



Annual Report 2004-05

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Office of the Information Commissioner

The *Information Act* (NT) regulates three aspects of government information management:

- **Freedom of Information (FOI)**
- **Privacy Protection**
- **Records Management**

The Information Commissioner is the independent officer appointed to oversee the **FOI** and **Privacy Protection** provisions of the Act.



Peter Shoyer
Information Commissioner

The functions of the Office of the Information Commissioner are —

- **Awareness** – promoting awareness and understanding of FOI and Privacy Protection in the community and in the public sector
- **General inquiries** – helping people to exercise their rights, and agencies to administer the schemes
- **Complaints** – responding to formal complaints about FOI decisions and interference with privacy
- **Policy assistance/input** – helping government organisations to recognise and deal with Privacy and FOI issues that need to be addressed as part of policy and legislative development and review
- **Investigations/applications** – carrying out other *Information Act* functions, eg deciding applications for grants of authorisation, considering draft codes of conduct and conducting privacy audits
- **Improving our service** – increasing the availability of resources on FOI and Privacy, and our ability to carry out our functions, through staff development, regular contact with relevant organisations and monitoring of developments in the Territory and elsewhere
- **Managing the Office** – undertaking the many tasks required to make sure that the Office runs efficiently and is accountable for its actions and the public resources it uses.

Freedom of Information – What is it?

The FOI scheme is about giving you the right to seek access to the NT **government information** that you want. It improves government accountability and lets people find out what information government has about them and about issues they are interested in.

You must be given access to records containing the information you apply for unless disclosure would be against the public interest.

FOI also gives you the right to apply to have personal information about you corrected if it is inaccurate, incomplete or out of date.

For more on FOI, see our website: www.foi.nt.gov.au or Appendix 1 to our 2003-04 Annual Report.

Privacy Protection – What is it?

The Privacy Protection scheme is about making sure that NT **public sector organisations** respect your privacy when they collect or handle **personal information** about you.

It gives you the right to find out about how your information is collected and handled, and to complain about interference with your privacy.

The rules for protecting your privacy are set out in 10 **Information Privacy Principles** (IPPs) that appear in the Schedule at the end of the *Information Act*. The requirements of the IPPs can be divided into four categories:

- Collection of information
- Use and disclosure
- Management
- Openness

For a summary of the Information Privacy Principles, see page 22 of this Report. For more on Privacy, see our website: www.privacy.nt.gov.au or Appendix 2 to our 2003-04 Annual Report.

Commissioner activities - Overview

Highlights 2004-05

- Substantial policy assistance given to public sector organisations and public inquiries, particularly in relation to privacy issues
- 41 presentations given on FOI and Privacy in centres across the Territory, including Alice Springs, Tennant Creek, Katherine, Jabiru, Nhulunbuy, Palmerston, Darwin and Mandorah
- 20 new or revised guidelines or similar publications published to promote understanding of the Act
- Commencement of FOI and Privacy provisions for local government promoted through presentations, newspaper and radio advertising, and distribution of information to municipal and community councils
- Joint presentation program conducted with Northern Territory Archives Service
- First formal complaints received from FOI applicants and Privacy complainants
- First grant of authorisation issued allowing an organisation to depart from the Information Privacy Principles in order to assist the Australian Red Cross International Tracing Service

Performance 2004-05

Performance Measure	Target*	Result
Awareness and training presentations	40	41
Guidelines and similar publications issued/updated	20	20
General inquiries	350	343
Proportion of general inquiries response w/i 1 day		95%
Complaints and applications addressed		16
FOI complaints finalised within 120 days of acceptance		50%
Privacy complaints finalised within 120 days of acceptance		75%

* Development of a comprehensive set of performance measures for the Office was delayed until data was available to make a reasoned estimate. Measures without a target are new measures for 2005-06.

Public sector activities - Overview

Freedom of Information

In all, 394 initial FOI access applications were lodged with public sector organisations. This represents a significant increase (39%) on access applications made in the first year of operation of the Act. A breakdown of access applications by organisation appears in Appendix 2.

Some points of interest in relation to applications made or dealt with during the year are:

- 62% were made to one organisation, the NT Police, Fire & Emergency Services
- 68% of applications across government sought access to personal information about the applicant (compared to 64% in the previous year)
- overall, access was granted in full to 13 619 pages, with access granted in full or in part to 78% of pages sought (compared to 80% in the previous year)
- the total amount of application and processing fees charged by organisations was \$10 476 (compared to \$22 685 in the previous year).

Eighteen applications were made for **internal review** of agency decisions, with 8 initial decisions being varied or revoked. Seven formal **complaints** were made to the Information Commissioner in relation to FOI decisions.

Privacy Protection

Six formal complaints were made or referred to the Commissioner about alleged breaches of privacy. No details are available on numbers of privacy-related complaints made to public sector organisations.

As well as responding to individual privacy complaints, public sector organisations must regularly review documentation, systems, procedures and policies to ensure that they adequately protect individual privacy. It is also important that organisations address privacy issues raised by proposed new or revised policies and legislation. Organisations have undertaken significant work in this regard in 2004-05. Local authorities also undertook work to prepare for the application of the Privacy scheme to local government from 1 July 2005.

Message from the Commissioner

The reporting year has been a busy one for the Office. It saw the first formal complaints received from FOI applicants and individuals concerned with breaches of privacy. It also provided the first opportunity to consider and grant an authorisation to depart from the Information Privacy Principles.

However, the bulk of the Office's work during the year went towards promoting awareness and understanding of FOI and Privacy, and advising organisations in relation to privacy issues raised by proposals for new or revised policies and legislation.

Promoting awareness and understanding of the FOI and Privacy schemes is crucial at this early stage of implementation in order to create realistic expectations of what the schemes require of government and of what they can deliver to the community. Reinforcing and improving understanding will be a continuing requirement if the schemes are to be accepted as fair and worthwhile by government and the community in the long term.

Working with organisations to build privacy protection into policy and legislative development will also continue to be a major focus for the Office. Addressing privacy issues from the outset will mean systems that serve clients better and, accordingly, give rise to fewer complaints.

Application and complaint numbers

The year saw a significant increase in the number of FOI access applications across the whole of government (39%). An increase was anticipated as members of the community became more familiar with their rights. No figures are available in relation to privacy complaints made to public sector organisations.

The number of FOI and Privacy complaints made or referred to the Information Commissioner were low (7 FOI and 6 Privacy). In my view, these low numbers reflect a number of factors.

1. The schemes are only in their second year of operation. Complaints will rise as members of the community become more familiar with their rights. [However, with regard to FOI, it should be noted that organisations are required to notify applicants and third parties of their review and complaint rights, so the small number (only 1.8% of initial applications) cannot be attributed to lack of notice of those rights.]

2. Good work by organisations in responding to applications. My Office has placed considerable emphasis on encouraging organisations to deal with applications in a flexible and timely manner in order to reduce the time and costs involved for all concerned.
3. Efforts by my Office to minimise the number of formal complaints to the Commissioner by creating realistic expectations of the benefits and limitations of the schemes, and by assisting public sector organisations and members of the community to resolve issues informally (discussed below).

On balance, I regard the relatively small number of formal complaints, particularly in relation to FOI, as a positive sign.

Creating realistic expectations – Understanding, not just awareness

An important focus for the Office has been on creating realistic expectations of the benefits and limitations of the schemes both within the community and within the public sector. If participants can start with a realistic appreciation of the schemes, the scope for disputes arising from misunderstanding and misapprehension is much reduced.

With regard to FOI, applicants need to understand that it may be necessary to balance the public interest in disclosure of information against the interests of good government and the interests of other individuals and businesses. While information must be released unless there is good cause to withhold it (reflected in the exemptions in the Act), there will be cases in which the applicant does not get all the information they seek.

Applicants must also be aware that processing applications can take time (particularly if other members of the community must be consulted) and that taxpayers resources are expended in responding to applications, with a contribution towards that cost often being required from the applicant, at least in relation to applications for non-personal information.

If applicants are armed with this understanding, and with a working knowledge of the scheme, they can approach the scheme with realistic expectations, and can then consider how best to take advantage of the scheme to achieve their ends.

With regard to Privacy Protection, people concerned about the collection, use or disclosure of their personal information need to be aware that there is no absolute prohibition on collection, use or disclosure of personal information. The scheme is about finding an appropriate balance between privacy interests and the need for government organisations to carry out their functions for the benefit of the community. It controls government dealings with personal information but allows for collection and handling that is necessary to carry out government business.

With regard to both FOI and Privacy, public sector staff who appreciate the balanced nature of the schemes are more likely to accept the schemes as representing good public policy, and to participate in the processes in a positive and timely manner.

Minimising the number of complaints

Creating an environment where both public officials and members of the community have realistic expectations of the schemes is an essential starting point if disputes are to be limited to matters of substance rather than issues arising from misconceptions. The Office has therefore devoted considerable resources to developing educational programs and materials for the community and the public sector.

In addition, we have made every effort in individual cases to work with public sector officials and members of the community to resolve issues before a complaint is lodged. Our assistance at this informal level has, I believe, resulted in a number of disputes being resolved between the organisation and the individual without the need for a formal complaint to my Office.

My Office will continue to work with members of the community and public sector organisations to find flexible and timely resolutions that avoid the need to invoke the formal complaint process.

Importance of working together to resolve disputes

There are numerous court decisions that explain the proper role for a public sector organisation to play in legal proceedings like a complaint to the Information Commissioner under the *Information Act*. It is often described as a requirement for the government to be a 'model litigant'. In essence the role of the organisation is as follows:

- The organisation should assist the Commissioner to come to the correct decision. The organisation should adhere to the standard of fair dealing expected of government, rather than placing emphasis on defeating the complaint. This approach includes ensuring that all relevant facts and documents are before the Commissioner, compliance with procedures designed to minimise cost and delay, and refraining from taking purely technical points.
- An organisation is entitled to raise points that it honestly and reasonably believes apply in the circumstances of the case. If it does so, it should support those points with a clear explanation of how they apply in the particular case. It should not raise unsubstantiated arguments merely for the sake of complicating or hindering the progress of the complaint.

However, beyond that requirement, it is important that organisations work with my Office, both before and in the course of complaints, in order to seek alternative resolutions to disputes, whether within or outside the terms of the *Information Act*. A level of flexibility in the approach of an organisation can often lead to a resolution which meets the needs of the parties whilst not adversely affecting the operations of the organisation.

This can lead to a fairer result and to significant savings in terms of time and resources that would otherwise be involved in formal resolution of the complaint. Even so, it is acknowledged that options for informal resolution in a particular case may be limited due to the need to protect essential government or private interests.

Procedures for handling and recording privacy complaints

Unlike FOI applications, there is no detailed legislative framework for dealing with privacy complaints made to organisations. Nor is there a requirement to record details of complaints made to organisations that raise privacy issues, or to report to the Commissioner on such complaints.

In my view, it is crucial that organisations have detailed procedures in place for responding to complaints that raise a privacy issue. It is equally important that staff of the organisation are aware of the procedures and of who to turn to when an issue arises. A fair and timely response to a complaint can not only save resources and ensure compliance with the Privacy scheme — it can also enhance the reputation of the organisation.

It is also important for organisations to keep and regularly review records of complaints that raise privacy issues, in order to identify systemic issues that need to be addressed to provide good client service and to comply with the Privacy scheme. I discuss these points in more detail in Chapter 2.1.

Privacy as an integral part of policy and legislative development

Only a small part of the work involved in Privacy Protection involves particular complaints. Organisations must regularly review documentation, systems, procedures and policies to ensure that they adequately protect individual privacy. They must also address privacy issues raised by proposed new or revised policies and legislation. This is an ongoing requirement.

In order to ensure compliance with the Privacy scheme in the future, it is vital that organisations take steps to require consideration of privacy issues as an integral element of policy and legislative development and review processes. I discuss this point in more detail in Chapter 2.1.

Policy assistance/input

While my Office is not in a position to offer legal advice or to “sign-off” on proposed policies or legislation, we can give organisations considerable assistance in terms of identifying areas of concern and offering options that may address privacy issues.

We believe that the best time to address privacy issues is early in the development phase of policies and legislation, so that they can be dealt with as part of the development process, rather than being seen as a regulatory hurdle that a finalised scheme must overcome. Nevertheless, we are happy to provide input at any stage of the process.

Application of FOI and Privacy to local government

Local government within the Territory (including community government councils) became subject to the FOI and Privacy schemes from 1 July 2005. The Office committed significant resources in the first half of 2005 to assisting councils throughout the Territory to prepare for implementation.

It has been pleasing to see the positive approach adopted by a number of councils both in terms of attendance at FOI and Privacy presentations and of inquiries in relation to the development of privacy policies and other privacy issues.

Conclusion

In closing, I express my appreciation to the staff of my Office (Colleen Atkinson, Karan Howell, Clare Sturm, Somsong Albert and Rhonda Prestidge), and to Information Officers within various organisations who have worked hard throughout the year to implement the FOI and Privacy schemes.



Peter Shoyer
Information Commissioner

Chapter 1

Information Commissioner – Functions & activities

“... an independent officeholder, the Information Commissioner, to oversee the freedom of information and privacy provisions of this Act”

Information Act, Objects, s.3(1)(c)

Office functions and activities

The Office of the Information Commissioner has two broad roles. We:

- promote awareness and understanding of Freedom of Information (FOI) and Privacy Protection in the Northern Territory community and in the public sector; and
- deal with FOI and Privacy complaints, and other applications under the *Information Act*.

This Chapter describes our structure and funding and then goes on to talk about our functions and activities during 2004-05 under seven headings. The approximate proportion of time the Office spent on conducting each function during the year is set out opposite the function below:

	<u>Function</u>	<u>Time spent</u>
1.1	Awareness	25%
1.2	Policy Assistance/Input	25%
1.3	Complaints	10%
1.4	General Inquiries	5%
1.5	Investigations/applications	5%
1.6	Improving our service	10%
1.7	Managing the Office	20%

Office structure and funding

The inaugural Information Commissioner for the Northern Territory is Peter Shoyer. He was appointed for a 5 year term from 1 July 2003.

The full-time staff of the Office in 2004-05 comprised a Complaints Officer / Mediator (AO7), and an Assistant to the Commissioner (AO4). In addition, a temporary, part-time Legal Research Officer (AO2) was engaged in May 2005.

The Office is located at Level 7, 9-11 Cavenagh Street, Darwin. Contact details for the Office appear following the Contents page at the front of this Report.

The Office is collocated with the Anti-Discrimination Commission (the ADC). In addition to sharing administrative costs, the Office contributed to the costs of an Office Manager employed by the ADC.

Total direct expenditure by the Office in 2004-05 on employee expenses and purchase of goods and services was \$436,000.

In addition, for the purposes of financial statements, notional amounts have been attributed to operating expenses for services provided by the Department of Justice and the Department of Corporate and Information Services. The assistance of both organisations in dealing with administration of the Office is acknowledged and much appreciated.

A Statement of Financial Performance for 2004-05 is included at Appendix 1 to this Report. The Office is also included in detailed financial statements that appear in the Annual Report for the Department of Justice.

1.1 Awareness

What we do

We promote awareness and understanding of FOI and Privacy Protection in the Territory. We do this within the public sector and in the community generally.

We promote FOI and Privacy by activities like:

- publishing guidelines and brochures
- maintaining a public website: www.infocomm.nt.gov.au
- giving presentations to public sector, professional and community groups
- public displays and promotions, public comment and advertising.

We are always looking for new ways to promote FOI and Privacy. We welcome contact from anyone who would like us to give a presentation or provide information in some other form.

What we did in 2004-05

Presentations

The Office conducted 41 presentations and displays during the year, the great majority by the Information Commissioner. Presentations were conducted in Alice Springs, Tennant Creek, Katherine, Jabiru, Nhulunbuy, Palmerston, Darwin and Mandorah.

The majority of presentations were aimed at providing an introduction to the *Information Act*, and were open to staff of organisations and members of the community with a general interest in FOI and Privacy. In addition, a number of presentations were made to senior executive groups of various agencies.

These presentations and displays bring to a total of 118, the number of presentations and displays conducted by the Office promoting awareness and understanding of FOI and Privacy since March 2003. The continuing strong demand for presentations clearly shows a significant and ongoing interest in these issues.

The Information Commissioner and staff of the Office also participated in regular meetings of agency Information Officers to discuss and give presentations on specific aspects of administration of the Act.

Local Government focus

Because full application of the *Information Act* to local government authorities commenced from 1 July 2005, the Office put significant emphasis on promoting awareness and understanding in local authorities, including community government councils.

Presentations were made to officers of the Local Government Association of the Northern Territory (LGANT) and to the Local Government Managers Association.

A Local Government Training Day was conducted in April 2005, with the assistance of LGANT and the Darwin City Council. All councils were invited to attend and presentations were given by the Information Commissioner, the NT Archives Service and a number of Information Officers from public sector organisations.

Local-authority-specific presentations were made at a number of centres, and there was strong representation by local government officers and staff at presentations in regional centres.

Joint presentations with NT Archives Service

Presentations by the Office regularly contain an element dealing with the Records Management aspects of the *Information Act*. However, feedback highlighted demand for more detailed discussion of the requirements of that part of the Act. The Office therefore contacted the NT Archives Service, which has oversight of Records Management and Archives. In addition to presentations at the Local Government Training Day, the Office and the NTAS conducted 6 joint training presentations in Alice Springs, Jabiru and Darwin.

External training

As well as giving presentations, the Office facilitated training by two external service providers in Darwin and Alice Springs, with a particular emphasis on advanced training for Information Officers and decision-makers.

Displays

The Office conducted 'stand alone' displays in the Darwin Mall and in an Alice Springs shopping centre aimed at promoting public awareness. In addition, the Commissioner attended the NT Police, Fire & Emergency Services Business Information and Reporting Branch display at the Public Safety Expo.

In July 2004, the Office participated in the Department of Justice display at the Alice Springs, Tennant Creek, Katherine and Darwin shows. In 2005, the Office worked with the Corporate Communications Unit of the Department of Justice, the Community Justice Centre, Consumer and Business Affairs, and the Anti-Discrimination Commission to develop a set of display materials based on a joint “Know Your Rights” theme. The materials were designed to have sufficient flexibility to allow use on the 2005 Show circuit and in other displays organised by one or more of the organisations.



“Know Your Rights” display on Show circuit

Know	Your	Rights!	Information about YOU is private	Government must protect your personal information	 Contact the Office of the Information Commissioner
Office of the	Information	Commissioner	Does someone know something about you...that you don't?	Your Right to Privacy	Freecall 1 800 005 610 Or visit the website www.privacy.nt.gov.au

They didn't tell me what I really wanted to know	Your Right to Know	 Contact the Office of the Information Commissioner	Freedom of Information Privacy	Correcting Government Records...	 Contact the Office of the Information Commissioner
Do you need to correct Government Information about you?		Freecall 1 800 005 610 Or visit the website www.foi.nt.gov.au	The NT Information Act applies to...	...the Northern Territory Government Local & community government councils	Freecall 1 800 005 610 Or visit the website www.foi.nt.gov.au

Detail of information cubes on “Know Your Rights” display

FOI T-shirt campaign

In order to increase awareness of the application of the Act to local government, T-shirts were distributed to each community government and local council in the Territory, along with brochures and other information about FOI and Privacy. Councils were requested to use or distribute the shirts in a way that benefits the community. Shirts were also distributed at regional shows in July 2005.



Back of T-Shirt



Front of T-shirt with detail of logo

Media and advertising

In June and early July 2005, the Office undertook a Territory-wide newspaper and radio advertising campaign. The campaign was aimed at increasing awareness generally but was timed to emphasise the application of the schemes to local government from 1 July 2005. The Information Commissioner also answered a number of media queries about the FOI and Privacy schemes generally and about particular issues.



Newspaper advertising campaign 2005

Annual Report summaries/Posters

Following publication of the 2003-04 Annual Report, over 500 two page summaries of the Report were distributed to various organisations throughout the Territory to promote awareness of FOI and Privacy rights and awareness about the functions of the Office.

The summaries were printed on the reverse side of A3 FOI and Privacy posters, to allow posters to be put up once the other side was read. Recipients of the summaries included the media, community groups, professional groups, community councils, schools, indigenous organisations, ethnic organisations, legal firms and women's organisations.



FOI and Privacy posters used to distribute Annual Report summaries

Publications

The Office produced 20 new or updated publications covering topics like:

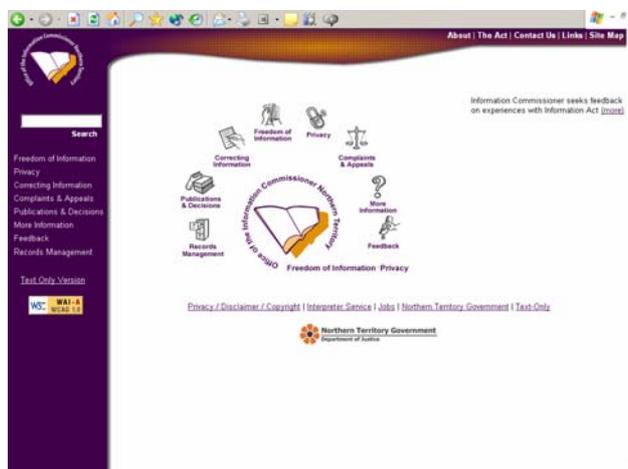
- how the Office deals with complaints
- application of the *Information Act* to local government
- the Cabinet and Executive Council exemption
- time limits on exemptions
- application of the Act to 'old documents'.

Resource Kits

To reinforce the rights and obligations under the Act, a number of Resource Kits containing copies of the Act and Regulations, along with hard copies of Information Commissioner Guidelines, were distributed to a number of public sector organisations and media outlets.

Website

The Information Commissioner website was reviewed and updated in light of provisions of the Act that came into force from 1 July 2004, particularly in relation to the power to complain to the Commissioner, and the way the Office handles complaints.



During 2004-05, there were over 24,000 visits to the site, with approximately 71,000 pages viewed.

The website can be accessed through the NT Government and Department of Justice internet sites or at any of the following addresses:

www.foi.nt.gov.au
www.privacy.nt.gov.au
www.infocomm.nt.gov.au

1.2 Policy Assistance/Input

What we do

We give assistance to government organisations that are developing or reviewing practices, policies or legislation. This includes policies about FOI or Privacy. It also includes practices, policies and legislation that raise FOI or Privacy issues. For example, a policy about use and disclosure of DNA information is likely to involve privacy issues.

We may offer assistance or input if an organisation consults us, if there is a public invitation for input, or if we otherwise become aware of a proposed policy or piece of legislation that might have FOI or Privacy implications.

There are two cases where an organisation must seek input from the Information Commissioner:

- A **Code of Practice** can be established to vary or supplement the Information Privacy Principles for a particular organisation. However, a draft Code must be recommended by the Commissioner before it can be submitted for approval to the Minister.
- The NT Archives Service prepares **Records Management Standards** to guide records management by public sector organisations. The Commissioner must be consulted to ensure consistency with the objects of the Act.

What we did in 2004-05

General policy assistance/input. About one quarter of the Office's workload during the year was taken up with providing assistance or input in the development of policy or legislation by government. The bulk of that assistance was in relation to Privacy issues.

Much of the input was provided directly to NT government organisations. However, input was also provided:

- for the purposes of independent reviews of Territory policies or legislation
- for the purposes of reviews of Commonwealth policies or legislation that may impact on Territorians
- in response to policy or legislative proposals relating to cross-border or cross-jurisdictional issues.

The Office made written submissions in response to a number of inquiries and proposals, including:

- various pieces of draft legislation, including draft child protection (offender registration) legislation, and a discussion draft of the *Care and Protection of Children and Young People Act*;
- an inquiry of the NT Legislative Assembly Standing Committee on Legal and Constitutional Affairs examining the appropriate relationships between indigenous people/communities, the NT Government and the wider NT community;
- an Australian Bureau of Statistics proposal for changes to the retention and use of census information (*Enhancing the Population Census: Developing a Longitudinal View*);
- a Human Rights and Equal Opportunities Commission inquiry into discrimination in employment on the basis of criminal record;
- a Ministerial Council on Education, Employment, Training and Youth Affairs inquiry into *Conduct of Criminal Records Checks on Persons Seeking Access to Work with Children in Educational settings*.

We also assisted organisations in relation to a wide variety of other issues, including:

- commenting on draft privacy policies and privacy notices;
- discussing privacy issues raised by information sharing arrangements between organisations;
- the impact of FOI and privacy legislation on indigenous information held by government;
- the transfer of student information between schools.

In addition, the Office was represented on the Police Information Integrity Working Group which discusses issues relating to information management within the NTPFES.

Codes of Practice. No draft Codes of Practice were submitted to the Office during the reporting year.

Records Management Standards. No draft Records Management Standards were submitted to the Office during the reporting year. However, the Commissioner did provide comment on two draft Records Management Advices.

1.3 Complaints

What we do

We can receive complaints from:

- an FOI applicant who objects to an internal review decision to refuse access, to refuse correction or to charge a fee;
- a third party who objects to an FOI decision to disclose information;
- a person who is not satisfied with the response of an organisation to a privacy complaint.

When we deal with a complaint, we are independent. We do not take sides. We do not represent complainants, government organisations or anyone else involved in a complaint. We do not give legal advice.

We do our best to resolve complaints informally. Our main aim is to assist the parties to find a solution that meets their needs and obligations. We inform the parties about the rights and limitations in the *Information Act*, so that they can make a realistic assessment of what they can hope to achieve from the formal processes under the Act. We explore with the parties alternatives for resolution both within and outside the processes in the Act. Our preferred outcome is for the parties to agree on a solution.

However, if an informal resolution cannot be reached, the Information Commissioner has the power to conduct a hearing and to make binding orders.

What we did in 2004-05

Commissioner's approach to formal complaints

From an early stage, the Office of the Information Commissioner has worked to assist government organisations to develop internal structures to resolve FOI and Privacy issues before they reach the stage of a formal complaint to the Commissioner.

The Office has also worked with potential complainants, and with organisations, to encourage and assist them to resolve particular issues in a timely and informal manner, without the need for a formal complaint to the Commissioner.

In 2004-05, 13 formal complaints were lodged, 7 in relation to FOI decisions and 6 in relation to Privacy issues.

To some extent this low number of complaints reflects a developing level of public knowledge of these new rights. Certainly, the Office will continue to take steps to make the community more aware of FOI and Privacy rights.

However, there are signs that the approach of the Office and, perhaps more significantly, the approach of organisations dealing with applications, has been effective in limiting issues of concern to potential complainants.

If one considers FOI, the number of complaints is low (only 7 in respect of 397 FOI applications), notwithstanding that organisations are required to make applicants aware of their review and complaint rights. To that extent, the low number of FOI complaints can be taken, at least in part, as a sign that many issues of concern are being effectively dealt with before the need for a formal complaint arises.

FOI complaints to the Commissioner - 2004-05

Complaints open at end June 2004	1
Complaints received during period	7
Complaints finalised during period	2
Complaints open at end June 2005	6

(Note: Four of the six complaints open at the end of the period were received in the second half of May or in June 2005.)

Details of complaints made by respondent organisation are set out in Table 10 in Appendix 2.

Some examples of the types of complaint received are set out below.

FOI example 1

The FOI applicant was a regulatory body that sought information about a professional. The professional objected to disclosure of the information and complained to my Office. The complaint was accepted but frequent attempts to contact the complainant with a view to progressing the complaint were unsuccessful. The Commissioner decided to discontinue the complaint under s.118(1) because he was satisfied that the complainant no longer wished to pursue the complaint.

FOI example 2

The FOI applicant sought documents and videos produced between 1976 and 1980. My Office investigated the sufficiency of the search conducted by the organisation, conducted new searches, investigated historical records management and disposal, and archival records and practices. The organisation and my Office identified other possible sources of information outside the organisation. With the applicant's permission, the applicant's contact details were also passed on to individuals who may have had personal knowledge of the information sought. The applicant was satisfied with the outcome.

FOI example 3

The FOI applicant complained that a number of documents were not released to him by an organisation. The organisation had claimed that one record was exempt from disclosure under the legal professional privilege exemption, and that other records were exempt under the deliberative processes exemption. My Office obtained the records in issue, met with the organisation's representative, and discussed the complaint with the applicant. As a result, the applicant withdrew his complaint in relation to the document that was claimed to be subject to legal professional privilege, and the organisation agreed to disclose the other documents in issue.

Privacy complaints to the Commissioner - 2004-05

Complaints open at end June 2004	0
Complaints received during period	6
Complaints finalised during period	4
Complaints open at end June 2005	2

Details of complaints made by respondent organisation are set out in Table 11 in Appendix 2.

Some examples of the types of complaint received are set out below.

Privacy example 1

An organisation was dealing with personal records relating to a dispute with the complainant. The complainant alleged that the organisation mailed the records to the post office address of the complainant's workplace without including the complainant's name on the package, resulting in a work colleague having access to the complainant's personal information. Preliminary investigations were unable to conclude whether any fault lay with the organisation or the postal service, over which my Office does not have jurisdiction. Nonetheless, the organisation apologised in writing to the complainant, and reviewed mail practices and procedures including the use of Registered or Certified mail rather than standard post.

Privacy example 2

The Health and Community Services Complaints Commission referred to my Office a complaint that sensitive personal information was being sent in error to the wrong fax machine. As part of the acceptance process, my Office ascertained that the organisation was dealing with the matter by checking all fax machines to ensure speed dial numbers were correct; advising staff of the importance of protecting privacy, confirming contact details before sending sensitive information; and designating a contact person who would immediately address any recurrence of misdirected faxes. My Office declined to take further action on the basis that the matter had been satisfactorily dealt with.

1.4 General Inquiries

What we do

We run a General Inquiries service to help members of the public and public sector staff with specific questions. People can contact us by telephone (1800 005 610) or e-mail (infocomm@nt.gov.au).

Inquiries may be as simple as wanting to know who within an organisation they need to contact. Or the inquirer may want more information about how a particular exemption works. We cannot give legal advice but we can assist with procedural questions and may be able to point people to relevant information like guidelines, websites, decisions or provisions of the *Information Act*.

What we did in 2004-05

The Office publicised details of its Freecall line, e-mail address and website by advertising in newspapers and on radio, by distribution of T-shirts, multiple telephone book entries, presentations and listings in government directories.

Our General Inquiries service responded to 343 inquiries from members of the public and public sector staff. Some of the questions asked included:

- Is it a breach of privacy for an employer to make employees wear badges with their full name?
- Is the process for obtaining information from my town council the same as for government departments?
- Are private organisations like lawyers covered by the *Information Act*?
- Can I get information about the investigation into the death of a family member in the early 1980s?
- Can I access personal information held by TIO?
- How much will it cost to make an FOI application? When/how do I pay?
- Are there privacy issues in contacting non-nominated referees about job applicants?
- Why should I have to provide financial information in relation to a request for reduction or waiver of FOI fees?
- Can we use current government employee records to locate past employees to invite them to a reunion?
- How do I check details of transfer of land after the death of a person?
- I did not receive all the information I asked for in my FOI application – what can I do?
- A Supreme Court decision in a case involving me and my company is published on the internet – is this a breach of the *Information Act*?
- Can I access legal advice provided to a department?
- Can I access my deceased mother's medical records?
- Can I correct my record of driving offences?
- Can I make an FOI application and remain anonymous?

1.5 Investigations/applications

What we do

In relation to FOI, the Commissioner can (on application from an organisation) declare a person to be a **vexatious applicant**.

In relation to Privacy, the Commissioner can:

- conduct **privacy audits** of organisations;
- investigate whether a **compliance notice** should be issued requiring an organisation to take action to comply with the Information Privacy Principles or a Code of Practice;
- (on application from an organisation) issue a **grant of authorisation** to allow an organisation to depart from the Information Privacy Principles dealing with collection, use and disclosure.

What we did in 2004-05

While a number of preliminary inquiries were made about the scope of the vexatious applicant provisions, no applications to declare a vexatious applicant were made during the reporting period.

No privacy audits were conducted during 2004-05, as the focus of efforts of the Office continued to be on promoting awareness and understanding of this new legislation.

No compliance notices were issued during the year.

Grant of authorisation to assist Red Cross Tracing Service

The Commissioner received two applications for grants of authorisation under s.81 of the *Information Act* to depart from the Information Privacy Principles dealing with collection, use and disclosure.

PowerWater sought to assist the International Tracing Service conducted by the Australian Red Cross (the ARC). The Tracing Service is primarily aimed at re-establishing contact between family members (and others with close connections) who have been separated as a result of war, internal disturbance, natural or other disaster.

PowerWater proposed to assist the ARC by using information from its customer database to identify and contact individuals in the Northern Territory to inform them that someone based overseas who has lost contact with them wants to re-establish contact.

Under the proposal, the ARC would provide PowerWater with the name and date of birth details of individuals with whom contact has been lost. PowerWater would then search for matches on its database. In the event of a match, PowerWater would send a letter to the individual informing him or her that someone wants to re-establish contact, and inviting the individual to contact the ARC.

The Commissioner granted an authorisation under s.81.

The other application was in relation to use for an essentially identical purpose made by the Department of Infrastructure, Planning and Environment (now the Department of Planning and Infrastructure). That application had not been finalised at the end of the reporting period.

1.6 Improving our service

What we do

So that we can do our job well, we keep up-to-date with developments in FOI and Privacy in Australia and overseas by:

- regularly reviewing FOI and Privacy publications (including websites);
- keeping in touch with other accountability offices in Australia and New Zealand (for example, privacy commissioners, information commissioners and ombudsmen);
- being a part of various electronic FOI and Privacy networks throughout Australia; and
- attending conferences and forums about FOI and Privacy, and related issues.

We also conduct surveys to make sure that our services are relevant and useful to public sector organisations and to members of the community.

What we did in 2004-05

During the year, the Office expanded the range of FOI and Privacy resource materials it holds or has access to. A limited number of hardcopy materials were purchased, while other materials have been generously provided by FOI and Privacy authorities in other jurisdictions.

However, the bulk of information is sourced through the internet. Many FOI and Privacy authorities in Australia and overseas produce significant amounts of information. There are many useful Information Sheets, Guidelines, Decisions and Case Notes that can be of assistance when interpreting the *Information Act*. There are also a significant number of newsletters and journals produced by academics and practitioners, particularly in relation to Privacy.

Links to numerous FOI and Privacy sites are displayed on the Information Commissioner's website. The Commissioner's Guideline on *Research Sources on FOI and Privacy* was updated during the year. Information on FOI and Privacy resources was also circulated to Information Officers at regular forums and by e-mail.

The appointment of a Legal Research Officer in late May 2005 has allowed additional time to be spent on developing resource materials. This will continue in 2005-06, facilitating additional dissemination of information about FOI and Privacy to Information Officers and the public, by means of additional information on the website, presentations at Information Officer forums, an Office newsletter, and inclusion of research information in new or amended guidelines.

The Office has continued to maintain contact and exchange ideas with FOI and Privacy authorities in other jurisdictions. During 2004-05, the Commissioner travelled to one meeting of the Privacy Authorities of New Zealand and Australia forum in Sydney. These meetings are invaluable, as they allow briefings and discussions about current privacy issues, and promote ongoing co-operation between authorities. The Office also maintained contact with FOI authorities in Queensland and Western Australia.

1.7 Managing the Office

What we do

We undertake various tasks to make sure that the Office runs efficiently and is accountable for its actions and the public resources we use. This includes general administration, staff management, record keeping, planning, reporting, financial management and all the other things involved in running an office.

What we did in 2004-05

During the year, we developed various general planning documents to set the overall direction for the activities of the Office. These included a Business Plan for 2004-05 and a Strategic Risk Management Plan.

We also developed a number of documents explaining our practices and procedures, to assist staff in the implementation of particular Office functions. This included the first draft of a Complaint Handling manual.

In addition, we prepared regular and ad hoc reports to meet requirements of the NT Treasury and the Department of Justice in relation to finance and general operations.

Resource sharing with Anti-Discrimination Commission

Section 97 of the *Information Act* provides for the sharing of staff and physical resources of another statutory office. From its outset, the Office has been located with the Anti-Discrimination Commission (the ADC) in an effort to optimise resource use.

Under the arrangement, there is sharing of training, conference and hearing rooms, some administrative staff and equipment. The continuing goodwill and co-operation of the ADC with staff of the OIC is gratefully acknowledged.

However, it is important to note that both offices maintain separate records systems in relation to inquiries and complaints. A member of staff of the ADC may take contact details in order to have an OIC staff member return a call but otherwise personal information obtained in relation to inquiries and complaints about FOI or Privacy is not shared between the offices.

There remains potential for sharing professional resources with the ADC, although current workloads do not suggest that this would give rise to any resource savings at this time. Members of the community should rest assured that such sharing would only be undertaken after adequate measures have been developed to protect against the potential for conflict of interests and the potential for interference with individual privacy.

Corporate functions

During 2004-05, the Office also received considerable support from divisions of the Department of Justice, particularly the Corporate and Strategic Services Division and the Corporate Communications Unit, and from the Department of Corporate and Information Services, in relation to matters such as communications strategies, property management, information technology support, financial management and human resources management.

Chapter 2

Privacy and FOI in the public sector

IN BRIEF

- This was the second year of operation of the *Information Act* (NT);
- Each public sector organisation must respond to applications for access to information it holds, and correction of personal information;
- 394 FOI access applications were lodged across government, an increase of 39% over the access applications made in the first year of operation;
- 62% of access applications were made to the NT Police, Fire and Emergency Services;
- Overall, access was granted in full to 71% of pages sought, with edited access given to a further 7% of pages;
- 18 internal review applications were made by people wanting an organisation to review its initial FOI decision;
- Each public sector organisation must also comply with the Information Privacy Principles and deal with complaints about breaches of privacy;
- This was the first year in which FOI applicants and Privacy complainants could make a formal complaint to the Commissioner;
- 7 formal complaints were made to the Commissioner about FOI decisions;
- 6 formal complaints were made or referred to the Commissioner about breaches of privacy.

This Chapter discusses the activities of public sector organisations in 2004-05 in relation to the FOI and Privacy schemes, under the following headings:

- 2.1 Privacy Protection**
- 2.2 FOI Access scheme**
- 2.3 FOI Correction scheme**
- 2.4 FOI Internal review**

Information Privacy Principles - Summary

Collection (IPPs 1, 7, 8, 10)

Personal information—

- can only be collected if it is necessary for the activities of the organisation;
- must be collected in a lawful, fair and not unreasonably intrusive way;
- must be collected from the person, if that is reasonable and practicable.

There are special limits on collection of sensitive information, identifying information and unique identifying codes (eg., driver's licence numbers).

Use and Disclosure (IPPs 2, 7, 9)

Personal information can be used or disclosed for the purpose for which it was collected. The IPPs limit the other purposes (secondary purposes) for which personal information can be used or disclosed within the organisation or outside the organisation. Use or disclosure for secondary purposes is allowed—

- if the person consents;
- if it is required or authorised by law;
- for some purposes related to the primary purpose;
- for some law enforcement and health and safety purposes.

There are also limits on transferring information outside the Territory and on use and disclosure of unique identifying codes (eg., driver's licence numbers).

Management (IPPs 3, 4)

Each organisation must take reasonable steps to —

- ensure that personal information is accurate, complete and up to date;
- protect personal information from misuse and loss and from unauthorised access, modification or disclosure;
- destroy or permanently de-identify personal information if it is no longer needed for any purpose.

Openness (IPPs 1, 5 and 6)

Each organisation must—

- make available on request its privacy policies and details about personal information held by it;
- take reasonable steps to ensure that each individual is aware of certain information at or before the time personal information about them is collected (eg., the purpose for collection);
- allow people to seek access to personal information held about them;
- allow people to seek correction of inaccurate, incomplete or out-of-date information.

2.1 Privacy Protection

Privacy complaints

Each public sector organisation is bound by the Information Privacy Principles (the IPPs) set out in the Schedule to the *Information Act*. The IPPs are summarised on the previous page.

Individuals can complain to an organisation about a breach of their privacy. If the person is not satisfied with the organisation's response, he or she can complain to the Information Commissioner. Complaints that have a privacy element can also be referred to the Commissioner by bodies like the NT Ombudsman and the Health and Community Services Complaints Commissioner.

In 2004-05, 6 formal complaints were made or referred to the Information Commissioner about alleged breaches of privacy.

Important for organisations to record privacy complaints

Unlike FOI applications, there is no detailed legislative framework for dealing with privacy complaints made to organisations. Nor is there a requirement to record details of complaints made to organisations that raise privacy issues, or to report to the Commissioner on such complaints.

While there may not be a legislative requirement, it is important that organisations keep and regularly review records of complaints that have a privacy element. Clearly, it is important for an organisation to know what types of privacy issues people are complaining about in order to identify any systemic problems that should be addressed in order to improve the operations of the organisation. This is true from the point of view of providing good client service, as well as complying with the Privacy scheme.

Important to have good complaint handling procedures

One important step that the Office stressed with organisations during the year is the need to develop procedures for dealing expeditiously and effectively with privacy complaints, either in a stand-alone privacy policy, or as part of a broader complaint handling strategy.

A timely and fair response to privacy issues is vital in minimising the amount of resources that an organisation needs to commit to comply with its statutory obligations. It can also considerably enhance the reputation of the organisation in terms of client service. A good response to a complaint can in some cases increase a client's appreciation of the organisation even more than compliance in the first instance might have done.

In that context, it is important for organisations to develop fair and flexible procedures for dealing with complaints, and to ensure that all staff are aware of the procedures, and of who should deal with such complaints.

Privacy an integral part of policy and legislative development

Only a small part of the work involved in Privacy Protection is concerned with responding to particular complaints. Organisations are required to comply with the IPPs regardless of whether an individual complaint has been made.

Organisations need to regularly review systems, policies, procedures and documentation to ensure that they adequately protect individual privacy. In addition, it is important to consider privacy issues that may be raised by proposed new or revised policies and legislation.

From contact that the Office has had with a cross-section of organisations, it is fair to say that most organisations have undertaken significant work in this regard during the reporting year. This is clear from the substantial contact that many organisations have had with the Office seeking policy assistance in relation to reviews and policy and legislative proposals.

In order to ensure compliance with the Privacy scheme in the future, it is vital that organisations take steps to require consideration of privacy issues as an integral element of policy and legislative development and review processes. At the very least, "Privacy issues" should be included in procedural documents and checklists of issues that require consideration in the course of policy or legislative development.

2.2 FOI Access scheme

Applications lodged

During 2004-05, 394 applications were made to access government information under Part 3 of the *Information Act*.

Of those applications, 62% were received by the NT Police, Fire & Emergency Services. This has again required a significant commitment of resources on the part of the NTPFES to meet demand.

Table 1 - Top 6 organisations (by application received)

Organisation	No. of applications
NT Police, Fire & Emergency Services	246
Dept of Infrastructure, Planning and Environment	27
Dept of Community Development, Sport & Cultural Affairs	24
Dept of Health & Community Services	23
Dept of Employment, Education & Training (DEET)	22
Dept of Justice (DOJ)	12

The Top 6 organisations by application received remained the same as in the first year of operation of the Act, although the order varied slightly. The top 4 in this years list all experienced increased demand. However, both DEET and DOJ experienced significant reductions in the number of applications lodged. Each other public sector organisation received fewer than ten access applications.

Details of the applications lodged with each organisation, and how they were dealt with, are recorded in Appendix 2, Tables 3 and 4.

Again, it is important to note that the number of formal FOI applications that must be dealt with by an organisation can be limited, and resources can be saved, by the development of alternative access schemes. The Act has provided a catalyst for the review of existing schemes, and the creation of new schemes.

For example, following commencement of the Act, NT Corrective Services developed an administrative access scheme in relation to records of inmates. Over 30 applications were dealt with under that scheme during 2004-05 rather than under the statutory scheme.

The *Information Act* should never be regarded as the only way to obtain access to information or as limiting (except in order to protect the privacy of personal information) the ways that an organisation can disclose information.

The Act establishes a general principle of accountability. It requires public sector organisations to make available to the public such government information as is reasonably possible (s.10). The FOI access scheme in Part 3 of the Act should be regarded as a backstop to deal with cases where access issues cannot be resolved by other means.

Personal information

Applicants under the FOI access scheme are not restricted to seeking information about themselves. However, many applicants do use the FOI scheme to find out about decisions or events that directly relate to them.

Of applications for access made during the year, 68% were limited to seeking personal information about the applicant (compared to 64% last year).

However, the nature of some organisations is such that they hold relatively little personal information. So for example, the Department of the Chief Minister and NT Treasury again received no applications that related solely to personal information, while only 7% of applications made to the Department of Infrastructure, Planning and Environment were limited to personal information.

What were applicants looking for?

Applicants can seek access to any government information, whether or not it relates to them in some way. Set out below are some examples of the types of information that applicants have sought during the year:

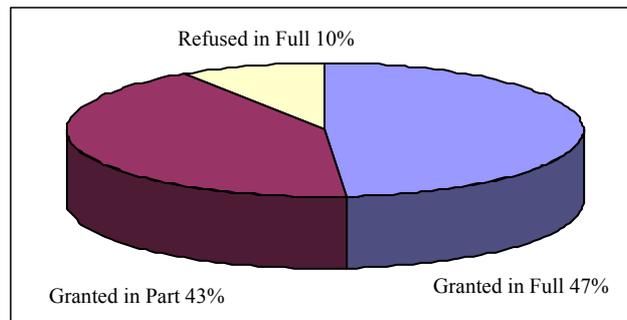
- complainant seeking copies of correspondence in complaint files
- individual seeking access to their workers compensation documents
- company seeking information about a tender process
- individual seeking information about investigation of an incident
- community organisation seeking information on a prosecution
- individual seeking information about complaints made against them while they were an employee
- lawyer seeking investigation report relating to a fatality
- individual seeking information on decisions about their employment
- parent seeking information about their child
- individual seeking information related to an injury they sustained
- community group seeking reports held by Pastoral Land Board
- individual seeking plans/drawings of sea vessels
- community group seeking material prepared for Estimates Committee
- individual seeking report/advice to Minister on re-zoning application
- journalist seeking reports and correspondence on open speed limits

- individual seeking information on administration of deceased estate
- lawyer seeking information about Ministerial Conference meetings
- individual seeking information on decision-making process of regulatory authority
- community group seeking minutes of departmental advisory committee meetings
- journalist seeking reports and correspondence regarding public signs.

How much information did people get?

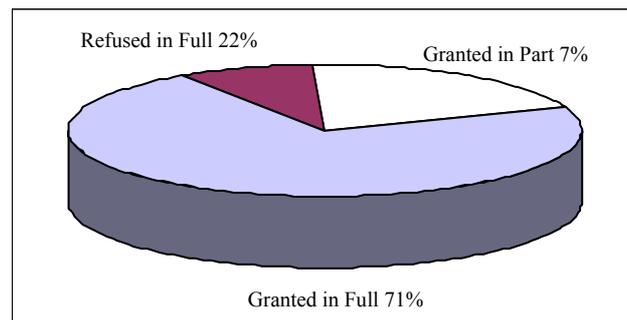
The *Information Act* recognises that there may be reasons for refusing access to some information in the public interest or on operational grounds.

As was the case in 2003-04, slightly under half of finalised applications resulted in the applicant getting access to all information identified by the organisation as falling within the terms of the application. In a further 43% of cases, access was granted to some but not all of the information sought.



Applications 2004-05

Full access was granted to 13 619 pages, with edited access given to 1 366 pages. This means that full or edited access was given to 78% of pages sought (compared to 80% in 2003-04).



Pages 2004-05

By far the most common ground for refusal of access was reliance on one or more of the exemption provisions. Exemption provisions are designed to protect personal and business interests of members of the community and to ensure the effective and efficient operation of government.

In many cases, only a small amount of information may be deleted from a page, for example, a complainant's name, address or home phone number.

In those cases, the rest of the page is disclosed. In other cases, a larger proportion, or even a whole page may qualify for exemption. Access to information was refused on the basis of an exemption in 146 applications.

Other reasons for refusing access included decisions that:

- the information did not exist (14 applications)
- the information could not be identified (10 applications)
- providing access to the information would unreasonably interfere with the operations of the organisation (1 application)
- the organisation would neither confirm nor deny the existence of information sought (1 application).

Details of the reasons for refusal relied on by each organisation are recorded in Appendix 2, Table 5.

Exemptions relied on

My Office requested that organisations provide details of the number of pages in respect of which each exemption was relied on. The details were provided on the following basis:

- a page was counted even if only a small part of it was deleted
- if more than one exemption was relied on, each was counted.

Details of exemptions relied on by each organisation are recorded in Appendix 2, Table 6. These figures reflect the initial decisions of organisations. In some cases, additional information has been disclosed on internal review or on complaint to the Commissioner (by agreement with the organisation).

Table 2 - Top 6 exemptions relied on (by page)

Exemption	No. of pages
Communicated in confidence	1768
Substantial adverse effect on staff management	1530
Information about proceeding before court or tribunal	1048
Unreasonable interference with privacy	1028
Unreasonable disadvantage to business	629
Legal professional privilege	606

(Note: The number of pages listed represents the number of pages from which information has been deleted. So, many of the pages listed above may have only had small portions deleted.)

Only three of the Top 6 exemptions listed in the previous Annual Report reappear in this list. I noted last year that two of those (Unreasonable interference with privacy and Legal professional privilege) can be expected to recur regularly.

Protection of individual privacy is recognised as important for the proper functioning of the FOI access scheme. However, there is no blanket exemption for such information. In each case, there must be a consideration of public interest factors that weigh for and against disclosure. Frequently, all that will be deleted in these cases will be a name, a home address or home phone number.

The Legal professional privilege exemption recognises a common law limit on the requirement to disclose information in court proceedings. The nature of litigation (although the exemption is not limited to communications for the purpose of litigation) lends itself to the creation of large numbers of documents that are likely to qualify for exemption.

The exemption for information about a proceeding before a court or tribunal also reappears in the list. To some extent, reliance on the exemption may again reflect the tendency of litigation to encourage the creation of a large number of documents. However, it may be that reliance on this unique exemption will reduce over time as its scope is clarified.

The appearance of three new exemptions in the Top 6 reflects the potential for volatility that I discussed last year in a situation where one or two decisions involving a large number of pages may significantly influence statistics. For example, 87% of the pages in which the 'Communicated in confidence' exemption were relied on, and 100% of the pages in which the 'Substantial adverse effect on staff management' exemption were relied on, resulted from decisions by one organisation. In a jurisdiction with relatively few applications, these figures should be viewed with caution, and should not be regarded as necessarily indicative of long term trends as to the extent to which organisations will rely on particular exemptions.

Exemption certificates

The Chief Minister has the power to issue an exemption certificate, certifying that particular government information is exempt under one of the Executive Council, Cabinet, security and law enforcement, privacy, or cultural information exemptions. An exemption certificate is conclusive evidence that it is not in the public interest to disclose the information.

The Chief Minister has advised that no exemption certificates were issued in 2004-05.

Application and processing fees

Organisations can charge for accepting and dealing with access applications, in line with a fee structure set out in the Act and Regulations. Fees for applications restricted to personal information are considerably more limited than for applications about general information. Overall, organisations charged a total of \$10 476 for application and processing fees in 2004-05.

Fees can be waived or reduced in certain circumstances. The total figure reported for waiver or reduction of fees was \$1 962. However, this figure may not represent the total amount of fees waived or reduced because, in cases where a decision is made to waive a processing fee before an estimate of costs is made, organisations would not usually calculate the precise fee that could have been charged.

Details of the fees charged and fees waived or reduced by each organisation are recorded in Appendix 2, Table 7.

2.3 FOI Correction scheme

Individuals have the right to apply to an organisation to correct personal information about them that is inaccurate, incomplete or out of date. An organisation can make the correction sought, make a different correction or refuse to correct. If the organisation refuses to make the correction sought, the applicant can require the organisation to take reasonable steps to attach to the information a statement of the applicant's opinion.

During 2004-05, 3 applications were made to correct personal information. In one case, a correction was made in the form requested. In another case, a correction was made in a form other than that requested. In the other case, no correction was made.

Details of the applications received by each organisation are recorded in Appendix 2, Table 8.

2.4 FOI Internal Review

A person who is aggrieved by an initial FOI decision made after 1 July 2004, has a right to seek internal review of that decision by another officer within the organisation. The organisation can decide to confirm the initial decision, vary it in some respect, or revoke it and substitute another decision.

Overall, 18 internal review applications were made during the reporting period. This represents 4.5% of the initial access and correction applications made during the year.

Of those 18 internal reviews, 10 confirmed the initial decision, 6 varied the initial decision and 2 revoked the initial decision and substituted another. In 6 of the 18 reviews, the applicant achieved a better result through the review process.

Details of the internal review applications received by each organisation are recorded in Appendix 2, Table 9.

Appendix 1 Statement of Financial Performance

OFFICE OF THE INFORMATION COMMISSIONER¹

For the year ended 30 June 2005

	\$'000	Total \$'000
OPERATING REVENUE		
Output Revenue		522
Services Free of Charge - DCIS		65
TOTAL OPERATING REVENUE		588
OPERATING EXPENSES		
Employee Expenses		369
<i>Administrative Expenses</i>		
Purchases of Goods & Services		67
<i>Property Maintenance</i>	2	
<i>Power</i>	1	
<i>Accommodation</i>	1	
<i>Agent Service Arrangements</i>	3	
<i>Communications</i>	7	
<i>Consumables / General Expense</i>	1	
<i>Document Production</i>	3	
<i>Information Technology Charges</i>	21	
<i>Library Services</i>	2	
<i>Marketing and Promotion</i>	7	
<i>Membership and Subscription</i>	1	
<i>Motor Vehicle Expense</i>	7	
<i>Office Requisites</i>	2	
<i>Official Duty Fares</i>	3	
<i>Other Equipment Expenses</i>	4	
<i>Travel Allowance</i>	2	
Services Free of Charge - DCIS		65
Grants and Subsidies		3
TOTAL OPERATING EXPENSES		504
NET OPERATING SURPLUS / (DEFICIT)		84

¹ The Office is also included in detailed financial statements that appear in the Department of Justice Annual Report. Employee Expenditure and Purchases of Goods & Services are direct expenditure. Other amounts are based on a rounded-up 1% allocation of Department of Justice figures.

Appendix 2

Statistics by public sector organisation

The following tables set out information about FOI access and correction applications made to public sector organisations, and FOI and Privacy complaints made to the Information Commissioner during 2004-05:

- **Table 3** **Overview of FOI Access applications**
- **Table 4** **Access Overview (Access granted in full, in part, refused)**
- **Table 5** **Reasons for refusal**
- **Table 6** **Exemptions relied on (by page)**
- **Table 7** **Fees charged / Fees waived or reduced**
- **Table 8** **FOI Correction applications**
- **Table 9** **FOI Internal Review applications**
- **Table 10** **FOI Complaints to Information Commissioner**
- **Table 11** **Privacy Complaints to Information Commissioner**

The information recorded in Tables 3-9 was provided to the Office by each public sector organisation through a Statistical Return completed at the end of the reporting year. The Office appreciates the co-operation of FOI administrators within organisations in completing the Returns and responding to requests for clarification.

Abbreviations for public sector organisations used in the tables are:

DBIRD	Dept of Business, Industry and Resource Development
DCM	Dept of the Chief Minister
DCDSCA	Dept of Community Development, Sport and Cultural Affairs
DCIS	Dept of Corporate and Information Services
DEET	Dept of Employment, Education and Training
DHCS	Dept of Health and Community Services
DIPE	Dept of Infrastructure, Planning and Environment
DOJ	Dept of Justice
NTT	NT Treasury
NTPFES	NT Police, Fire and Emergency Services
OCPE	Office of the Commissioner for Public Employment
CDU	Charles Darwin University
TIO	Territory Insurance Office
HPLA	Health Professions Licensing Authority
NTTC	NT Tourist Commission

Table 3 - Overview of FOI Access applications (Figures are for number of applications)

Organisation	Lodged ²	Finalised	Not accepted ³	Transfer	Withdrawn ⁴	Pending at end year
Business, Industry and Resource Development (Dept)	6(1)	3			4	
Chief Minister (Dept)	6	3		2	1	
Community Development, Sport and Cultural Affairs (Dept)	24	14	2	2	5	1
Corporate and Information Services (Dept)	7	3			1	3
Employment, Education and Training (Dept)	22(3)	21	1		3	
Health and Community Services (Dept)	23(2)	16		1 ⁵		9
Infrastructure, Planning and Environment (Dept)	27(1)	11	6		5	6
Justice (Dept)	12(1)	9	2	1	1	
NT Treasury	2(1)	2			1	
Police, Fire and Emergency Services	246(8)	224	8	1	14	7
Office of Commissioner for Public Employment	6	5				1
Charles Darwin University	5	4			1	
Territory Insurance Office	3	3				
Health Professions Licensing Authority	2	2				
NT Tourist Commission	1	1				
Ombudsman	1	1				
PowerWater	1		1			
TOTAL	394(17)	322	20	6	36	27

² Numbers in brackets are for applications carried over from previous reporting period.

³ Reasons for non-acceptance may include non-payment of the \$30 application fee, failure to be satisfied as to the identity of the applicant, information outside the scope of the Act, eg., non-personal information held by a GBD or GOC, or non-personal information created before 1 July 1993.

⁴ A number of applications were withdrawn after access to information was provided under administrative schemes.

⁵ Transferred in part. Balance of application processed by DHCS.

Table 4 - Access Overview – (Access granted in full, in part or refused)

Organisation ⁶	Applications granted in full	Applications granted in part	Applications refused in full	Pages granted in full	Pages granted in part	Pages refused in full
DBIRD	1	2		94	2	27
DCM	1	2		330	3	4
DCDSCA	5	6	3	462	39	21
DCIS	1	2		495	6	88
DEET	7	10	4	3621	147	1189
DHCS	9	5	2	1365	76	167
DIPE	4	4	3	609	17	8
DOJ	5	4		390	113	136
NT Treasury			2			7
NTPFES	116	95	13	5548	882	1104
OCPE		2	3	162	7	1530
CDU	2	1	1	469	3	5
TIO		3			71	
HPLA		2		34		24
NTTC		1		18		
Ombudsman	1			22		
TOTAL	152	139	31	13 619	1 366	4 303

⁶ See page 33 or Table 3 for full titles of organisations.

⁷ Relying on the Secrecy Provisions exemption, NTT refused access to documents required to be kept by a third party under the *Gaming Control Act*. NTT did not obtain copies of the documents in order to make the decision, and is not aware of the number of documents to which access was refused.

Table 5 - Reasons for refusal

(Figures are for number of applications. In any one application, access to information may be refused for one or more reasons).

Organisation	Exempt	Already publicly available	Does not exist	Can't be found	Can't be identified	Deferred (s.23)	Unreasonable interference with operations	Neither confirm nor deny ⁸	Not covered by Act ⁹
DBIRD	2								
DCM	2								
DCDSCA	7		2		3				
DCIS	2								
DEET	10		5	1					
DHCS	5		2	1					
DIPE	4				1				2
DOJ	4		1						
NT Treasury	1				1				
NTPFES	98	1	4		4			1	
OCPE	5								2
CDU	1						1		
TIO	3								
HPLA	2								
NTTC					1				
TOTAL	146	1	14	2	10		1	1	4

⁸ If it is not in the public interest for an applicant to know whether information exists, the organisation is not required to confirm or deny the existence of information.

⁹ For example, information may not fall within the Act if it is non-personal information that is held by a GOC or GBD, or if it was created or received before July 1993.

Table 6 - Exemptions relied on (by page)

This table lists the number of times that access was refused to pages in full or granted in part on the basis of particular exemptions. A page is counted even if only a small amount of information was deleted from it. Each exemption is counted even if the same information was found to be exempt under several provisions (see Table 4 for total number of pages to which access was granted in part or refused in full).

If an exemption has not been relied on, it is not included in the Table. Organisations that have relied on only one or two exemptions are listed at the bottom of the Table.

Exemption and section number	DBIRD	DCDSCA	DCIS	DEET	DHCS	DIPE	DOJ	NTPFES	HPLA	TOTAL
Executive Council, Cabinet, Territory economy - s.45(1)										
(a)(i)				6						6
(a)(ii)				64				13		77
(a)(v)										4
Security and law enforcement – s.46										
(1)(a)								3		3
(2)(a)								3		3
(2)(b)								3		3
(2)(c)								40		40
Corresponding FOI law – s.47								3	2	5
Secrecy provisions – s.48								28		28

Table 6 - Exemptions relied on (by page) (continued)

Exemption and section number	DBIRD	DCDSCA	DCIS	DEET	DHCS	DIPE	DOJ	NTPFES	HPLA	TOTAL
Preservation of system of justice – s.49										
(a)								181		181
(c)				146			9	893		1048
(d)	5		79	186	165	7	139	24	1	606
Inter-governmental relations – s.51										0
Deliberative processes – s.52	1	35	7	56	33				21	229
Effective operations of organisations – s.53										
(b)								8		8
(c)										1530
Health, safety, environment – s.54 (a)		21								21
Confidentiality obligations – s.55										
(1)				6	10	1		7		24
(3)					18		3	217		1768

Table 6 - Exemptions relied on (by page) (continued)

Exemption and section number	DBIRD	DCDSCA	DCIS	DEET	DHCS	DIPE	DOJ	NTPFES	HPLA	TOTAL
Privacy – s.56(1)(a)	2	14	8	264	15	24	98	600		1028
Commercial and business information – s.57 (1)(b)	23			609						629
Financial and property interests of Territory – s.58										3

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The following organisations relied on only one or two exemptions (pages are included in the “Total” figures in the Table):

- DCM s.45(a)(v), 4 pages s.58, 3 pages
- CDU s.52, 5 pages s.56(1)(a), 3 pages
- OCPE s.53(c), 1530 pages s.55(3), 1530 pages
- TIO s.52, 71 pages
- NTT s.48, unknown number of pages held by third party.

Table 7 - Fees charged / Fees waived or reduced

Organisation	Fees charged		Fees waived or reduced	
	Application \$	Processing \$	Total of application fees waived or reduced \$	Total of processing fees waived or reduced \$
DBIRD	180	259		
DCM	180	1 728		
DCDSCA	210	128		
DCIS	60			
DEET	150		30	
DHCS	150	779	30	638
DIPE	570	2 282	90	819
DOJ	90	48		
NT Treasury	90			
NTPFES	900	2 398	90	30
OCPE	90			
CDU	120	64		
NTTC			30	205
TOTAL	2 790	7 686	270	1 692

Table 8 - FOI Correction applications

This Table records details of applications for correction of personal information. Applications are made on the basis that the information sought to be corrected is inaccurate, incomplete or out of date. An organisation can decide to make the correction specified, make a correction in another form or refuse to make a correction. If an applicant remains unsatisfied, he or she can require the organisation to take all reasonable steps to associate with the information a statement of the applicant's opinion.

Organisation	Lodged	Finalised	Correction made as specified	Correction made in other form	No correction made	Statement by applicant associated
DOJ	1	1			1	
NTPFES	2	2	1	1		
TOTAL	3	3	1	1	1	

Table 9 - FOI Internal Review applications

This Table records details of applications for internal review of an initial FOI decision.

Organisation	Lodged	Finalised	Initial decision confirmed	Initial decision varied	Initial decision revoked	Applicant did better
DCDSCA	1	1	1			
DEET	6	6	1	3	2	3
DIPE	1	1	1			
DOJ	2	2		2		2
NTPFES	4	4	4			
OCPE	2	2	2			
CDU	1	1	1			
HPLA	1	1		1		1
TOTAL	18	18	10	6	2	6

Table 10 – FOI Complaints to Information Commissioner

All figures are for number of complaints.

Respondent Organisation	Lodged ¹⁰	Not accepted	Resolved informally	Discont ¹¹	Insufficient prima facie evidence ¹²	Hearing - Confirmed	Hearing - Varied	Hearing - Revoked	Open at end year
DEET	2								2
NTPFES	1(1)			1					1
OCPE	3	1							2
HPLA	1								1
TOTAL	7(1)	1		1					6

¹⁰ Figure in brackets for complaint carried over from previous year.

¹¹ Discontinued under s.118.

¹² Decision to dismiss under s.110.

Table 11 – Privacy Complaints to Information Commissioner

All figures are for number of complaints.

Respondent Organisation	Lodged ¹³	Not accepted	Resolved informally	Discont ¹⁴	Insufficient prima facie evidence ¹⁵	Hearing - Proved	Hearing - Dismissed	Open at end year
DEET	1							1
DHCS	1		1					
NTPFES	1							1
CDU	1				1			
OTHER ¹⁶	2	2						
TOTAL	6	2	1		1			2

¹³ Includes direct complaints and complaints referred from another body.

¹⁴ Discontinued under s.118.

¹⁵ Decision to dismiss under s.110.

¹⁶ Complaints made in relation to a body not subject to the *Information Act*.