aside	Access refused	42(1)(ca), 44(1)
210467	Department of Health	30-Sep-08	Set Aside	Access refused	12
210482	Department of Primary Industries and Fisheries	26-Nov-08	Affirmed	Access refused	28A(1)
210393	Department of Health	26-Nov-08	Varied	Access refused	42(1)(h); 44(1)
210419	Environmental Protection Agency	25-Nov-08	Varied	Access refused	22(b); 28A(1); 29B; 44(1); 77(1)(a)
210612	The University of Queensland	18-Dec-08	Affirmed	Refusal to deal	29B
210534	Department of Health	24-Dec-08	Set Aside	Access refused	42(1)(h)
210514	Department of Infrastructure and Planning	20-Jan-09	Varied	Access granted (in part)	44(1); 45(1)(c); 45(3); 46(1)(b)
210460	Department of Justice and Attorney-General	21-Jan-09	Affirmed	Access refused	43(1)
210498	Department of Child Safety	21-Jan-09	Affirmed	Access refused	44(1)
210589	Department of Police	28-Jan-09	Affirmed	Access refused	28A
210669	Department of Police	28-Jan-09	Affirmed	Access refused	28A
210507	Department of Justice and Attorney-General	28-Jan-09	Set Aside	Access granted	44(1); 28A
210472	Department of Corrective Services	30-Jan-09	Affirmed	Access refused	43(1)
210632	The University of Queensland	09-Feb-09	Varied	Access refused	28A(1)
210440	Department of Transport	11-Feb-09	Varied	Access refused	50(c)(i); 28A(1); 28A(2); 77(1)(a)
210634	The University of Queensland	19-Feb-09	Affirmed	Access refused	28A(1)
210239	Department of Health	20-Feb-09	Set Aside	Access refused	42(1)(ca); 42(1)(h)

Review Number	Agency	Date of Decision	Outcome	Access / Amendment Refused / Granted	Relevant Provisions of FOI Act where access/ amendment refused
210637	Department of Justice and Attorney-General	26-Feb-09	Affirmed	Access refused	43(1); 28A(1)
210687	Department of Police	27-Feb-09	Affirmed	Access refused	28A(1)
210765	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210766	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210767	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210768	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210769	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210770	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210771	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210772	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210773	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210774	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210775	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210776	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210777	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210778	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210779	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210780	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210781	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210782	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210783	Residential Tenancies Authority	27-Feb-09	Affirmed	Fee payable	35B
210553	Department of Police	27-Feb-09	Set Aside	Refusal to deal	29B
210447	Department of Education, Training and the Arts	09-Mar-09	Set Aside	Access refused	28A
210499	Gympie Regional Council	16-Mar-09	Varied	Access granted (in part)	25(5)(b); 44(1)
210598	Central Queensland University	18-Mar-09	Set Aside	Access refused	43(1); 28A
210656	Department of Health	30-Mar-09	Affirmed	Access refused	45(1)(c)
210683	Department of Police	31-Mar-09	Affirmed	Access refused	28A(1)
210686	Department of Police	31-Mar-09	Affirmed	Access refused	28A(1)
210688	Department of Police	31-Mar-09	Affirmed	Access refused	28A(1)
210478	Fraser Coast Regional Council	07-Apr-09	Varied	Access refused	45(1)(b); 28A(2)
210608	Department of Police	07-Apr-09	Set Aside	Access refused	28A(1)
210636	Department of Justice and Attorney-General	09-Apr-09	Affirmed	Access refused	28A(1)
210201	South Burnett Regional Council	09-Apr-09	Set Aside	Refused	42(1)(ca); 29(4)
210279	South Burnett Regional Council	09-Apr-09	Set Aside	Access refused	42(1)(a); 29(4)

Review Number	Agency	Date of Decision	Outcome	Access / Amendment Refused / Granted	Relevant Provisions of FOI Act where access/ amendment refused
210349	South Burnett Regional Council	09-Apr-09	Set Aside	Access refused	42(1)(a); 29(4)
210465	South Burnett Regional Council	09-Apr-09	Set Aside	Access refused	42(1)(a); 29(4)
210466	South Burnett Regional Council	09-Apr-09	Set Aside	Access refused	42(1)(a); 29(4)
210238	Local Government Association of Queensland Inc.	09-Apr-09	Varied	Refused	42(1)(ca); 29(4)
210285	Dalby Regional Council	09-Apr-09	Varied	Access refused	42(1)(ca); 29(4)
210286	Dalby Regional Council	09-Apr-09	Varied	Access refused	42(1)(ca); 29(4)
210496	Department of Health	24-Apr-09	Varied	Access refused	42(1)(b); 44(1)
210676	Medical Board of Queensland	13-May-09	Affirmed	Access refused	46(1)(b)
210689	Department of Police	14-May-09	Affirmed	Access refused	28A(1)
210565	Department of Health	19-May-09	Set Aside	Amendment refused	53; 54(E)
210512	Department of Health	19-May-09	Varied	Access refused	28A(1); 44(1)
210628	Banana Shire Council	19-May-09	Varied	Access refused	44(1)
210677	Crime and Misconduct Commission	22-May-09	Affirmed	Access refused	50(c)(i)
210700	Department of Health	24-Jun-09	Varied	Access refused	40(c); 44(1); 28A(2)
210810	Department of Health	29-Jun-09	Affirmed	Access refused	42(1)(h)
210817	The University of Queensland	30-Jun-09	Affirmed	Access refused	28A(1)

Section 12	Application of Act to Information Commissioner
Section 25(5)(b)	Agency or Minister gives access to a post-application document
Section 28	Refusal of access - matter or document exempt
Section 28A	Refusal of access - document nonexistent or unlocatable
Section 29	Refusal to deal with application - agency's or Minister's functions
Section 29B	Refusal to deal with access application - previous application for same documents
Section 35B	Fees and charges
Section 35C	Waiver of fees and charges
Section 37	Executive Council Matter
Section 40	Matter concerning certain operations of agencies
Section 42	Matter relating to law enforcement or public safety
Section 43	Matter affecting legal proceedings
Section 44	Matter affecting personal affairs
Section 45	Matter relating to trade secrets, business affairs and research
Section 46	Matter communicated in confidence
Section 50	Matter disclosure of which would be contempt of Parliament or contempt of court
Section 53	Amendment of personal affairs information
Section 54E	Discretion to amend information
Section 77	Decision not to, or further, deal with application for review

APPENDIX 3

Applications for external review 2008–2009 by respondent agency or Minister

Ministers	
Office of the Minister for Police and Corrective Services	1
Departments¹	
Department of Child Safety	18
Department of Communities	5
Department of Corrective Services	15
Department of Education, Training and the Arts	5
Department of Emergency Services	3
Department of Employment and Industrial Relations	7
Department of Environment and Resource Management	2
Department of Health	32
Department of Housing	8
Department of Infrastructure and Planning	3
Department of Justice and Attorney-General	10
Department of Local Government, Sport and Recreation	1
Department of Mines and Energy	5
Department of Natural Resources and Water	8
Department of Police	48
Department of Primary Industries and Fisheries	1
Department of Public Works	1
Department of the Premier and Cabinet	2
Department of Transport	4
Environmental Protection Agency	6
Queensland Audit Office	1
Queensland Police Service	1
Treasury Department	3
Boards, Commissions, GOC	
Board of Professional Engineers	2
Building Services Authority	2
C S Energy	1
Crime and Misconduct Commission	2
Energex	3
Health Quality and Complaints Commission	4
Legal Aid Queensland	4
Medical Board of Queensland	6
Nominal Defendant (Queensland)	1
Office of Health Practitioner Registration Boards	1
Office of the Information Commissioner	2
Office of the Public Service Commissioner	1
Queensland Rail	2

¹ During 2008–2009 a Machinery of Government (MOG) change on 26 March 2009 resulted in a number of changes to departments. The name used in this table is the name of the entity at the time the review was finalised.

Residential Tenancies Authority	42
Surveyor's Board of Queensland	1
WorkCover Queensland	2
Local Governments²	
Banana Shire Council	2
Brisbane City Council	8
Cairns Regional Council	1
Cook Shire Council	1
Croydon Shire Council	3
Fraser Coast Regional Council	5
Gold Coast City Council	4
Gympie Regional Council	3
Ipswich City Council	2
Lockyer Valley Regional Council	1
Moreton Bay Regional Council	2
Redland City Council	2
Rockhampton City Council	2
Rockhampton Regional Council	1
Roma Regional Council	2
Scenic Rim Regional Council	1
South Burnett Regional Council	1
Sunshine Coast Regional Council	2
Whitsunday Regional Council	3
Universities	
Central Queensland University	1
Griffith University	2
James Cook University	7
The University of Queensland	5
Other	
ANZ Banking Group Limited (ANZ)	1
Centrelink	2
Commonwealth Bank of Australia	1
Federal Privacy Commissioner	2
Gladstone Ports Corporation	1
KordaMentha Pty Ltd	1
Mr Peter Janetzki	1
Stadiums Queensland	1
Superannuation Complaints Tribunal	3

² During 2007–2008 a number of local governments amalgamated and changed names. The name used in this table is the name of the entity as it was known at the time the review was finalised

APPENDIX 4

Right to Information guidelines developed in 2008–2009

Introduction and overview

- Which Act applies?
 - a guide for agencies
 - a guide for the community
- RTI Act - Introduction and Overview
- Proactive Disclosure and Publication Schemes
- Administrative release of information
- RTI Act and FOI Act differences
- Right of access
- What is personal information?

Processing

- Processing access applications
- Searching for documents
 - Searching for documents - Appendix 1 Document retrieval request
 - Searching for documents - Appendix 2 Record of searches
 - Searching for documents - Appendix 3 Schedule for decision makers
- Timeframes for access and amendment
- Disclosure logs
- Fees and charges
- Providing access to documents

Decision Making

- Exempt information - Overview
- Exempt information - Law enforcement and public safety
- Exempt information - Legal Professional Privilege
- Public interest balancing test
 - Preliminary Checklist
 - Irrelevant factors
 - Overview
- Statement of Reasons
 - Statement of Reasons - Appendix 1 Flowchart guide for decision makers
 - Statement of Reasons - Appendix 2 Sample Decision

Review – internal and external & IC functions

- External Review
 - External Review - Part 1 Overview
 - External Review - Part 2 Informal Resolution
 - External Review - Part 3 Timeframe
- Financial hardship status for non-profit organisations

APPENDIX 5

Information Privacy Guidelines developed in 2008–2009

Introduction and Overview

- What is personal information?

Access and Amendment under the Information Privacy Act

- Which Act applies:
 - a guide for agencies
 - a guide for the community
- Access to and amendment of Personal Information under the *Information Privacy Act*
- Timeframes for access and amendment

Information Privacy

- Privacy Guideline (complete - 1.5mb)
- Privacy Guideline Section 1 – Introduction to the privacy guidelines
- Privacy Guideline Section 2 – Overview of the privacy guidelines
- Privacy Guideline Section 3 – Application of the *Information Privacy Act 2009*
- Privacy Guideline Section 4 – Key concepts
- Privacy Guideline Section 5 – Contracted Service Providers
- Privacy Guideline Section 6 – Transfer out of Queensland
- Privacy Guideline Section 7 – Privacy complaints
- Privacy Guideline Section 8 – Compliance notices
- Privacy Guideline Section 9 – Public Interest Approvals
- Privacy Guideline Section 10 – Compliance with the privacy principles
- Privacy Guideline Section 11 – the Information Privacy Principles
- Privacy Guideline Section 12 – the National Privacy Principles
- Routine personal work information of public servants

Privacy Tools

- Privacy breach management and notification

Financial Statements

Office of the Information Commissioner Queensland for the financial year ended 30 June 2009

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General Information

These financial statements cover the Office of the Information Commissioner.

The Office of the Information Commissioner is established under the *Freedom of Information Act 1992*.

The Office is included in the portfolio of the Attorney-General and Minister for Justice under Section 101F of the *Freedom of Information Act 1992*.

The principal place of business of the Office is:

Level 4
300 Adelaide Street
BRISBANE QLD 4000

A description of the nature of the Office's operations and its principal activities is included in the notes to the financial statements.

For information in relation to the Office's financial statements, please call the Manager Corporate and Executive Services on 07 3005 7151, email administration@oic.qld.gov.au or visit the Office internet site www.oic.qld.gov.au

Office of the Information Commissioner Queensland

INCOME STATEMENT for the year ended 30 June 2009

	Notes	2009 \$'000	2008 \$'000
INCOME			
Revenue			
Grants and other contributions	2	3,783	2,070
Other revenue	3	48	28
Total Income		3,831	2,098
EXPENSES			
Employee expenses	4	2,122	1,303
Supplies and services	5	720	368
Depreciation and amortisation	6	114	127
Other expenses	7	19	11
Total Expenses		2,975	1,809
Operating Surplus		856	289

The accompanying notes form part of these statements.

Office of the Information Commissioner Queensland

BALANCE SHEET as at 30 June 2009

	Notes	2009 \$'000	2008 \$'000
Current Assets			
Cash and cash equivalents	8	1,663	597
Receivables	9	22	6
Other	10	27	-
Total Current Assets		1,712	603
Non Current Assets			
Plant and equipment	11	234	335
Total Non Current Assets		234	335
Total Assets		1,946	938
Current Liabilities			
Payables	12	169	54
Accrued employee benefits	13	173	111
Total Current Liabilities		342	165
Non Current Liabilities			
Accrued employee benefits	13	70	17
Total Non Current Liabilities		70	17
Total Liabilities		412	182
Net Assets		1,534	756
Equity			
Contributed equity		(59)	19
Retained surpluses		1,593	737
Total Equity		1,534	756

The accompanying notes form part of these statements.

Office of the Information Commissioner Queensland

STATEMENT OF CHANGES IN EQUITY for the year ended 30 June 2009

	Retained Surpluses		Contributed Equity	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Balance 1 July	737	448	19	(12)
Operating Surplus/(Deficit)	856	289	-	-
<i>Transactions with Owners as Owners:</i>				
- Net leave liabilities transferred to/from other agencies	-	-	(78)	31
Balance 30 June	1,593	737	(59)	19

The accompanying notes form part of these statements.

Office of the Information Commissioner Queensland

CASH FLOW STATEMENT for the year ended 30 June 2009

	Notes	2009 \$'000	2008 \$'000
Cash flows from operating activities			
<i>Inflows:</i>			
Grants and other contribution		3,783	2,070
GST input tax credits from ATO		64	44
GST collected from customers		-	1
Other		48	28
<i>Outflows:</i>			
Employee expenses		(2,124)	(1,289)
Supplies and services		(394)	(257)
Other		(218)	(121)
GST remitted to ATO		-	34
GST paid to suppliers		(81)	(47)
Net cash from operating activities	14	1,078	463
Cash flows from investing activities			
<i>Outflows:</i>			
Payments for plant and equipment		(12)	(20)
Net cash provided by (used in) investing activities		(12)	(20)
Net increase (decrease) in cash held		1,066	443
Cash at beginning of financial year		597	154
Cash at end of financial year		1,663	597

The accompanying notes form part of these statements.

Office of the Information Commissioner Queensland

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2008–2009

	Objectives of the Office of the Information Commissioner
Note 1:	Summary of Significant Accounting Policies
Note 2:	Grants and Other Contributions
Note 3:	Other Revenue
Note 4:	Employee Expenses
Note 5:	Supplies and Services
Note 6:	Depreciation
Note 7:	Other Expenses
Note 8:	Cash and Cash Equivalents
Note 9:	Receivables
Note 10:	Other Current Assets
Note 11:	Plant & Equipment
Note 12:	Payables
Note 13:	Accrued Employee Benefits
Note 14:	Reconciliation of Operating Surplus to Net Cash from Operating Activities
Note 15:	Commitments for Expenditure
Note 16:	Contingencies
Note 17:	Financial Instruments

Office of the Information Commissioner Queensland

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2008–2009

OBJECTIVES OF THE OFFICE OF THE INFORMATION COMMISSIONER

The Office of the Information Commissioner has three goals:

1. Independent Review of FOI disputes
2. Timely resolutions of external reviews
3. Authoritative and clear decision making

In September 2007 the Queensland Government initiated a major independent review of the *Freedom of Information Act 1992* (FOI Act) in keeping with its priority to deliver open and accountable government. To bring about those shifts the Government's response in August 2008 committed to major reform including a strategic information policy, and new legislation aimed at maximising the disclosure of information and reducing the time, cost and effort involved in accessing government documents. The Right to Information Act 2009 and Information Privacy Act 2009 were passed by Parliament on 2 June 2009 and commenced on 1 July 2009.

Both the Right to Information Act 2009 and the Information Privacy Act 2009 give significantly enhanced roles to the Information Commissioner to support the changes. Those roles include issuing guidelines, education and training, promoting awareness, performance monitoring and reporting and commenting on legislation and administrative changes to improve right to information and privacy practice, mediating privacy complaints, deciding on waiver or modification of the application of the privacy principles.

Since November 2008 the Office has been preparing agencies and itself for compliance with the legislation and the performance of these new roles. Implementation training was developed and delivered to all agencies affected by the new legislation, guidelines to assist administration and the interpretation of the new laws were issued, and a multi-functional organisation was established.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

a) Basis of Accounting

The financial statements have been prepared in accordance with Australian Accounting Standards. In addition, the financial statements comply with the Treasurer's Minimum Reporting Requirements for the year ending 30 June 2009, and other authoritative pronouncements.

These financial statements constitute a general purpose financial report.

Except where stated, the historical cost convention is used.

b) The Reporting Entity

From 1 July 2005, the Office of the Information Commissioner became a Statutory Body established under the *Freedom of Information and Other Legislation Amendment Act 2005* with grant funding from the Queensland Government provided through the Department of Justice and Attorney-General.

The financial statements include the value of all revenues, expenses, assets, liabilities and equity of the Office of the Information Commissioner. The Office of the Information Commissioner does not control any other entities.

c) User Charges and Fees

User charges and fees controlled by the Office of the Information Commissioner are recognised as revenues when invoices for the related services are issued. User charges and fees are controlled by the Office of the Information Commissioner where they can be deployed for the achievement of its objectives.

d) Grants

Grants that are non-reciprocal in nature are recognised as revenue in the year in which the Office of the Information Commissioner obtains control over them. Where grants are received that are reciprocal in nature, revenue is accrued over the term of the funding arrangements.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Cont.)

e) Cash and Cash Equivalents

For the purpose of the Balance Sheet and Cash Flow Statement, cash assets include all cash and cheques received but not banked at 30 June as well as deposits at call with financial institutions.

f) Receivables

Trade debtors are recognised at the nominal amounts due at the time of sale or service delivery. Settlement of these amounts is required within seven days from invoice date.

The collectability of receivables is assessed periodically with provision being made for impairment. All known bad debts were written-off as at 30 June.

g) Acquisition of Assets

Actual cost is used for the initial recording of all non-current physical and intangible asset acquisitions. Cost is determined as the value given as consideration plus costs incidental to the acquisition, including all other costs incurred in getting the assets ready for use, including architects' fees and engineering design fees. However, any training costs are expensed as incurred.

Where assets are received free of charge from another Queensland department (whether as a result of a machinery-of-Government or other involuntary transfer), the acquisition cost is recognised as the gross carrying amount in the books of the transferor immediately prior to the transfer together with any accumulated depreciation.

Assets acquired at no cost or for nominal consideration, other than from an involuntary transfer from another Queensland department, are recognised at their fair value at date of acquisition in accordance with AASB 116 *Property, Plant and Equipment*.

h) Property, Plant and Equipment

Items of plant and equipment with a cost or other value equal to or in excess of the following thresholds are recognised for financial reporting purposes in the year of acquisition.

Computer equipment	\$5,000
Office equipment	\$5,000
Leasehold improvements	\$5,000

Items with a lesser value are expensed in the year of acquisition.

i) Revaluations of Non-Current Physical Assets

Computer equipment, office equipment and leasehold improvements are measured at cost. The carrying amounts at cost should not materially differ from their fair value.

Non-current physical assets measured at fair value are comprehensively revalued at least once every five years with interim valuations, using appropriate indices, being otherwise performed on an annual basis where there has been a material variation in the index.

The Office of the Information Commissioner has no assets measured at fair value.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Cont.)

j) Depreciation of Property, Plant and Equipment

Depreciation of plant and equipment is calculated on a straight-line basis so as to allocate the net cost or revalued amount of each asset, less its estimated residual value, progressively over its estimated useful life to the Office of the Information Commissioner.

For each class of depreciable asset the following depreciation and amortisation rates are used:

Class	Rate %
Plant and equipment:	
Computer equipment	20
Office equipment	20
Leasehold improvements	20

Any expenditure that increases the originally assessed capacity or service potential of an asset is capitalised and the new depreciable amount is depreciated over the remaining useful life of the asset.

The depreciable amount of improvements to or on leasehold improvements is allocated progressively over the unexpired period of the lease. The unexpired period of a lease include any option period where exercise of the option is probable.

k) Impairment of Non-current assets

All non-current physical and intangible assets are assessed for indicators of impairment on an annual basis. Any amount by which the asset's carrying amount exceeds the recoverable amount is recorded as an impairment loss.

The non-current physical assets of the Office of the Information Commissioner showed no sign of impairments during this financial year.

l) Leases

A distinction is made in the financial statements between finance leases that effectively transfer from the lessor to the lessee substantially all risks and benefits incidental to ownership, and operating leases, under which the lessor retains substantially all risks and benefits.

Where a non-current physical asset is acquired by means of a finance lease, the asset is recognised at an amount equal to the present value of the minimum lease payments. The liability is recognised at the same amount.

Lease payments are allocated between the principal component of the lease liability and the interest expense.

Operating lease payments are representative of the pattern of benefits derived from the leased assets and are expensed in the periods in which they are incurred.

Incentives received on entering into operating leases are recognised as liabilities. Lease payments are allocated between rental expense and reduction of the liability.

m) Payables

Trade creditors are recognised upon receipt of the goods or services ordered and are measured at the agreed purchase/contract price, gross of applicable trade and other discounts. Amounts owing are unsecured and are generally settled on 30 day terms.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Cont.)

n) Financial Instruments

Recognition

Financial assets and financial liabilities are recognised in the Balance Sheet when the Office becomes party to the contractual provisions of the financial instruments.

Classification

Financial instruments are classified and measure as follows:

- Cash and cash equivalents – held at fair value through profit and loss
- Receivables – held at amortised cost
- Payables – held at amortised cost

The Office of the Information Commissioner does not enter into transactions for speculative purpose, nor for hedging. Apart from cash and cash equivalents, the Office of the Information Commissioner holds no financial assets classified at fair value through profit and loss.

All other disclosures relating to the measurement and financial risk management of financial instruments held by the Office of the Information Commissioner are included in Note 17.

o) Employee Benefits

Wages, Salaries, Annual Leave and Sick Leave

Wages, salaries and recreation leave due but unpaid at reporting date are recognised in the Balance Sheet at the nominal salary rates. Payroll tax and workers' compensation insurance are a consequence of employing employees, but are not counted in an employee's total remuneration package. They are not employee benefits and are recognized separately as employee related expenses. Employer superannuation contributions and long service leave levies are regarded as employee benefits.

For unpaid entitlements expected to be paid within 12 months, the liabilities are recognised at their undiscounted values. For those entitlements not expected to be paid within 12 months, the liabilities are recognised at their present value, calculated using yields on Fixed Rate Commonwealth Government bonds of similar maturity.

Prior history indicates that on average, sick leave taken each reporting period is less than the entitlement accrued. This is expected to recur in future periods. Accordingly, it is unlikely that existing accumulated entitlements will be used by employees and no liability for unused sick leave entitlements is recognised.

As sick leave is non-vesting, an expense is recognised for this leave as it is taken.

Long Service Leave

Under the Queensland Government's long service leave scheme, a levy is made on the Office of the Information Commissioner to cover this cost. Levies are expensed in the period in which they are paid or payable. Amounts paid to employees for long service leave are claimed from the scheme as and when leave is taken.

No provision for long service leave is recognised in the financial statements, the liability being held on a whole-of-Government basis and reported in the financial statements prepared pursuant to *AASB 1049 Whole of Government and General Government Sector Financial Reporting*.

Superannuation

Employer superannuation contributions are paid to QSuper, the superannuation plan for Queensland Government employees, at rates determined by the Treasurer on advice of the State Actuary. Contributions are expensed in the period in which they are paid or payable. The Office of the Information Commissioner's obligation is limited to its contribution to QSuper.

Therefore, no liability is recognised for accruing superannuation benefits in these financial statements, the liability being held on a whole-of-Government basis and reported in the financial statements prepared pursuant to *AASB 1049 Whole of Government and General Government Sector Financial Reporting*.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Cont.)

Executive Remuneration

The executive remuneration disclosures in the employee expense note (Note 4) in the financial statements include:

- The aggregate remuneration of all senior executive officers (including the Information Commissioner) whose remuneration for the financial year is \$100,000 or more; and
- The number of senior executives whose total remuneration for the year falls within each successive \$20,000 band, commencing at \$100,000.

The remuneration disclosed is all remuneration paid or payable, directly and indirectly by the Information Commissioner in connection with the management of the affairs of the Office of the Information Commissioner, whether as an executive or otherwise. For this purpose, remuneration includes:

- wages and salaries;
- accrued leave (that is, the increase/decrease in the amount of annual and long service leave owed to an executive, inclusive of any increase in the value of leave balances as a result of salary rate increase or the like);
- accrued superannuation (being the value of all employer superannuation contributions during the financial year, both paid and payable as at 30 June);
- car parking benefits and the cost of motor vehicles, such as lease payments, fuel costs, registration/insurance, and repairs/maintenance incurred by the Office of the Information Commissioner during the financial year, both paid and payable as at 30 June, net of any amounts subsequently reimbursed by the executives;
- allowances (which are included in remuneration agreements of executives, such as airfares or other travel costs paid to/for executives whose principal place of residence is situated in a location other than the location they work in); and
- fringe benefits tax included in remuneration agreements.

The disclosures apply to executives appointed by Governor in Council and classified equivalent to Senior Executive Service 1 (SES1) and above, with remuneration above \$100,000 in the financial year. 'Remuneration' means any money consideration or benefit, but excludes payments or reimbursements of out-of-pocket expenses incurred for the benefit of the Office of the Information Commissioner.

In addition, separate disclosure of separation and redundancy/termination benefit payments is included as applicable.

p) Insurance

The Office of the Information Commissioner's non-current physical assets and other risks are insured through the Queensland Government Insurance Fund, premiums being paid on a risk assessment basis. In addition, the Office of the Information Commissioner pays premiums to WorkCover Queensland in respect of its obligations for employee compensation.

q) Taxation

The Office of the Information Commissioner is a State body as defined under the *Income Tax Assessment Act 1936* and is exempt from Commonwealth taxation with the exception of Fringe Benefits Tax and Goods and Services Tax (GST). FBT and GST are the only taxes accounted for by the Office of the Information Commissioner. GST credits receivable from, and GST payable to the ATO, are recognized (refer to note 9).

r) Issuance of Financial Statements

The financial statements are authorised for issue by the Information Commissioner and Acting Manager of Corporate and Executive Services at the date of signing the Management Certificate.

s) Judgements and Assumptions

The preparation of financial statements necessarily requires the determination and use of certain critical accounting estimates, assumptions, and management judgments that have potential to cause a material adjustment to the carrying amounts of assets and liabilities within the next financial year. Such estimates, judgments and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the period in which the estimates are revised and in future periods as relevant.

Office of the Information Commissioner Queensland

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2008–2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Cont.)

The Office of the Information Commissioner has made no judgments or assessments that may cause a material adjustment to the carrying amounts of assets and liabilities within the next reporting period.

t) Rounding and Comparatives

Amounts included in the financial statements are in Australian dollars and have been rounded to the nearest \$1,000 or, where that amount is \$500 or less, to zero, unless disclosure of the full amount is specifically required.

Comparative information has been restated where necessary to be consistent with disclosures in the current reporting period.

u) New and Revised Accounting Standards

The Office of the Information Commissioner did not voluntarily change any of its accounting policies during 2008–2009. No Australian accounting standards and interpretations issued or amended and applicable for the first time in the 2008–2009 financial year have an effect on the Office of the Information Commissioner.

The Office of the Information Commissioner is not permitted to early adopt a new accounting standard ahead of the specified commencement date unless approval is obtained from the Treasury Department. Consequently, the Office of the Information Commissioner has not applied any.

Australian accounting standards and interpretations that have been issued but are not yet effective. The Office of the Information Commissioner will apply these standards and interpretations in accordance with their respective commencement dates.

At the date of authorization of the financial statements, a number of new or amended Australian accounting standards with future commencement dates will have a significant impact on the Office of the Information Commissioner. Details of these impacts are set out below.

AASB 101 Presentation of Financial Statements has been revised, but such revisions will not impact on the Office of the Information Commissioner until 2009–2010. This revised standard does not have measurement or recognition implications. Instead, there will be significant changes to the presentation of the Office of the Information Commissioner's overall financial performance and position, particularly the content of the Statement of Changes in Equity, and preparation of a new Statement of Comprehensive Income (which will include certain items currently disclosed in the Statement of Changes in Equity, in line with the definition of 'comprehensive income' in the revised AASB 101).

All other Australian accounting standards and interpretations with future commencement dates are either not applicable to the Office of the Information Commissioner, or have no material impact on the Office.

Office of the Information Commissioner Queensland

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2008–2009

	2009 \$'000	2008 \$'000
2. GRANTS AND OTHER CONTRIBUTIONS		
Grants	3,783	2,070
Total	<u>3,783</u>	<u>2,070</u>

3. OTHER REVENUE		
Interest	48	28
Total	<u>48</u>	<u>28</u>

4. EMPLOYEE EXPENSES		
Employee Benefits		
Wages and salaries	1,567	968
Employer superannuation contribution*	194	123
Annual leave expense*	164	78
Long service leave levy*	27	17
Other employee benefit	7	1
Employee Related Expenses		
Payroll Tax**	86	55
Fringe Benefit Tax	10	20
Workers' compensation premium**	5	4
Other employee related expenses	62	37
Total	<u>2,122</u>	<u>1,303</u>

* Employer superannuation contributions, annual leave expenses and the long service leave levy are regarded as employee benefits.

** Costs of workers' compensation insurance and payroll tax are a consequence of employing employees, but are not counted in employees' total remuneration package. They are not employee benefits, but rather employee related expenses.

Number of Employees:

The number of employees include both full-time employees and part-time employees measured on a full-time equivalent basis is:

Number of Employees:	<u>23.8</u>	<u>13.8</u>
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Office of the Information Commissioner Queensland

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2008–2009

	2009 No.	2008 No.
4. EMPLOYEE EXPENSES (Cont.)		
Executive Remuneration		
The number of senior executives who received or were due to receive total remuneration of \$100,000 or more:		
\$100,000 to \$119,999	1	-
\$120,000 to \$139,999	-	1
\$140,000 to \$159,999	-	1
\$200,000 to \$219,999	1	-
	\$'000	\$'000
Total remuneration of executives shown above#	306	281
<p># The amount calculated as executive remuneration in these financial statements includes the direct remuneration received, as well as items not directly received by senior executives, such as the movement in leave accruals and fringe benefits tax paid on motor vehicles. This amount will therefore differ from advertised executive remuneration packages which do not include the latter items.</p>		
Aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above.	NIL	NIL
5. SUPPLIES AND SERVICES		
Operating lease rentals	219	119
Minor equipment & maintenance	127	30
Corporate Services	126	73
Contractors	95	11
Communications and utilities	38	21
Legal fees	32	53
Consumables	11	9
Travel	4	5
Other	68	47
Total	720	368
6. DEPRECIATION		
Depreciation incurred in respect of:		
Computer equipment	7	6
Other equipment	7	7
Leasehold Improvements	100	114
Total	114	127
7. OTHER EXPENSES		
Insurance premiums	2	1
External audit fees	17	10
Total	19	11

Office of the Information Commissioner Queensland

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2008–2009

	2009 \$'000	2008 \$'000
8. CASH and CASH EQUIVALENTS		
Cash at bank	1,663	597
Total	1,663	597

9. RECEIVABLES		
GST receivable	61	44
GST payable	(39)	(38)
Total	22	6

10. OTHER CURRENT ASSETS		
Prepayments	27	-
Total	27	-

11. PLANT & EQUIPMENT		
Computer Equipment		
At cost	37	29
Less: Accumulated depreciation	(20)	(12)
	17	17
Office Equipment		
At cost	40	34
Less: Accumulated depreciation	(22)	(14)
	18	20
Leasehold Improvements		
At cost	504	503
Less: Accumulated depreciation	(305)	(205)
	199	298
Total	234	335

Plant & Equipment are valued at cost in accordance with Queensland Treasury's "Non-Current Asset Accounting Guidelines for the Queensland Public Sector".

Plant & Equipment Reconciliation

	Computer Equipment \$'000	Office Equipment \$'000	Leasehold Improvements \$'000	Total \$'000
Carrying amount at 1 July 2008	17	20	299	336
Acquisitions	7	5	0	12
Depreciation	(7)	(7)	(100)	(114)
Carrying amount at 30 June 2009	17	18	199	234

Office of the Information Commissioner Queensland

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2008–2009

	2009 \$'000	2008 \$'000
12. PAYABLES		
Trade Creditors	154	36
Sundry Payables	15	18
Total	169	54
13. ACCRUED EMPLOYEE BENEFITS		
Current		
Recreation leave	173	83
Wages outstanding	-	28
Total	173	111
Non-current		
Recreation leave	70	17
Total	70	17
14. RECONCILIATION OF OPERATING SURPLUS TO NET CASH FROM OPERATING ACTIVITIES		
Operating surplus/deficit	856	289
Depreciation expense	114	127
Net leave liability transferred directly to equity	(78)	
Change in assets and liabilities:		
(Increase)/decrease in GST input tax credits receivable	(17)	(2)
(Increase)/decrease in other receivables	-	1
(Increase)/decrease in prepayments/other	(27)	1
Increase/(decrease) in accounts payable	118	16
Increase/(decrease) in other payable	(3)	
Increase/(decrease) in accrued employee benefits	115	(4)
Increase/(decrease) in GST payable	-	35
Net Cash from operating activities	1,078	463

Office of the Information Commissioner Queensland

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2008–2009

	2009 \$'000	2008 \$'000
15. COMMITMENTS FOR EXPENDITURE		
Non-Cancellable Operating Leases:		
Commitments under operating leases at reporting date are inclusive of anticipated GST and are payable as follows:		
- Not later than one year	310	109
- Later than one year and not later than five years	94	194
Total	404	303

Operating Leases are entered into as a means of acquiring access to office accommodation and motor vehicles. Lease payments are generally fixed, but with inflation escalation clauses on which contingent rentals are determined.

No renewal or purchase options exist in relation to operating leases and no operating leases contain restrictions on financing or other leasing activities.

Capital Expenditure Commitments

There were no capital commitments of a material nature at 30 June 2009.

16. CONTINGENCIES

Guarantees and Undertakings

The Office of the Information Commissioner was not committed to any guarantees or undertakings at 30 June 2009.

Unresolved legal matters

1) At 30 June 2009, the Office of the Information Commissioner had an unresolved legal matter which may give rise to a contingent liability depending on the court's decision.

2) A costs order in favour of the Office was made in relation to a court matter. The party against whom the order was made is an undischarged bankrupt. The Office is likely to receive payment of costs from surplus funds prior to the finalisation of the applicant's affairs.

At reporting date it is not possible to make an estimate of any probable outcome of these matters, or any financial effects.

17. FINANCIAL INSTRUMENTS

Financial Risk Management

The Office of the Information Commissioner's activities expose it to a variety of financial risks - interest rate risk, credit risk, liquidity risk and market risk, however due to the nature of the Office's activities, these risks are limited. Financial risk management is implemented pursuant to Government policy. These policies focus on the unpredictability of financial markets and seek to minimise potential adverse effect on the financial performance of the Office.

Office of the Information Commissioner Queensland

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2008–2009

17. FINANCIAL INSTRUMENTS (Cont.)

Liquidity Risk Exposure

Liquidity risks are considered negligible. The Office has over \$1.7M in current assets to meet \$0.4M in total liabilities.

Market Risk Exposure

The Office does not trade in foreign currency and is not materially exposed to commodity price changes.

Categorisation of Financial Instruments

The Office of the Information Commissioner has categorised the financial assets and financial liabilities held as:

Financial Assets	Category
Cash	
Receivables	Loans and Receivables (at nominal value)
Financial Liabilities	
Payables (at nominal value)	Financial liability not at fair value through the Income Statement

Interest Rate Risk Exposure

The Office of the Information Commissioner's exposure to interest rate risk and the effective interest rates of financial assets and financial liabilities are shown in the following table:

	Floating Rate	1 Year or Less \$'000	1 to 5 Years \$'000	Greater than 5 Years \$'000	Non Interest Bearing \$'000	Total \$'000	Weighted Average Rate \$'000
<i>Financial Assets</i>							
Cash					1663		NA
Receivables					22		NA
Total					1685		NA
<i>Financial liabilities</i>							
Payables					169		NA
Total					169		NA

Credit Risk Exposure

The maximum exposure to credit risk at balance date in relation to each class of recognised financial assets is the gross carrying amount of those assets inclusive of any provisions for impairment.

No significant concentration of credit risks have been identified, as exposure is spread over a large number of counterparties and customers.

Fair Value

The net fair value is determined as follows:

The fair value of cash and cash equivalents and non-interest bearing monetary financial assets and financial liabilities approximate their carrying amounts.

CERTIFICATE OF THE OFFICE OF THE INFORMATION COMMISSIONER

These general purpose financial statements have been prepared pursuant to section 40(1) of the *Financial Administration and Audit Act 1977* (the Act), and other prescribed requirements.

In accordance with Section 40(3) of the Act we certify that in our opinion:

- (a) the prescribed requirements for establishing and keeping the accounts have been complied with in all material respects; and
- (b) the statements have been drawn up to present a true and fair view, in accordance with prescribed accounting standards, of the transactions of the Office of the Information Commissioner for the financial year ended 30 June 2009 and of the financial position of the Office of the Information Commissioner at the end of that year.



J Kinross
Information Commissioner



Greg Argue
A/Manager
Corporate & Executive Services

August 2009

INDEPENDENT AUDITOR'S REPORT

To the Information Commissioner

Report on the Financial Report

I have audited the accompanying financial report of the Office of the Information Commissioner which comprises the balance sheet as at 30 June 2009, and the income statement, statement of changes in equity and cash flow statement for the year ended on that date, a summary of significant accounting policies, other explanatory notes and certificate given by the Information Commissioner and the Acting Manager Corporate and Executive Services.

The Information Commissioner's Responsibility for the Financial Report

The Information Commissioner is responsible for the preparation and fair presentation of the financial report in accordance with prescribed accounting requirements identified in the *Financial Administration and Audit Act 1977* and the *Financial Management Standard 1997*, including compliance with applicable Australian Accounting Standards (including the Australian Accounting Interpretations). This responsibility includes designing, implementing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility to express an opinion on the financial report based on the audit is prescribed in the *Auditor-General Act 2009*. This Act, including transitional provisions, came into operation on 1 July 2009 and replaces the previous requirements contained in the *Financial Administration and Audit Act 1977*.

The audit was conducted in accordance with the *Auditor-General of Queensland Auditing Standards*, which incorporate the Australian Auditing Standards. These auditing standards require compliance with relevant ethical requirements relating to audit engagements and that the audit is planned and performed to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgment, including the assessment of risks of material misstatement in the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control, other than in expressing an opinion on compliance with prescribed requirements. An audit also includes evaluating the appropriateness of accounting policies and the reasonableness of accounting estimates made by the Information Commissioner, as well as evaluating the overall presentation of the financial report including any mandatory financial reporting requirements as approved by the Treasurer for application in Queensland.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

The *Auditor-General Act 2009* promotes the independence of the Auditor-General and QAO authorised auditors. The Auditor-General is the auditor of all Queensland public sector entities and can only be removed by Parliament.

The Auditor-General may conduct an audit in any way considered appropriate and is not subject to direction by any person about the way in which audit powers are to be exercised.

The Auditor-General has for the purposes of conducting an audit, access to all documents and property and can report to Parliament matters which in the Auditor-General's opinion are significant.

Auditor's Opinion

In accordance with s.40 of the *Auditor-General Act 2009* –

- (a) I have received all the information and explanations which I have required; and
- (b) in my opinion –
 - (i) the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
 - (ii) the financial report has been drawn up so as to present a true and fair view, in accordance with the prescribed accounting standards of the transactions of the Office of the Information Commissioner for the financial year 1 July 2008 to 30 June 2009 and of the financial position as at the end of that year.

JF Welsh

J F Welsh FCPA

(as Delegate of the Auditor-General of Queensland)



Queensland Audit Office
Brisbane



**Office of the Information Commissioner Queensland
Annual Report 2008–2009**